

# TOWN OF EASTHAM

TOWN CLERK  
255-0338

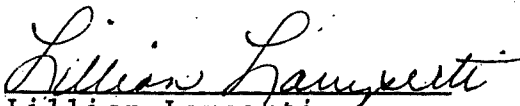


Town Hall  
County P...  
Eastham, MA 0...

TO WHOM IT MAY CONCERN

To the best of my knowledge and belief, the Town of Eastham voted to adopt rules and regulations regulating subdivisions in the Town as proposed by the Planning Board in 1948.

The Town of Eastham also voted to adopt by-laws regulating the construction and location of buildings as proposed by the Planning Board in 1948 and presented to Town Meeting on February 16, 1948. The by-laws were approved by the Attorney General on April 30, 1948.

  
Lillian Lamperti  
Eastham Town Clerk

April 25, 1994

April 30, 1948

Mr. Leslie E. Chase  
Town Clerk  
Eastham, Mass.

Dear Sir:

The purported by-law adopted under Article 23 of your Town Meeting held on February 16, 1948, is returned herewith disapproved by the Attorney General.

Chapter 41, Section 81 L provides that the Planning Board shall adopt rules and regulations governing the submission and approval of plats. I have not found in the statute any provision that a town, by by-law shall make rules governing such submission. Hence, unless your Town Counsel will provide other authority, I am of the opinion that the rules contained in the present by-law so-called, are within the province of the rule making power in the Planning Board.

In Section 81 R there is a requirement that a Town by-law provide for a Board of Appeals and there seems to be no provision for such Board in your present action.

Very truly yours,

ROLAND H. PARKER

Assistant Attorney General

April 30, 1948

Mr. Leslie E. Chase  
Eastham, Mass.

Dear Sir:

There is returned herewith the building by-law enacted by your Town Meeting on February 16, 1948, under Article 24 with the action of the Attorney General noted thereon.

Section I.

Article 8—the reference to Section 13 of chapter 143 is stricken since the section number appears to be incorrect.

Section II.

Articles 2, 3, 4, 5, 6, a portion of article 8, article 9, article 10 are disapproved.

1948

The Legislature has preempted legislation in the licensing of tourist camps by Chap. 140, Sections 32 A and 32 B, giving jurisdiction to the local Board of Health and to the State Department of Public Health as to all sanitary disposal and water supply. The town may not legislate in this field or require licensing other than in accordance with the statute.

Very truly yours,  
ROLAND H. PARKER  
Assistant Attorney General

**By-Law Regulating the Construction,  
Reconstruction and Location of Buildings  
Within the Town of Eastham**

SECTION I.

Article 1. DEFINITION

In this by-law the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

A. Building Lines:

The exterior walls of a building at or above the ground, including bay windows, porches, piazzas and similar projections. Uncovered steps and projecting eaves shall not be construed as being within this definition.

B. Lot Lines:

The lines defining or limiting leaseholds or ownership of land.

C. Reconstructed or Reconstruction:

The removal of any building to a new foundation, or the renewal of any structure damaged by fire or other casualty as follows:

- (1) Wood frame buildings—damage to the frame.
- (2) Masonry buildings—damage to the walls or roof

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- (3) In all cases, damage to the foundation or interior supports.

The Building Inspector shall be the authority to determine whether any building has suffered damage in the manner described.

D. Altered or Alteration:

- (1) The rebuilding or change in a structure to provide for a complete or partial change in the use to which it may be put.
- (2) The rebuilding or change of any nature in structures of every kind, which exceeds 20 percent of the assessed value and which is not in the nature of ordinary repair and maintenance.

E. Addition:

The addition to a structure by which its floor area is increased.

F. First-Class Construction:

Walls of fireproof construction, and floors (except finish floors), roofs, and partitions entirely of incombustible material with no exposed structural steel.

G. Second-Class Construction:

Exterior walls of incombustible material, not less than eight inches thick, and roof covered with incombustible material.

H. Third-Class Construction:

All other kinds of construction not First or Second-Class.

Article 2. APPOINTMENT OF BUILDING INSPECTOR

The Board of Selectmen annually in March shall appoint an Inspector of Buildings to hold office for the term of one year from the first of April following and until his successor is appointed and qualified.

The person appointed and qualified to act as Inspector of Buildings shall receive such salary or compensation as shall be fixed by the Board of Selectmen, within the appropriation for the Inspection of Buildings, and no other fees

or compensation shall be allowed or paid to him. He shall have no pecuniary interest, direct or indirect, in the making of plans or specifications or in the supplying of materials or labor for any building or structure in this town other than his own. He shall be under the supervision of the Board of Selectmen, and shall be subject to such rules and regulations as that Board may prescribe. He shall submit annual reports of the work of his office for publication in the Town Report.

The Inspector of Buildings shall make inspection of all building operations within this town, and he may, for this purpose, enter upon the premises where such operations are carried on at all reasonable times and shall report to the Board of Selectmen all violations of this by-law or of the conditions of any permit issued.

