

Section 6 Stadium Regulations

In order to prevent danger to and/or adverse affects upon the public health, safety, or order, the following licensing procedure is hereby adopted to regulate the use of any premises upon or within which any concert, dance, exhibition, cabaret, public show of any description, theatrical exhibition, public amusement, exhibition of every description, game, sport (unless specifically excluded), fair, exposition, play, entertainment or public diversion is to be conducted. For purposes of this by-law any of the foregoing events shall be included hereafter in the term "public entertainment".

6.1A No "public entertainment" shall be conducted on any premises within the Town of Foxborough for which the number of tickets available for sale exceeds 15,000 unless a license for such public entertainment has previously been issued therefor by the board of selectmen and in accordance with the provision of this by-law.

6.1B¹

6.2 Application for such a license shall be on such form as approved by the board of selectmen, and shall be accompanied by such security plans, pedestrian and vehicular traffic plans, and other documentation as said board shall determine. Copies of any such application shall at the same time they are submitted to the board be mailed by the applicant, postage prepaid or delivered to:

- a) Chief of Police - Town of Foxborough;
- b) Fire Chief - Town of Foxborough;
- c) Chairman - Stadium Advisory Committee;
- d) Building Commissioner - Town of Foxborough;
- e) Board of Selectmen - Town of Walpole.

The foregoing public bodies or officials shall be requested to respond in writing with their recommendations and comments pertaining to such event to the board of selectmen within twenty-one (21) days of receipt of said application.

6.3 The board of selectmen shall, within forty-five (45) days following receipt of such application hold a public hearing on such application.

6.4 In addition to the notice requirements of Massachusetts General Laws, Chapter 140, Section 183A; Chapter 140, Section 181, and/or Chapter 136, Sections 4 and 14, the board shall cause, upon the

¹ STM December 15, 2008, Article #11, deleted section.

completion of time permitted in Paragraph 6.2 for response by those public bodies or officials referenced in Paragraph 6.2 above, at the applicant's expense, notice of such hearing to be published twice in a newspaper published within the Town of Foxborough, or if there be no such paper then in a newspaper published in Norfolk County with general circulation in the Town of Foxborough, the first such notice to be at least fourteen (14) days prior to said hearing and the second notice to be published at least seven (7) days prior to such hearing, such notice shall state the time, date, and location of the hearing as well as the time, date, location, and the nature of the public entertainment for which the application has been submitted, together with such other information as the board shall determine. Notice of such public entertainment shall also be posted at town hall at least seven (7) days prior to any such hearing.

6.5 To the extent, if any, that any section of this by-law may be invalid, such invalidity shall not affect the validity or enforceability of the remaining sections.¹

6.6 In considering applications made pursuant to this by-law, the board of selectmen shall consider only those issues regarding the public safety, health and order, and the creation of a nuisance as are authorized within the applicable provisions of Massachusetts General Laws, Chapter 140, Section 181, Chapter 140, Section 183A; and/or Chapter 136, Sections 4 and 14.²

6.7 Subject to the foregoing provisions of this Section 6, the grant or denial of an application hereunder shall otherwise be in accordance with the applicable provisions of Massachusetts General Laws Chapter 140, Section 181; Chapter 140, Section 183A; and/or Chapter 136, Sections 4 and 14.³

6.8 Re-Sale of Tickets (scalping). No person or group shall offer for re-sale tickets for events at Foxboro Stadium for a sum higher than its face value. Violations of said regulation shall be deemed a breach of the peace.⁴

Section 7 Restriction of Public Smoking⁵

A. Restriction of Smoking in Restaurants

1. Definitions: For the purpose of this by-law, the following definitions shall apply:

- a. Smoking: the lighting of, or the having in one's possession of any lighted cigar, cigarette, pipe or other tobacco product.
- b. Restaurant: means restaurants with a seating capacity of forty (40) or more persons. (Bar and lounge areas, primarily devoted to the purchase and consumption of alcoholic beverages, shall be excluded in determining restaurant seating capacity.)
- c. Non-Smoking Areas: that area of a restaurant designated and posted by the proprietor or other person in charge, where smoking by patrons or employees shall be prohibited.
- d. Smoking Areas: all other areas of a restaurant unless smoking is prohibited by sanitation or fire safety codes or regulations.

