TOWN OF HOLBROOK

BY-LAW REGULATIONS- SECTION 13 *REVISED*

Section 13-1

a. Scope and Authority
This bylaw provides for non-criminal disposition of a violation of any rule or regulation of any Town officer, board, or department, the violation of which is subject to a specific penalty. This bylaw is enacted in accordance with MGL 40, s.21D (herein called 21D).

b. Enforcing Person
"Enforcing person" as used in this bylaw shall mean any police officer, regular or special, of the Town of Holbrook with respect to any offense: Fire Official, the Building Inspector, Health Agent, Conservation Commission member, Department of Public Works Director, or any other official as the Town Administrator or Selectman may from time to time designate, each with respect to violations of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be the enforcing person with respect thereto.

c. Violation
An enforcing person taking cognizance of a violation of any bylaw, rule or regulation may, as an alternative to institute criminal proceedings, give the offender a written notice to appear before the Clerk of the Norfolk District Court for non-criminal disposition of the violation, in accordance with 21D. The provisions of 21D are incorporated by reference herein.

d. Proceedings
Proceedings pursuant to this bylaw and 21D shall not be deemed to be criminal proceeding.

e. Bylaw Penalty

Every violation of any of the foregoing bylaws shall be punished by a fine as follows:

First Offense	Warning
Second Offense	$100.00
Third Offense	$200.00
Any Additional Offense	$300.00

Each day the violation remains un-corrected constitutes a separate violation.

Adopted: TM/March 21, 1872/ Article 12. Amended

Section 13-2
Bylaw Prosecution

It shall be the duty of the enforcing person to prosecute every violation of any foregoing Bylaws by the complaint before the Norfolk District Court.

Section 13-3
Publication of Bylaws

The Selectman shall publish these Bylaws and make them available to any interested person. The fee for copies of the bylaws to be fixed by the Board of Selectman in accordance with MGL C40 s.22F.

Amended: STM/October 14th, 1970/ Article 11 Amended: STM/February 11, 2009/ Art. 11

REGULATIONS OF THE BOARD OF HEALTH

P- Section 13-4
Definitions

BOARD OF HEALTH: means the legally constituted Board of Health of the Town of Holbrook, Massachusetts, or its agents.

OPERATOR: means the person in control of a particular establishment.

PERSON: means any person, company, corporation, trust, or any other entity.

SMOKING: means the lighting or having the possession of any lighted cigarette, cigar, pipe, or other tobacco product.

P- Section 13-5
Authority

Under the authority Chapter 111: Section 31 Health regulations; summary publication; hearings; filing sanitary codes and related rules, etc. Local Boards of Health hereby may make any reasonable health regulations in regards to public health matters

State law references- Public Health, generally, G.L. c.111. State Sanitary Code: adoption, enforcement and jurisdiction, G.L. c.111, Sec. 127A; State Sanitary Code, 105 CMR 410, et seq. Crimes against public health, G.L. c. 270. Solid waste disposal, G.L. c. 16, Sec. 18.

P- Section 13-6

The Sanitary Codes and Environmental Codes of the Commonwealth are hereby adopted in its entirety with additions as adopted by the Board of Health if noted.

(A.) Sanitary Code: General Application and Administration.

105 CMR 400, Chapter 1 of the State Sanitary Code
105 CMR 410 Minimum Standards of Fitness for Human Habitation.
105 CMR 420 Housing and Sanitation Standards for Farm Labor Camps.
105 CMR 430 Sanitation Standards for Recreational Camps for Children.
105 CMR 435 Minimum Standards for Swimming Pools.
105 CMR 440 Minimum Standards for Developed Family Type Camp Grounds.

105 CMR 445 Minimum Standards for Bathing Beaches.
105 CMR 480 Storage Disposal Infectious Waste.
105 CMR 520 Labeling.
105 CMR 500 Good Manufacturing Foods.
105 CMR 590 Minimum Sanitation Standards for Food Service Establishments.
105 CMR 561 Frozen Dessert and Soft Serve.
105 CMR 123 Training Facilities.
MGL chapter 270, section 22 Massachusetts Smoke-free Workplace Law.
105 CMR 460.000 Lead Poisoning Prevention and Control Regulations.
105 CMR 675.000 Requirements To Maintain Air Quality In Indoor Skating Rinks.
310 CMR 19.000: Solid Waste Management.
105 CMR 480.000 Storage and Disposal of Infectious Waste.

(B.) Environmental Codes:
310 CMR 15 Title 5- Standard Requirements for Disposal of Septage.
The Massachusetts Hazardous Waste Management Act, Chapter 21C.
310 CMR 30.000, Massachusetts Hazardous Waste Regulations.
310 CMR 40.000, Massachusetts Contingency Plan.
310 CMR 7.06-7.24, Air Pollution Noise Control Regs.

(C.) Local Health Regulations:
Smoking Regulations
Rubbish and Trash
Body Piercing Art Regulations
Smoking Regulations Distribution of Tobacco Product
Private Well Regulations
Pool Regulations
Dumpster Regulations
Massage Regulations, Vapor Pools and Baths
Regulations Body Art Establishment and Practitioners
Regulation for the use of rDNA Molecule Technology and Infectious Agents
**Where there is no specific town regulation found applicable or the town regulation is silent, regulation would be in compliance with state law.