#### Article 3. PERMIT REQUIRED

Except as otherwise expressly provided herein, or by statute, or the Town By-Laws, no building or structure shall be erected, altered, reconstructed, or added to without a permit from the Building Inspector first having been obtained for such erection, alteration, reconstruction or addition. For the erection of Buildings for mercantile, business or industrial purposes or for dwelling purposes to accommodate more than two family units, plans and specifications together with such structural detail as may be required, shall be submitted to the Inspector of Buildings for his approval, and as a condition for the issuance of a permit. The Building Inspector shall withhold a permit if the proposed work is in violation of law or of this or any other by-law of the Town; otherwise, he shall grant the permit.

#### Article 4. NO PERMIT REQUIRED

No permit shall be required for the construction of a building or other structure which is less than 150 square feet in area and less than eight feet in height at the eaves if it is not intended to be used for dwelling purposes and

is proposed to be located more than 100 feet from a public way. No permit shall be required for repairs occasioned by ordinary wear and deterioration.

The provisions of this by-law shall not apply to buildings or structures erected or owned by the United States or the Commonwealth of Massachusetts, or to bridges, quays and wharves.

#### Article 5. APPLICATION FOR PERMIT

Application for a permit to erect, construct, reconstruct, alter or add to a structure shall be on forms provided. Applications shall be required to give such information regarding the proposed work as the Board of Selectmen may prescribe.

#### Article 6. FEE

The fee to be paid with each application for a permit shall be computed at the rate of fifty cents for each five hundred dollars of cost of the work for which application is made, but the minimum fee shall be one dollar.

#### Article 7. NOTICE OF PERMIT

Public notice of a permit granted shall be made by posting in a conspicuous place on the premises of a suitable placard, giving the name of the owner, the signature of the Board of Selectmen, and such other information as the Board of Selectmen may deem proper.

#### Article 8. APPROVAL BY DEPARTMENT OF PUBLIC SAFETY

The Inspector of Buildings shall grant no permit for the erection, reconstruction, or alteration of a building or structure designed or proposed to be used in whole or in part as a public building, as defined in Chapter 143, Section 1 of the General Laws, or as a factory, workshop, mercantile or other establishment, and to have accommodations or use for ten or more employees, or for a structure more than two stories high designed to be used above the second story as an office building, dormitory, hotel, family

hotel apartment house, boarding house, lodging house, or tenement house, and having eight or more rooms above said second story, until the owner or his agent has been granted a certificate of approval by the Supervisor of Plans of the Department of Public Safety in accordance with the requirements of (Chapter 143, Section 13) of the General Laws.

The granting of such certificate of approval shall not relieve the owner of the proposed structure from all other applicable parts of this by-law.

#### Article 9. APPEAL

Any person aggrieved by the refusal of the Inspector of Buildings to grant a permit may, within seven days after such refusal, appeal to the Board of Selectmen, who, after hearing, with seven days notice of the same having been given by advertising in a newspaper of local circulation, may affirm, modify, or reverse the decision of the Inspector and may issue the permit or direct it to be issued by the Inspector in accordance with their decision.

#### Article 10. LINES AND GRADES OF PUBLIC WAY

No person shall erect any foundation, building or wall, or make any alteration in the external wall of any structure, any part of which is to be placed within ten feet of a public way or place dedicated to the public use before making application to the Board of Selectmen for the location of the lines and grades of such public way or place dedicated to public use.

#### Article 11. BUILDING LINES

The building lines of structures for human habitation of third class construction shall not be nearer to the nearest boundary of any public way than 30 feet, nor nearer to the interior side and rear lot lines than 25 feet; and if on land of single ownership, they shall not be nearer to each other than 25 feet. The building lines of structures which are necessary to wood framed structures for human habitation shall

not be nearer to side and rear lot lines than 12 feet, or nearer to the nearest boundary of any public way than 30 feet.

The building lines of all other types of buildings or structures of third class construction, shall not be nearer to side and rear lot lines than 12 feet.

If the Board of Selectmen find that adjacent buildings for a reasonable distance on either side of the property on which the applicant proposed to build conform to some substantially common front line, the Selectmen may require the applicant also to conform thereto, regardless of the class of construction and use of the proposed structure.

#### Article 12. CHIMNEYS

No chimney shall be constructed without Fire Clay flue linings continuous from bottom to top in all flues, except that structures solely for commercial or for industrial purposes may have approved steel stacks or masonry chimneys with fire brick linings.

No smoke pipe or metal flue shall pass through any wooden partitions without a safety thimble of fireproof material, the thimble to extend the full width of the partition or the smoke pipe or flue to be eight inches from any woodwork.

#### Article 13. FIRE PREVENTION

Buildings of second or third class construction erected as blocks and subdivided for store or similar purposes; partitions or walls in the first story separating one store or similar portion from another shall be constructed either of fireproof material or of wood studs nogged the full height and thickness of the partition with fireproof material and dividing walls in the basement shall be entirely of fireproof material. All openings in such walls or partitions in both the basement and first story shall be glazed with wire glass in metal frames or have self-closing fireproof doors in metal frames.



scribed live load. All sills shall be securely anchored to foundation.

