

**G. ADMINISTRATION**

**G.1. Enforcement**

**G.1.a. Criminal Penalty**

This bylaw shall be enforced by the Building Commissioner/Zoning Officer. No BUILDING shall be built or altered and no use of land or a BUILDING shall be begun or changed without a permit having been issued by the Building Commissioner/Zoning Officer. Any violation of the provisions of this bylaw, the conditions of a permit granted under this bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this bylaw, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each offense. Each day such violation continues shall be deemed a separate offense.

**G.1.b. Non-Criminal Disposition**

In addition to the procedures for enforcement as described above, the provisions of this bylaw, the conditions of a permit granted under this bylaw, or a decision rendered by the Zoning Board of Appeals or Planning Board under this bylaw, may be enforced by the Building Commissioner/Zoning Officer by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be three hundred dollars (\$300.00) for each offense. Each day such violation continues shall be deemed a separate offense.

**G.2. Building Permit**

No building permit shall be issued until the construction or alteration of a BUILDING or STRUCTURE as proposed, shall comply in all respects with the provisions of this bylaw or with a decision rendered by the Board of Appeals. Any application for such a permit shall be accompanied by a plan, at a scale of not less than 1" = 40', accurately drawn, showing the actual shape and dimensions of the LOT to be built upon, the exact location, and size of all BUILDINGS or STRUCTURES already on the LOT, the location of new BUILDINGS to be constructed, together with the lines within which all BUILDINGS and STRUCTURES are to be erected, the existing and intended use of each BUILDING or STRUCTURE and such other information as may be necessary to provide for the execution and enforcement of this bylaw. A Building Permit shall be valid for 12 months, however, a 12-month extension may be granted upon application prior to the expiration of the original permit. If construction or operations have not begun within six (6) months, or if construction is not carried toward completion in as continuous and expeditious a manner as reasonable, the permit shall expire.

**G.3. Certificate of Occupancy**

**G.3.a. Basic Requirement**

No land shall be occupied or used, and no BUILDING or STRUCTURE which was erected or structurally altered after the first passage of applicable provisions of this or any prior bylaw or any amendment thereto shall be occupied or used in whole or in part for any purpose, unless a Certificate of Occupancy has been issued by the Building Commissioner. Such certificate shall state the STRUCTURE and use of STRUCTURE and land comply in every respect with the provisions of the Building Code and/or the Zoning bylaw of the Town of Norfolk in effect at the time of issuance.

**G.3.b. Applicability**

The issuance or re-issuance of a Certificate of Occupancy shall be required for any BUILDING or STRUCTURE hereafter erected or located, for any change of use of a BUILDING or land, or any change in character or intensity of the use of land, or any structural alteration of a BUILDING, whether NONCONFORMING or otherwise.

**G.3.c. Continuous Compliance**

A Certificate of Occupancy shall be conditional on the maintenance of full compliance with the provisions of the Zoning Bylaw in effect at the time of issuance, or with restrictions imposed in decision of the Board of Appeals, and shall lapse if such compliance fails.

**G.4. Special Permit**

A Special Permit shall lapse if the construction allowed or use permitted has not commenced by one year from the effective date of the Special Permit, effective date being defined as the date the appeal period is ended if no appeals have been taken, or from that date that any and all appeals taken have been set aside.

Any use permitted by Special Permit that is discontinued for a period of one year or more shall cause the Special Permit to lapse.

The PERMIT GRANTING AUTHORITY may extend the period if it finds that the construction or use permitted by the Special Permit was not commenced for a good cause.

**G.5. Enforcement of Performance Standards**

G.5.a. The APPLICANT for a building permit and/or certificate of occupancy for a use subject to Performance Standards shall submit in addition to the evidence required in 2 and 3 above; (1) a plan and description in duplicate to the Building Commissioner of all proposed activities, (2) plan and specifications for the control or restriction of all dangerous and objectionable elements, and (3) an affidavit acknowledging understanding of the applicable performance standards and agreeing to conform to them at all times.

G.5.b. In such cases as there is reasonable doubt as to the likelihood of conformance, the Building Inspector may require an investigation and report at the cost of the APPLICANT, within 30 days, by one or more qualified experts, a copy of such report being provided to the APPLICANT.

G.5.c. The Building Commissioner shall investigate any alleged violation of Performance Standards and may engage qualified experts. He may apply for a criminal complaint in a district court.

G.5.d. If the Building Commissioner is requested in writing to enforce any provision of this bylaw against any person, real or corporate, allegedly in violation thereof, and, if he thereafter declines to act, he shall give written notice of his action or refusal to act to the person who requested such enforcement within fourteen (14) days of his receipt of such request.

**G.6. Board of Appeals, Planning Board, and Permit Granting Authority**

**G.6.a.1. Establishment**

There is hereby established a Board of Appeals in accordance with Chapter 40A, General Laws which shall consist of 5 members and 2 associate members, all appointed by the Board of Selectmen. The terms of Board of Appeals members will be of such length and so arranged that the term of one appointee will expire each year. Associate members shall be designated by the chairman of the Board to sit in place of any member incapacitated by personal interest or absence.

The Board of Appeals shall be the PERMIT GRANTING AUTHORITY under this bylaw, except for the purposes of Section F.11., Site Plan Approval, Section H.2., Open Space Preservation, and all other

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areas of the bylaws where the Planning Board is specifically designated as the PERMIT GRANTING AUTHORITY or SPECIAL PERMIT GRANTING AUTHORITY.

