

SECTION III

1. DE-CRIMINALIZATION OF OFFENSES

Any person taking cognizance of a violation of a specific bylaw, rule or regulation which he is empowered to enforce, the violation of which is subject to a specific penalty, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during the office hours, not later than twenty-one days after the date of such notice to allow for the non-criminal disposition of such offenses in accordance with the provisions of Chapter 40, Section 21D of the Massachusetts General Laws.

Adopted ATM April 25, 1988

2. DISCHARGE OF FIREARMS

No person shall fire or discharge any firearm or explosives of any kind or release any arrow within the limits of any highway, park or other public property except with the written permission of the Board of Selectman; or on any private property, except with the written consent of the owner or legal occupant thereof, provided however, that this bylaw shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties; it is further provided that any person violating any provision of this bylaw shall be punished by a fine of not more than \$50.00 for each offense.

Adopted ATM Feb.28, 1966

Amended ATM April 25, 1988

3. ILLEGAL DUMPING

Whoever disposes of household or commercial refuse by placing, throwing, depositing or causes it to be placed, thrown, deposited or discharged on a public highway or within twenty yards of public highway, or on any public land, or in or upon coastal or inland waters, or in a trash receptacle placed on public property by the Town of Chilmark or any of its departments or agencies for the convenience of the traveling and maritime public, or on or in private property shall be assessed a fine of fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense and criminal complaint proceedings for any third or subsequent offenses.

Adopted STM October 16, 1990

4. LEASH LAW

All dogs owned or kept within the limits of the Town shall be restrained from running at large or shall be kept within the immediate control of their owners and keepers. The Dog Officer may apprehend all dogs which are not so restrained and controlled and may prosecute all violations of this bylaw as provided in Chapter 140, Section 173A, General Laws.

Upon apprehension of any dog found in violation of this bylaw, the Dog Officer may impound such dog and shall make a record upon which shall be recorded the breed color and sex of said dog and whether or not it is licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag. The owner of any dog so impounded may reclaim such dog upon payment of the license fee, if unpaid, and all costs and charges incurred by the town for apprehending, impounding and maintenance of said dog.

Furthermore, any person violating any provision of this bylaw shall be punished by a warning for the first offense, a \$5.00 fine for the second offense, a \$10.00 fine for the third offense and a \$25.00 fine for the fourth and subsequent offenses.

Adopted ATM April 27, 1987

5. LEGHOLD TRAPS

No person shall use, set, place or maintain any type of jawed leghold trap, padded or unpadded, modified or unmodified, including but not limited to the softcatch trapping system or any type of Conibear trap within the limits of any highway, park, schoolground or other public property or on any private property. Any person violating any provision of this bylaw shall be punished by a fine of not more than \$300.00 for each offense.

Adopted ATM April 23, 1990

6. OBSTRUCTING OR SLEEPING IN PUBLIC PLACES

No person shall obstruct a street, sidewalk or other public place if his presence thereon interferes with the normal flow of traffic. No person shall remain at or near the doors of a place of business if his presence on said street, sidewalk or other public place results in the blocking of access to said place of business if he is requested by the owners or occupants of said places or the police to depart therefrom. Any person violating this bylaw shall be fined not less than \$25 and not more than \$50.

No person shall be allowed to sleep in any town parks except with the permission of the Board of Selectmen, or in any town building. No persons shall be allowed to sleep on any beaches within the town limits of Chilmark between the hours of 9p.m. and 7a.m. This bylaw shall not apply to any person who sleeps on a beach which is not owned by the town, county, or state with the permission of person or persons who are lawfully in possession of said beach. Any person violating this bylaw shall be fined not less than \$25 and not more than \$50.

No person or persons shall sleep in any motor vehicle on private property unless they have permission to do so by the person or persons lawfully in possession of said property. Whoever violates this bylaw shall be fined not less than \$25, or more than \$50.

Adopted ATM February 27, 1967

Amended February 23, 1971

7. TROUBLE ALARMS

Whoever owns a residence or building and has a burglar alarm shall not have more than two false alarms per calendar year, per building. The Town of Chilmark defines a false alarm as "an alarm signal resulting in a response by the police or fire department when an emergency does not exist". An alarm shall be presumed false if the responding officer(s) do not locate any evidence of an intrusion or of the commission of an unlawful act, a fire or emergency on the premises, which might have caused the alarm to sound. Alarms caused by thunder storms, hurricanes, other "violent acts" of nature, certain power outages and other valid situations, as determined by the Police Chief or Fire Chief, shall be exempt from this bylaw. The Chief will notify the owner by mail at his/her place of residence for each offense. Whoever violates this bylaw shall be punished by a fine of \$100.00 for the first offense, and \$150.00 for each subsequent offense. Municipally owned buildings shall be exempt from this bylaw.