P- Section 13-7

Whoever violates any provision of these Regulations may be prosecuted in a court of competent jurisdiction.

Violation of any of the regulations of the Board of Health may be enforced by non-criminal disposition in the manner provided by General Laws, Chapter 40, Section 21D and Section 1-4A ("Non-Criminal Disposition") of the Town of Holbrook Bylaws. This does not limit the Town in any way from seeking criminal or civil remedies at a court of competent jurisdiction. The specific non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall, unless specifically provided otherwise in these regulations, be as follows:

First offense within a twelve-month period	$25.00
Second offense within a twelve-month period	$50.00
Third and subsequent offenses within a twelve-month period	$100.00

Each day any violation shall continue shall constitute a separate offense.

State law reference- G.L. c. 40, sec 21D.

Persons and its designees.

(A.) Non-Criminal disposition penalty for violation of Sanitary Code.

The non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall be twenty-five ($25) dollars, except that any violation defined as a "critical violation" in Chapter 10 of the State Sanitary Code "Minimum Sanitation Standards for Food Establishments," as adopted by Board of Health pursuant to this Section, shall be as follows:

First offense within a twelve-month period	$100.00
Second offense within a twelve-month period	$200.00
Third and subsequent offenses within a twelve-month period	$300.00

Each day any violation shall continue shall constitute a separate offense.

State law reference- G.L., c. 40, sec. 21D.

Cross reference- 1-4A.

(B.) Non-Criminal disposition penalty for Smoking in a Workplace

The non-criminal disposition penalty which shall apply to a violation of these Board of Health regulations shall be twenty-five ($25) dollars, except that any violation defined as "MGL chapter 270, section 22, Massachusetts Smoke-free Workplace Law" and "Distribution of Tobacco Product" as adopted by Board of Health pursuant to this Section, shall be as follows:

First offense within a twelve month period	$100.00
Second offense within 1 year of first offense	$200.00
Third and subsequent offenses within 1 year of first offense	$300.00

Each violation shall constitute a separate offense.

State law reference- G.L. c. 40, sec. 21D.

P- Section 13-8

Local Health Regulations

(A.) No person shall allow a dog or other animal which is under their control or ownership to defecate on any public property or property of another without immediately picking up after said animal and properly disposing of feces.

(B.) No person shall feed any water fowl on public land in the Town of Holbrook. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any other public land. The fine for any violation of this section shall be $10.00. (This regulation is also an Inhabitance Bylaw, Section 42)

P- Section 13-9
Variances

The Board of Health may vary the application of any provision of these regulations to any particular case when in its opinion the enforcement thereof would manifest an injustice, provided that the decision of the Board of Health shall not conflict with the spirit of these regulations. The applicant for any variance shall pay for any advertising and/or mailings required for processing the variance.

P- Section 13-10
Dumpsters

(A.) The Dumpster must be located and placed in a manner approved by the Board of Health. A plan shall be submitted and approved showing the location of the dumpster and all businesses and buildings on the site. The dumpster is to be situated as not to cause a visual obstruction of traffic.

(B.) The dumpster shall be enclosed or screened in such a manner as to be not visible from public ways (except from above). Screening shall be approved by the Board of Health. Dumpsters meant for temporary use, i.e., less than 30 days, do not need to be screened.

(C.) The dumpster is not to be filled or emptied between 11 p.m. and 6:30 a.m. Extenuating circumstances will be determined on a case by case basis by the Heath Agent. The business filing for an exemption must do so in writing and receive approval before the fact.

(D.) The dumpster must be of sufficient size and capacity to eliminate overflowing. The lids must be closed when the dumpster is not in use. The property owner and authorized agent of the business utilizing the service is responsible for ensuring that the dumpster is kept free from odors, rodents, flies, insects, scattered debris and all other nuisances.

(E.) The contractor shall have his/her name and telephone number conspicuously displayed on the dumpster.

(F.) The dumpster contractor shall have the dumpster deodorized, washed, and sanitized as needed or as directed by the Board.

(G.) The contractor shall prevent spillage during the emptying process, and also during the transporting of dumpster contents. <u>In the case of spillage, it is the responsibility of the property owner to clean the area.</u>

(H.) These regulations shall apply to all dumpsters or similar units, whether for residential, commercial, industrial, or municipal use.

(I.) Violations of these regulations are subject to a fine of ($50.00) per offense. Each day that the offense continues shall constitute a separate offense.

(J.) Permit all dumpsters shall be permitted by the Board of Health on an annual basis $50.00/dumpster. Temporary permits shall be issued for all projects residential, commercial, industrial, or municipal <> 30 days cost of $50.00.