E. Bathroom:

Except as provided for overnight cabins, as hereinafter defined, there shall be a bathroom having therein a water closet and lavatory, and all toilet rooms and bathrooms shall have outside windows or other approved means of ventilation.

Article 16. SEWAGE

A. No cesspool or other means of sewage disposal shall be located under a building or nearer than 50 feet to any well or other source of water supply except a public water system.

B. No burnt clay tile pipe of any description shall be used within or under a building to conduct sewage or waste from plumbing fixtures.

Article 17. DWELLINGS LESS THAN 500 SQUARE FEET

Two or more structures erected for dwelling purposes each having less than 500 square feet of area at the first floor level, exclusive of porches and similar open spaces, and being on land of single ownership, shall be subject to all the provisions of that section of this by-law governing Tourist Camps notwithstanding that it may not be the intention of the owner or lessee to offer said structures for transient occupancy by the day or week.

SECTION II.  
TOURIST CAMPS

Article 1. DEFINITIONS

In this by-law the terms "overnight cabin" and "tourist camp" shall have the following meanings:

A. Overnight Cabins:

Any structure, whether described under the name or otherwise, constructed for dwelling purposes and

offered to the transient public for occupancy by the day or week.

B. Tourist Camp:

A group composed of two or more overnight cabins, guest cottages or structures going by any similar name erected on land of single ownership.

Article 2. PERMIT REQUIRED (Disapproved)

It shall be unlawful to establish, maintain or permit to be established or maintained in the Town of Eastham, a Tourist Camp unless a valid permit for the same has been initially granted by the Board of Selectmen and is renewed annually. The granting of a permit for a tourist camp shall not relieve the applicant from the obligation of complying with all other provisions of this by-law.

Article 3. APPLICATION FOR PERMIT (Disapproved)

The application for a permit to establish a tourist camp shall be accompanied by plans of the proposed tourist camp showing the location of all buildings, driveways, toilet facilities, and other improvements.

For each structure proposed to be erected in a tourist camp in addition to those approved under the original application, it shall be required that the current permit be amended, and said amendment shall be subject to all the requirements and conditions applying to an original application.

Article 4. HEARING REQUIRED (Disapproved)

The Board of Selectmen shall hold a public hearing on each application for a permit to establish a tourist camp, and they shall, at the expense of the applicant, publish a notice of said hearing, and said notice shall also be sent by registered mail to all owners of real estate abutting on the proposed site. The notice of the hearing shall appear not less than seven days prior thereto in a newspaper of local circulation and notice by mail to abutters shall be mailed to them not less than seven days prior to said hearing.

Article 5. GRANTING OF PERMIT (Disapproved)

If the Board of Selectmen finds that the proposed camp is not a public necessity and convenience and/or is detrimental to the locality in which it is proposed to be established, they shall refuse to grant a permit. Finding otherwise, it shall be granted.

Article 6. FEE (Disapproved)

A fee computed at the rate of \$1.00 per structure shall accompany each application for a permit to establish a tourist camp or to add thereto; and a fee computed in the same manner shall be required for each annual renewal. This fee shall not be construed as taking the place of any fee required for a building permit.

Article 7. LOCATION OF BUILDINGS

Overnight cabins and accessory buildings shall not be erected or placed closer than 50 feet of each other.

Article 8. MINIMUM ACCOMMODATIONS

No overnight cabin shall be erected having a floor area exclusive of open porches, of less than 150 square feet. (Each such building shall also have a water closet partitioned off from the remainder of the interior with a window direct to the outside air, and there shall also be a sink or lavatory with running water.) (Disapproved).

Article 9. RULES OF BOARD OF HEALTH  
(Disapproved)

In addition to the rules, regulations and requirements herein, all tourist camps and structures therein shall be subject to the rules, regulations and requirements of the Board of Health of the Town of Eastham.

Article 10. REVOCATION OF LICENSE (Disapproved)

Any holder of a permit for a tourist camp who fails to maintain compliance with the requirements herein or of the Board of Health may have such permit modified, suspended, or revoked by the Board of Selectmen if they shall so find.

after a hearing with due notice given to the holder of the permit and all other interested parties.

### SECTION III

#### Article 1. INVALIDITY

The invalidity of any section or provision of this by-law shall not invalidate any other section or provision thereof.

#### Article 2. BY-LAW EFFECTIVE

This by-law shall take effect upon its approval by the Attorney General and publication according to law.

#### Article 3. PENALTY

Whoever violates any of the provisions of this ordinance shall be punished by a fine not less exceeding One Hundred Dollars for each offense.

Attest:

LESLIE E. CHASE  
Town Clerk

The above provisions numbered Section I to Section III inclusive, are regulations adopted under Article 24 of the Town Meeting held on February 16, 1948.

LESLIE E. CHASE  
Town Clerk.

Boston, Mass.  
April 30, 1948

The foregoing by-laws are hereby approved with the exception of

Section 1

Article 8, as indicated;

Section 2

Article 2, 3, 4, 5, 6;

Article 8 as indicated;

Articles 9 and 10

which are hereby disapproved.

CLARENCE BARNES  
Attorney General