

ARTICLE VIII
REGULATION OF PUBLIC CONDUCT

**SECTION 800 NON-CRIMINAL DISPOSITION OF VIOLATIONS
 OF ANY BY-LAW**

800.1 General provisions; schedule of fines

Pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D, the Town hereby adopts the following procedure for the non-criminal disposition of violations of any bylaw adopted by the Town or any rules or regulation of any board, commission or department which contains therein a specific financial penalty, excluding the enforcement of traffic rules and regulations. In addition to those penalties specifically set forth in various sections of these bylaws, a copy of any such schedule of financial penalties to which this bylaw applies shall be retained on file with the Town Clerk.

800.2 Enforcing persons; procedure

The Selectboard shall file with the Town Clerk a list of the Town's enforcing persons who shall be entitled to issue tickets under this bylaw. An enforcing person shall be deemed to mean any person taking cognizance of a violation of a specific bylaw, rule or regulation which s/he is empowered to enforce.

As an alternative to initiating criminal proceedings, an enforcing person may issue to the offender a written notice to appear before the Clerk Magistrate of the Hadley District Court at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his or her required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver to the offender a copy of said notice at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person or the department head or their designee to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give his or her commanding officer or department head those copies of each notice of such violation s/he has issued. The department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery

or mailing, deliver the other copy to the clerk magistrate of the court before which the offender has been notified to appear.

Any person notified to appear before the clerk magistrate as hereinbefore provided may so appear and confess the offense charged or by mailing to the Town Clerk together with the notice such sum of money not exceeding three hundred dollars as the Town shall fix as penalty for violation of the bylaw, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the district court clerk magistrate of such payment and the receipt by the district court clerk magistrate of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk magistrate of district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also avail himself of the procedure established pursuant to this section, s/he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court magistrate or assistant magistrate, as the court shall direct, and if the magistrate or assistant magistrate, after hearing, finds that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the magistrate or assistant magistrate shall order, which payment shall operate as a final disposition of the case. If the magistrate or assistant magistrate, after hearing, finds that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payments of such a penalty shall be required to report to any probation office as a result of such violation, not shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk magistrate fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the magistrate or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the magistrate shall notify the court officer or department head, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate bylaw, rule or regulation.

Each such day that a violation continues shall constitute a separate offense. No penalty enforceable under Massachusetts General Laws, Chapter 40, Section 21D, as it may be amended from time to time, shall exceed the maximum set forth in that statute.

All fines and penalties for the violation of any bylaw shall be paid into the Town treasury for deposit in the Town General Fund.

SECTION 801 OFF-ROAD VEHICLE RESTRICTIONS

“No person shall use or operate a motorized off-road vehicle, including, but not limited to, motorcycle, all terrain vehicle, snowmobile, or similar motorized vehicle which is eligible for registration or any vehicle as described in Chapter 90B, Section 20 on town owned property, except vehicles used for agriculture, forestry, lumbering, golf, construction, police and fire protection, without prior written consent of the Selectboard and the Conservation Commission with respect to property under its jurisdiction. Further, no person shall use or operate such a vehicle on private property without the consent of the landowner having the responsibility for the management of such property.”

Any such consent shall be temporary in nature, shall specify the authorizing person’s name, telephone number, period of time during which it is in force, and shall be subject to the prohibitions, restrictions, and requirements of Town of South Hadley Bylaws, and Massachusetts General Law, including, without limitation Chapter 90B, Section 26. (5-13-06)

SECTION 802 DISCHARGE OF FIREARMS; ARCHERY

802.1 Town Owned Land

No person shall discharge a firearm or arrow on any land owned by the Town, except on land designated by the Selectboard and on file with the office of the Town Clerk.

802.2 Private Property

No person shall hunt or discharge a firearm on posted private property without the permission of the owner, pursuant to Massachusetts General Laws Chapter 131.

802.3 Exceptions

This Section shall not apply to the lawful defense of life or property, or to any discharge of firearms in accordance with law enforcement, at any military exercise, for the purpose of construction or sport shooting at an established gun-sporting club.

SECTION 803 DISCHARGE OF AIR, PELLET, PAINT-BALL GUNS

No person shall discharge an air, pellet, paint-ball or other weapon used to shoot projectiles on Town-owned land, public ways, or on private property other than said person’s own property or the property of the person’s parents, children, grandchildren or their respective spouses without permission of the owner of the land upon which discharge of such weapons will take place.

SECTION 804 FALSE ALARM

804.1 Definitions

For the purpose of this Article, the following words and phrases shall have the following meaning(s):

Alarm system

Any assembly of equipment and/or devices that are designed to be activated either manually or automatically for the purpose of drawing attention to the presence of a hazard, intruder, or situation, criminal or otherwise, to which the police are expected to respond.

Alarm user

Any person or business on whose premises an alarm system is installed and maintained within the Town of South Hadley, except for alarm systems that are installed in motor vehicles. Municipal buildings are hereby excluded from the provisions of this bylaw.

False alarm

The activation of an alarm system or any signal or communication transmitted to the police department requesting, requiring, or resulting in a response from the police when, in fact, there has been no unauthorized entry or intrusion into the premises, and there has been no attempted robbery or burglary at the premises. Excluded from this definition shall be the activation of an alarm system by power outages, utility companies, motor vehicle accidents, severe storms and general maintenance and/or repairs to the alarm systems when the police department has been notified in advance of potential alarm activation.

Audible alarms

All alarm systems that emit an audible signal shall be equipped with a device for limiting the length of the audible signal to fifteen (15) minutes.