TOWN OF HOLBROOK, MASSACHUSETTS NOISE ORDINANCE

P- Section 13-11

(A.)General Prohibition and Definitions

No person shall make or cause to be made any unreasonable or excessive noise in the Town of Holbrook, by whatever means or from whatever means or from whatever source. As used herein, the following terms shall have the following meanings:

(a.)dBa shall mean A- weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standard Institute, "Specifications for Sound Level Meter (ANSI SIR 19711)", properly calibrated, and operated on the "A" weighting network

(b.)Loud amplification device or similar equipment shall mean a radio, television, stereo, tape player, cassette player, compact disc player, MP3 player, loud speaker, sound amplifier, electronic device, or any other similar apparatus or equipment operated in such a manner that it creates excessive noise.

(c.)Unreasonable or excessive noise shall mean:

1. Noise measured in excess of 50 dBa between the hours of 9:00 p.m. and 7:00 a.m., or in excess of 70 dBa at all other hours from the nearest property line; or

2. In the absence of an applicable noise level standard or regulation of the Air Pollution control commission, any noise plainly audible at a distance of three hundred (300) feet or, in the case of loud amplification devices of similar equipment, noise plainly audible at a distance of one hundred (100) feet from its source by a person of normal hearing.

(B.)Disturbing the Peace

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to disturb the Peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any loud amplification device, or from the playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group or person who has received and maintains a valid license or permit from any department, board or commission of the Town of Holbrook authorized to issue such license or permit shall be exempt from the provisions of this section. At no time shall it be allowed in the Town of Holbrook that a person or persons broadcast any loud amplification device from a private residence for the sole purpose of attracting attention of the passing public or as part of a decorative theme no matter the dB'a level. It shall be unlawful for any person in any area of the Town of Holbrook to operate a loud amplification device or similar equipment in or on a motor vehicle, which is moving, standing or stationary in, on or upon a public way. The fact that the noise exceeds the sound level standards as specified herein shall be deemed to be a violation of the provisions of this ordinance. The police or health agent, in response to each complaint, shall verify by use of the sounds level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon issue the appropriate fines and or seize the device of which the noise emanates.

(C.)Dogs

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to allow unreasonable barking from a dog in excess of thirty minutes on their property. In the case of multiple dogs on said property, unreasonable barking shall be limited to twenty minutes. If the owner of the dog or dogs in violation of this ordinance does not attempt to silence the dog or dogs, a fine shall be given at that time. This shall be enforced by the animal control officer or the police department.

(D.)Motorcycles

It shall be unlawful for any person or persons in a residential area within Town of Holbrook to leave a motorcycle, dirt bike, ATV or any other vehicle that is considered to be a recreational off road vehicle in the idle position between the hours of 10:00 p.m. and 6:00 a.m.

(E.)Construction

It shall be unlawful for any person or persons in a residential area within the Town of Holbrook to operate machinery or create any noise associated with construction, demolition, alteration, repair, maintenance or upkeep of any residential property between the hours of 7:00 p.m. and 7:00 a.m. Monday thru Saturday, and 7:00 p.m. and 8:00 a.m. on Sundays. Exceptions shall be in an emergency situation or for the purpose of snow removal.

(F.)Exemptions

This ordinance shall not apply to:

1. Any public utility company, Police Department, authorized police emergency vehicles, Fire Department, authorized fire emergency vehicles, any Public Works Department, or any agency or department of the Town of Holbrook or the Commonwealth of Massachusetts.

2. Any alarm, siren, or mechanism used for the purpose of alerting persons to the existence of an emergency, or attempted crime.

3. Any lawfully permitted parade, including any spectators and participants on the parade route during said lawful parade.

4. Any patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnics permit is required and obtained by the State Fire Marshal or Fire Chief.

5. Any town-sanctioned fireworks display.

6. Any lawful outdoor event, race, festival, fiesta, carnival, sporting event, entertainment or concert that is in full compliance with a permit issued by the Town of Holbrook, provided that the noise created is limited to the days and hours set forth in terms of such Permit.

7. Sound produced by church bells or church chimes when used as part of religious observances or service during daytime hours.

8. Sound produced by activities conducted on public parks, public playgrounds, and public or private schools, including but not limited to, school athletic, band and school entertainment practice or events.

9. Any activity which has been specifically licensed or permitted by a Town of Holbrook department or board provided that the noise created is limited to the days, hours, and type set forth in such license or permit.

(G.)Fines and Penalties

Any person violating the provisions of this ordinance shall be punished by fine of fifty ($50) dollars for the first offense, ($100) dollars for the second offense occurring within twenty-four (24) hours of the first offense, and a fine of one hundred and fifty ($150) dollars for the third offense and any subsequent offense thereafter occurring within twenty four (24) hours of the first offense. Any violation of the provisions of this ordinance occurring more than twenty-four (24) hours after the first offense shall constitute a new and separate offense. The enforcing person, health agent or police officer shall make a record of the complaint, such record to include the following information (to the extent that it is available), name and address of person violation; name and address of landlord, if applicable; date; time; motor vehicle registration number, if applicable; and location of the violation. If the violator refuses to give the above-noted information or if any information proves false, said person shall be punished by a fine of an additional twenty-five ($25) dollars. As an alternative, a violation of this ordinance may, in the discretion of the enforcing person, be enforced by non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The issuance of a fine shall not preclude the town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this ordinance, including but not limited to preliminary and/or permanent injunction(s).