2. Regulated Conduct

- a. No person shall smoke in any area of a restaurant designated as a non-smoking area. This prohibition does not apply in cases in which an entire room or hall is used

¹ STM March 26, 1984, Article #1.

² ATM May 13, 1985, Article #20.

³ ATM May 13, 1985, Article #20.

⁴ STM November 26, 1990, Article #12. Original Section 6.7 was omitted from the By-Laws dated March 1989, and versions thereafter. This section has been re-numbered.

⁵ ATM May 14, 1984, Article #47.

for a private social function and, during the course of such function, is not subject to the full control of the proprietor or person in charge of the restaurant.

b. The non-smoking area shall comprise of no less than twenty-five (25%) percent of the seating capacity of the restaurant unless otherwise provided for under Section C, Part (b).

c. In the case of restaurants consisting of a single room, the requirements of this by-law shall be considered met if one side of the room is reserved and posted as a non-smoking area, provided that the non-smoking area comprises no less than twenty-five (25%) percent of the seating capacity of the restaurant.

3. Implementation and Enforcement

a. The proprietor or person in charge of a restaurant shall make reasonable efforts to prevent smoking in the non-smoking area by:

(1) posting appropriate signs;

(2) arranging seating so that existing physical barriers and ventilation systems minimize the effects of smoking in a smoking Area on persons in an adjacent non-smoking area;

(3) directing patrons seated in a non-smoking area to refrain from smoking, and;

(4) any other means which may be appropriate.

b. The Foxborough board of health may adopt rules and regulations to effectuate the purposes of the by-law.

c. Any person who smokes in a non-smoking area, after notice from the person in charge that such conduct violates this by-law shall be subject to a fine of not less than ten dollars (\$10.00) or more than thirty dollars (\$30.00).

d. The Foxborough board of health or any person aggrieved by the willful failure of the proprietor or other person in charge of a restaurant to comply with any provision of the by-law may seek injunctive or other relief to enforce the provisions of this by-law in a court of competent jurisdiction.

e. Nothing in this by-law shall make lawful smoking in any area in which smoking is or may hereafter be prohibited by law.

4. Severability: If any provision of this by-law is declared invalid or unenforceable, the other provisions shall not be affected thereby.

B. Restriction of Smoking at Public Meetings

1. Definitions

a. Smoking: the lighting of, or the having in one's possession of any lighted cigar, cigarette, pipe or other tobacco product.

b. Public Meeting: any meeting of elected or appointed officials that has been posted in accordance with the Open Meeting Law.

2. Regulated Conduct: No person shall smoke in an area where a meeting of elected or appointed town officials is taking place, in public.

3. Implementation and Enforcement
 - a. "No Smoking" signs shall be posted in regular meeting rooms, and the chairman shall notify attendees who do not comply with this requirement.
 - b. The chairman may waive this requirement when less than seven (7) persons are present.
 - c. The chairman may evict a person who continues to disregard this by-law.
4. Severability: If any provision of this by-law is declared invalid or unenforceable, the other provisions shall not be affected thereby.

Section 8 Alarm Regulations¹

A. Definitions: For the purpose of this by-law, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. The term "Alarm System" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this ordinance.
2. The term "Alarm User" or "User" means any person on whose premises an alarm system is maintained within the town except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this by-law are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located or an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system" as that term is used in this by-law and shall be subject to this by-law.
3. The term "Automatic Dialing Device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
4. The "Central Station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.
5. The word "Town" means the Town of Foxborough.
6. The term "Communications Console" means the instrumentation of an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

¹ STM November 18, 1986, Article #32. Outline format re-structured, November 1991.