804.2 Penalty

After the police department has recorded three (3) separate false alarms, be they audible or otherwise, within a calendar year, the alarm user shall be assessed the following fees:

Twenty-five dollars (\$25.00) for the fourth false alarm; and
Fifty dollars (\$50.00) for the fifth and subsequent false alarm(s)

SECTION 805 NON-MOTORIZED VEHICLES

805.1 Bicycles

Any person operating a bicycle shall obey the instructions of official traffic signals, signs, and other control devices applicable to motor vehicles, unless otherwise directed by a police officer. The bicycle operator shall, by hand, signal his or her intention to stop or turn. The operator shall not carry another person on said bicycle, except on a baby seat attached to the bicycle, provided that such seat is equipped with a harness to hold said person secured in the seat and protection is provided against the feet of said person hitting the spokes of the wheel of the bicycle.

During the period from one-half hour after sunset to one-half hour before sunrise, the operator shall display at the front of his or her bicycle a lamp emitting a white light visible from a distance of at least five-hundred feet, and at the rear of said bicycle either a lamp emitting a red light or a red reflector visible for not less than six-hundred feet when directly in front of lawful lower beams of headlamps on a motor vehicle. The operator shall display on each pedal of his or her bicycle a reflector, or around each ankle reflective materials, visible for a distance of six hundred feet. This clause shall not prohibit a bicycle or its operator to be equipped with lights or reflectors in addition to those required herein. A generator-powered lamp which emits light only when the bicycle is moving shall meet the requirements of this clause.

805.2 Other non-motorized vehicles

No person shall ride, drive, propel or wheel any sled, roller blades (included but not limited to in-line skates), sidewalk surfboard or skateboard within one hundred (100) feet of Town Hall, Police Station, Council on Aging, and Libraries, or on any portion of state numbered highways for which there is no sidewalk. Persons using such devices on sidewalks shall yield the right-of-way to pedestrians; persons traveling upon streets shall keep as near to the righthand side of the roadway as practicable and shall yield the right-of-way when entering an intersection.

805.3 Penalties

Whoever violates any provision of this chapter shall be punished by a fine as referenced in Section 800.1. Copies of said violations notices will be forwarded to the parents or legal guardians of violators under the age of 18.

SECTION 806 MOTORIZED SCOOTERS

806.1 Definition

For the purposes of this section a "motorized scooter" shall mean any wheeled device, including but not limited to, the so called mini-bikes, mini-choppers, pocket rockets, or motorized skateboard, that has handlebars, and is powered by a gas or electric motor that is capable of propelling the device with or without human propulsion at any speed; but shall not include any motor vehicle, motorcycle, or motorized bicycle as defined in M.G.L. Chapter 90, Section 1, or personal mobility assistance vehicles in use by disabled persons, landscaping and similar

equipment, and scooters owned and operated by the Commonwealth of Massachusetts or any subdivision thereof.

806.2 Prohibited operation of motorized scooters:

Motorized scooters shall not be operated upon any way, as defined in M.G.L. Chapter 90, Section 1; shall not be operated upon any sidewalk; and shall not be operated on any designated bicycle path.

SECTION 807 ALCOHOL

807.1 Possession

A person on a public way or in a public place to which the public has access shall not have in his or her possession an opened container of an alcoholic beverage. A person who violates this section is subject to a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00).

807.2 Consumption

A person shall not consume an alcoholic beverage in a public building or on public property, including a park, cemetery, or school or on a public way to which the public has access or on a parking area regulated under the provisions of M.G.L. Chapter 90, Section 18. A person who violates this section is subject to a fine of not less than twenty-five dollars (\$25.00) and not more than fifty dollars (\$50.00).

807.3 Exception

The two preceding sections shall not apply to an activity which has been duly authorized by the Selectboard under the applicable provisions of the General Laws of the Commonwealth of Massachusetts.

SECTION 808 SOLICITING

808.1 Certificate of registration for commercial solicitation

Every person desiring to engage in commercial soliciting, as defined in Section 101.11, excepting fundraising by children on behalf of local schools or organizations for children, shall make a written application to the police department for a certificate of registration. Such certificate shall be carried by the solicitor while engaging in soliciting and must be presented

upon request by a police officer or persons being solicited. Application for a certificate of registration shall be made upon a form provided by the Town of South Hadley and filed with the police department at least ten (10) days prior to soliciting. The certificate of registration will require the following information with respect to each solicitor:

- (a) Name and home and business address of applicant(s);
- (b) Name, description and home and present business address of solicitor(s);
- (c) Registration number and description of the vehicles of all solicitors;
- (d) The name and address of the employers of all solicitors and the length of employment;
and
- (e) Description of the purpose for the solicitation.

The police department shall maintain an accurate record of every application received and acted upon together with all other information and dates pertaining thereto and copies of all certificates of registration issued under the provisions of this bylaw.

808.2 Fees

Each application for a certificate of registration shall be accompanied by a fee of the lesser of \$50 for each solicitor or \$150 for the soliciting organization.

808.3 Revocation

The Chief of Police may revoke any certificate of registration for cause, including violation of this Section or the discovery of misleading or fraudulent information on the application for the certificate of registration. Immediately upon revocation, written notice thereof shall be sent by the Chief of Police to the holder of the certificate by certified U.S. Mail, addressed to the holder's residence address as shown on the application. A record of the date of the revocation will be made upon the original application.

808.4 Hours of solicitation

Soliciting will be permitted only between the hours of 9:00 a.m. and 8:00 p.m.

808.5 Laws of Commonwealth to be paramount

Nothing in this bylaw shall be construed as conflicting with any license issued under the authority of the Commonwealth.

808.6 Soliciting prohibited

All commercial and non-commercial soliciting shall be prohibited for any purpose at a residence upon which a sign is conspicuously placed requesting no solicitation.

808.7 Penalty

Any person violating any of the provisions of this bylaw shall be subject to a fine of not more than two hundred (\$200) dollars for each offense.