Adopted ATM April 24, 2006

8. WOOD CUTTING

The cutting of wood on private property without the written permission of the landowner is prohibited.

Adopted ATM February 14, 1978

9. DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS

Section 1. INTENT AND PURPOSE

This by-law is adopted for the purpose of protecting the historic and aesthetic qualities of the Town of Chilmark by preserving, rehabilitating or restoring whenever possible, buildings, and structures which constitute or reflect distinctive features of the architectural and/or historic resource of the Town, thereby promoting the public welfare and preserving the cultural heritage and character of the Town of Chilmark.

Section 2. DEFINITIONS

A. "Application"

An application for a permit for the demolition or razing of a structure.

B. "Building Inspector"

The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

C. "Commission"

The Chilmark Historical Commission.

D. "Demolition"

The act of pulling down, destroying, removing or razing an entire building or commencing or carrying out the work of total or substantially total destruction of an entire building with the intent of completing the same.

E. “Historically Significant Building or Structure”

A structure which is:

1. listed on , or is within an area listed on, the National Register of Historic Places or is the subject of a pending application for listing on said National Register;
2. included in the Comprehensive Survey of Historic Structures prepared by the Commission including those buildings listed for which complete surveys may be pending;
3. is listed in the Chilmark Master Plan, Historic Resources Section; has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or
4. association with a famous architect or builder provided that, after a public hearing, the owner of such a building and the Building Inspector have been notified, in hand or by certified mail, of such vote.

F. “Premises”

The parcel of land on which an historically significant structure is located.

G. “Demolition Permit”

Any demolition permit issued by the Building Inspector under the State Building Code which authorizes the destruction, demolition, razing or removal of an entire building or substantially an entire building.

Section 3. PROCEDURE

3.A) Upon receipt of an application for a demolition permit the Building Inspector shall within five (5) working days forward a copy to the chairman of the Historical Commission or his/her designee and the Executive Secretary. No demolition permit shall be issued at this time.

3.B) Within twenty (20) days from its receipt of a demolition permit application, the Commission shall determine whether the structure in question is an Historically Significant Structure. The applicant for said permit may within this time frame make a presentation to the Commission if he or she chooses to do so. If the Commission determines that the structure is not an Historically Significant Structure, the Commission shall so notify the Building Inspector and/or owner(s) of the structure(s) in writing within five (5) days of such determination and at this time a Demolition Permit may be issued.

3.C) If the Commission finds that the structure is an Historically Significant Structure, the Commission, in cooperation with the applicant, shall fix the date for a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of said hearing in a local newspaper, and also at the Town Hall at least 14 calendar days prior to said hearing. In addition to this, notice shall be mailed to the applicant(s) within seven (7) days of said hearing, and to the abutters of said premises in question within a radius of not more than one hundred (100) feet, as they appear on the most recent tax list. The hearing shall be held no later than forty (40) days from the determination under Section 3.B that a structure is an Historically Significant Structure.

3.D) The Commission shall make a determination under Section 2.E of Section 3.F (below) no more than fourteen (14) days after completion of a public hearing under Section 3.C.

3.E) If, after such hearing, the Commission determines that the demolition of the Historically Significant Structure would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector within ten (10) calendar days of such determination. Upon receipt of such notification, or after fifteen (15) calendar days from the date of conduct of the hearing, if the Building Inspector has not received notification from the Commission, he/she may, subject to the requirements of the State Building Code and any other applicable laws, by-laws, or rules and regulations, issue the demolition permit.

3.F) If the Commission determines that the demolition of the Historically Significant Structure would be detrimental to the historical or architectural heritage resources of the Town, such structure shall be considered a “Preferable Preserved Structure.” At this time the Commission shall give a written statement to the owner(s) of said structure and all concerned parties, as well as the Building Inspector and any other Town offices that the Commission deems necessary to notify, outlining and defining the reason(s) for such determination. In order to allow the applicant(s) of a Preferably Preserved Structure the time to find alternative methods as opposed to demolition, no demolition permit shall be issued for the structure in question for a period of not more than six (6) months from the date of such determination by the Commission.