7. The term "Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Foxborough Police Department Communication Center.

8. The term "False Alarm" means:

a. the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents;

b. any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are activation's of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, and similar conditions.

9. The term "Interconnect" means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilized a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

10. The term "Police Chief" means the chief of police of the Town of Foxborough or his designated representative.

11. The term "Police" or "Police Department" means the Town of Foxborough Police Department or any authorized agent thereof.

B. Administrative Rules: The police chief may promulgate such rules as may be necessary for the implementation of the law.

C. Direct connections to police department

1. Alarm systems may be connected to the communications console in the police department.

2. The alarm company shall furnish, at no cost to the town, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. The alarm company shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communication console. Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (2) relate solely to the aforementioned communication console, connection to the said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on his premises.

3. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and alarm-receiving equipment at the police department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.

4. The provisions of Section F concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county, state agencies and religious organizations.

D. Control and Curtailment of Signals Emitted by Alarm Systems

1. Every alarm user shall submit to the police chief the names and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed.
2. All alarm systems shall be equipped with a test device which will give a ten (10) second delay prior to alarm system activation in order to warn the alarm user of an open alarm circuit.
3. Within six (6) months from the effective date of this by-law, all alarm systems which use an audible horn or bell shall be equipped with a device which will shut off such horn or bell within ten (10) minutes after activation of the alarm system.
4. All alarm systems installed after the effective date of this by-law which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within ten (10) minutes after activation of the alarm system.

E. Testing of Equipment: No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the police chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

F. False Alarm

1. When emergency messages are received by the police department that evidence false alarms, the police chief shall take such action as may be appropriate under paragraphs 2, 3, 4, and 5 of this section, and when so required by the terms of the aforementioned paragraphs, order that use of an alarm system to be discontinued.
2. After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the police chief shall notify the alarm user, in writing and by certified mail, of such fact and require the said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the town, or on any other reasonable basis, requests an extension of time for filing the report, the police chief may extend the fifteen (15) day period for a reasonable period. If the said user fails to submit such a written report within fifteen (15) days or within any such extended period, the police chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.
3. In the event that the police chief determines that a report submitted in accordance with paragraph 2 of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the police chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.
4. In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the police chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that the police department records eight (8) false alarms within the calendar year from an alarm system, the police chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

5. Any user of an alarm system which transmits false alarms shall be assessed a fine of twenty-five dollars (\$25.00) for each false alarm in excess of three (3) occurring within the calendar year. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the police chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the police chief's order.

6. Any user of an alarm system who has, in accordance with this section, been ordered by the police chief to discontinue use of an alarm system may appeal the order of discontinuance to the board of selectmen. Notice of an appeal shall be filed with the board of selectmen within ten (10) days of the date of the order of discontinuance. Thereafter, the board shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such evidence, the board may affirm, vacate or modify the order of discontinuance.

7. Unpaid fines for false burglar alarms shall be known as municipal charge liens. The acceptance of this provision will allow the collector of taxes to add the unpaid fines to tax bills under the provisions of Massachusetts General Laws, Chapter 40, Section 58.¹

G. Penalties

1. The following acts and omissions shall constitute violations of this by-law punishable by fines up to fifty dollars (\$50.00):

a. failure to obey an order of the police chief to discontinue use of an alarm system, after exhaustion of the right of appeal;

b. failure to disconnect an automatic dialing service from any telephone numbers at the police department within six (6) months after the effective date of this by-law;

c. failure to pay two (2) or more consecutive fines assessed under this by-law within sixty (60) days from the date of assessment;

d. failure to comply with the requirements of Paragraph D (4) of this by-law.