**G.6.a.2. Planning Board, Associate Member**

In addition to members elected at Town Elections or appointed to fill vacancies in accordance with M.G.L. c. 41, Section 81A, the Planning Board and Board of Selectmen may appoint one Associate Member of the Planning Board to serve for a term of one (1) year in accordance with the provisions of M.G.L. c. 40A, Section 9 as amended by Chapter 239 of the Acts of 1989. The Associate Member may be designated by the Planning Board Chairman to sit on the Planning Board for purposes of acting on a Special Permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

**G.6.b. Powers**

The Board of Appeals shall have the following powers:

G.6.b.1. To hear and decide appeals in accordance with Section 8 of Chapter 40A of the General Laws as the same may from time to time be amended;

G.6.b.2. To hear and decide applications for special permits upon which this PERMIT GRANTING AUTHORITY is empowered to act under this bylaw in accordance with the Special Permit Criteria. Unless otherwise specifically provided to the contrary, the Board of Appeals shall, before granting special permits, make a finding that in its judgment all of the Special Permit Criteria are met.

G.6.b.3. To hear and decide petitions for VARIANCES as set forth in Section 10 of Chapter 40A of the General Laws as the same may from time to time be amended, provided however that the Board shall not authorize by VARIANCE a use or activity not otherwise permitted in the district in which the land or STRUCTURE is located.

**G.6.c. Special Permit Criteria.** Unless otherwise specifically provided to the contrary, all Permit Granting Authorities/Special Permit Granting Authorities shall, before granting special permits, find that in its judgment all of the following criteria for the granting of a Special Permit are met:

G.6.c.1. That the use is in harmony with the general purpose and intent of the bylaw;

G.6.c.2. That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district;

G.6.c.3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;

G.6.c.4. That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, visual or other nuisances;

G.6.c.5. That the proposed use would not cause undue traffic congestion in the immediate area;

G.6.c.6. That a proper site plan has been filed for approval with the Planning Board and the proper number of copies have been submitted with the application for a special permit to the appropriate PERMIT GRANTING AUTHORITY; and

G.6.c.7. That the use and/or purpose is consistent with the 1992 Master Plan, and as most recently updated.

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**G.6.d. Procedures**

All PERMIT GRANTING AUTHORITIES/SPECIAL PERMIT GRANTING AUTHORITIES shall adopt rules, not inconsistent with the provisions of this bylaw for the conduct of its business and for the purposes enumerated in Chapter 40A of the General Laws, and shall file a copy of such with the Town Clerk.

**G.7. Repetitive Petitions**

No proposed change in this bylaw which has been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within 2 years after the date of such unfavorable action unless adoption of the proposed change is recommended in the final report of the Planning Board.

**G.8. Validity**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

**G.9. Effective Date**

The effective date of this bylaw shall be the date upon which the bylaw becomes in full force or effect in accordance with the provisions of Chapter 40A, Section 5 of the General Laws. All other existing zoning bylaws shall be repealed upon the effective date of this bylaw.

**G.10 REQUEST FOR DETERMINATION OF APPLICABILITY OF INTENSITY REGULATIONS FOR EXEMPT USES**

G.10.a. Any land, BUILDING, or STRUCTURE used for any of the uses which may not be subjected to special permit requirement pursuant to G.L. c. 40A Section 3 shall be subject to the area, FRONTAGE, setback, LOT coverage, LOT width, BUILDING HEIGHT, parking, and other dimensional or intensity regulations or requirements applicable under the Norfolk Zoning Bylaw, unless the Building Commissioner, acting in accordance with this section, shall determine that such dimensional or intensity regulations or requirements are not "reasonable regulations" within the meaning of G.L. c. 40A, Section 3, as applied to the use, or proposed use, of such land, building or STRUCTURES.

G.10.b. Any person having a fee or leasehold interest, or binding agreement for such an interest, in any LOT used, or which that person proposes to use, for an exempt use under G.L. c. 40A, Section 3, may submit a written request to the Building Commissioner, on such form as the Building Commissioner may require, for a determination that a particular dimensional or intensity regulation is not reasonable as applied to the land, BUILDING or STRUCTURE used or intended for such use. Such request shall include:

- (1) a detailed description of the proposed use;
- (2) a detailed plan of the land, BUILDINGS and STRUCTURES or structural modifications for which the determination is being sought;
- (3) a certified list of abutters; and
- (4) a statement disclosing:
  - (i) the basis for the owner's contention that the regulation or restriction will diminish, detract from or impair the proposed use without appreciably advancing the interests protected by this Bylaw;
  - (ii) for new uses and/or STRUCTURES, whether alternative sites for such a use or STRUCTURE are available in the Town or on the LOT for which no such relief would be required; and
  - (iii) The maximum degree to which the applicable regulations or restrictions should be relaxed to accommodate the use.

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- G.10.c. Any such application may be filed at or before the time an application for a building permit is filed. The Building Commissioner may impose a reasonable administrative fee for review of the request. The Building Commissioner shall act on the request by returning the form to the owner within thirty (30) days of receipt of such request indicating his decision on the determination requested. At the time that such notice is given to the owner, the Building Commissioner shall also mail or deliver a copy of his determination to the Town Administrator, the Planning Board, the Zoning Board of Appeals, and to the parties in interest as defined in G.L. c. 40A, Section 11.
- G.10.d. Any person aggrieved by a determination made by the Building Commissioner under this section may appeal that determination to the Zoning Board of Appeals pursuant to G.L. c. 40A, Section 8, and Section G.6.b.1. of this Bylaw.