3.G) Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a Preferably Preserved Structure at any time after receipt of written notice from the Commission to the effect that either:

1. the Commission is satisfied that there is no reasonable likelihood that either the owner(s), applicant(s) or some other person(s) or group is willing to purchase, preserve, rehabilitate, restore or remove such structure in question, or;

2. the Commission is satisfied that the owner has made a continuing, bona fide and reasonable effort to locate a purchaser to preserve, rehabilitate, restore or remove the subject structure, and that such efforts have been unsuccessful.

Section 4. RESPONSIBILITY OF OWNER

4.A) The owner(s) of a Preferably Preserved Structure shall be responsible for participating in the investigation of options and for facilitating the process by providing any necessary information, allowing access to the property, securing the premises, and being actively cooperative in seeking alternatives with the Commission and any interested parties.

Section 5. ENFORCEMENT AND REMEDIES

5.A) The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a violation thereof.

5.B) Anyone who demolishes a structure, in whole or in part, as defined within the section of this by-law without notifying or receiving prior consent from the Commission and Building Inspector, shall be subject to a fine or not more than Three Hundred Dollars (\$300.00). If the Commission subsequently determines that the building that has been demolished was an Historically Significant Structure, a building permit for said premises shall not be issued for a period of five (5) years from the date of such demolition.

Section 6. SEVERABILITY

6.A) If any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Adopted at Annual Town Meeting April 24, 2000

10. PLASTIC CHECKOUT BAGS

1.1 No Store in the Town shall provide to any customer a Plastic Checkout Bag.

1.2 If a Store provides Checkout Bags, they may only provide Recyclable Paper Bags or Reusable Bags.

1.3 This bylaw does not apply to the clear or opaque plastic bags without handles provided to a customer:

- a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g. beads and nails or other small hardware items) to the point of sale; or
- b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

1.4 Stores may charge and retain a fee for any Recyclable Paper Bag or Reusable Bag that they provide. The fee could be used to recover the costs of the bag and/or as an incentive to customers to bring their own Reusable Bags. Customers are encouraged to bring their own Reusable Bags when they shop, and Stores may offer a credit to customers who bring their own bags.

2. Definitions

“Checkout Bag” means a bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store.

“Plastic Checkout Bag” means a plastic Checkout Bag that is less than 4 mils thick (and, for the avoidance of doubt, includes such plastic bags that are marketed as ‘biodegradable’ or ‘compostable’).

“Recyclable Paper Bag” means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word "recyclable" and the percentage of post-consumer recycled content.

“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of polyester, polypropylene, washable fabric, or other durable material and, in the case of plastic bags, is at least 4.0 mils in thickness.

“Store” means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to, convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

3. Administration and Enforcement

3.1 This bylaw may be enforced by any agent of the Board of Health.

3.2 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town’s non-criminal disposition bylaw. The following penalties apply:

- first violation: a written warning.
- second violation: \$50 fine.
- third and subsequent violations: \$100 fine.

Each day the violation continues constitutes a separate violation.

4. Effective Date: This bylaw takes effect on January 1, 2017.

Adopted at Annual Town Meeting April 25, 2016

11. Release of Balloons

- (1) No person, nonprofit organization, association, firm or corporation, shall knowingly release, organize the release of or intentionally cause to be released into the atmosphere any helium or other lighter-than-air gas balloons in the town of Chilmark. Any violation of this bylaw shall result in a fine of \$100.
- (2) The provisions of section (1) shall not apply to balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or testing procedure or by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.

Adopted ATM April 22, 2019

12. Plastic Water and Soft Drink Bottle Bylaw

Section 1: Findings and Purpose

Water and soda bottles made of plastic are hazardous to health, economy, and the environment. The purpose of this bylaw is to restrict the sale and distribution of such bottles.

For example:

1. Plastic bottle waste is overwhelming society’s ability to manage it. Americans discard an estimated 30 million tons of plastic annually, with only 8 percent recycled.
2. Chemical components of plastic are detected in biological systems, including human beings. Exposure comes through food, water, and clothing, and has been associated with a range of health effects.
3. More than 8 million tons of plastic flows into our oceans annually, impacting wildlife and breaking down into smaller and smaller pieces, called micro-plastics.
4. Micro-plastics are found in the fish and shellfish we eat, and in the bottled water we drink.
5. Action is occurring worldwide to address this problem. Regionally, Nantucket and several MA towns have banned plastic water bottles.