2. Each day during which the aforesaid violations continue shall constitute a separate offense.

Section 9 Discarded Motor Vehicle Regulation²

A. Definitions

For the purpose of the by-law/regulation a discarded vehicle shall be one which is inoperative and unregistered, or which is worn out, cast off or discarded or which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any substantial portion from such a vehicle shall be considered discarded vehicles under this by-law/regulation.

B. General Provisions

In all zoning districts no more than one discarded motor vehicle can be stored on any parcel and that motor vehicle has to be kept or stored out of sight and/or out of the front yard(s). This shall not be required if such vehicle is enclosed within a structure provided that only one vehicle may be stored or parked outside if not visible at normal eye level from any point on an abutting lot, or if screened from view to the satisfaction of the

¹ STM November 26, 1990, Article #13.

² STM November 28, 1988, Article #16.

building commissioner. This provision shall not apply to vehicles for which a permit has been granted by the board of selectmen for their storage as provided below.

C. Application Procedure

1. Anyone holding a first, second, or third class automobile license as provided by Massachusetts General Laws, Chapter 140, Section 58 shall be exempt from the provisions of this by-law/regulation.

2. A license to park or store more than one such discarded vehicle as determined above shall be obtained from the board of selectmen who will issue said license under the conditions of paragraph three of this by-law/regulation.

3. A license to keep more than one discarded vehicle may be requested by filing an application in writing with the board of selectmen.

Such fees as may from time to time be established pursuant to chapter 40, Section 22F of the General Laws shall be required to cover all expenses incurred by the permitting body.¹ The board of selectmen shall hold a public hearing upon such request, notice of which shall be given by publishing in a newspaper of general circulation within the Town of Foxborough at least seven (7) days prior to the date of the hearing. The filing fee will be returned if the application is rejected less the incurred cost of advertising. NOTE: No more than three (3) vehicles per lot or contiguous lots thereof will be allowed with this license.

After the public hearing has been held, the board of selectmen may grant a one (1) year license upon such conditions as the board deems proper to keep such discarded vehicles. The board shall determine that the keeping of the same will not depreciate property values in the area, will not create a hazard to public safety, and will not become a public nuisance prior to issuing such permit.

Requests for renewals of said license may be made on a yearly basis. A written request from the applicant shall be received no later than fifteen (15) days prior to the expiration date of the license. The board of selectmen will hold a public hearing if it is deemed necessary before renewing the license. The applicant shall be responsible for the costs for the public notice as noted above. All of the provisions governing notification, public hearing requirements and board of selectmen criteria to issue licenses shall apply.

4. Upon the filing with the board of selectmen of a petition signed by ten (10) taxable inhabitants of Foxborough or the office of the building commissioner asking for the revocation of a license issued by the board under the provisions of this by-law/regulation, or at the request of the building commissioner, the board of selectmen shall hold a public hearing to review the conduct of the licensee under said license. If the board determines that the operation of the licensee under said license is such as to depreciate the property values, create a hazard to the public safety, or constitute a public nuisance, the board may, by a majority vote, revoke said license. The effective date of such revocation shall be thirty (30) days after the said vote for revocation.

D. Enforcement Procedure

The office of the building commissioner shall be responsible for enforcing the provisions and requirements of this by-law/regulation. If the building commissioner receives a complaint or believes by his own observations that a motor vehicle may be in violation of this by-law/regulation, he or his designee shall investigate. If the vehicle in question is found to be in violation of the above provisions, a notification sticker shall be attached to said vehicle. Subsequently, the owner of the lot where the vehicle is being illegally stored or parked shall have seven (7) days in which to remove, or cause to be removed the tagged vehicle. If the vehicle is not removed within this time period, or an agreed-to extension thereof, a fine of fifty dollars (\$50.00) per day, per vehicle shall be levied against the owner of the property where the vehicle is being stored or parked. Furthermore, the violation shall be subject to such further enforcement as may be appropriate.

¹ STM December 15, 2008, Article #13, deleted sentence, inserted new sentence.

