

1. Agenda

Documents:

2022.04.12_BOH_AGENDA.PDF
2022.04.12_BOH_AGENDA_REVISED.PDF

2. Meeting Materials

Documents:

BOH_COMPOSITE_MONTH_REPORTING.PDF
NOISE_BYLAW_DRAFT.PDF
REGIONAL_FEE_COMPARISON.PDF



**Town of Southborough
Board of Health
9 Cordaville Road, Lower Level
Southborough, MA 01772-1662**

RECEIVED
By Town Clerk/amb at 3:23 pm, Apr 07, 2022

Phone: (508) 481-3013

**Tuesday, April 12, 2022 at 9:30AM
Meeting Agenda
Hybrid Meeting - Select Board's Meeting Room (Town House) & Virtual**

Pursuant to Chapter 20 of the Acts of 2021, An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency, signed into law on June 16, 2021, this meeting will be conducted via remote participation. No in person attendance by members of the public will be permitted. This meeting may be watched or residents may participate in the meeting remotely with the meeting link at:

<https://www.southboroughtown.com/remotemeetings>

Business Item (Board May Vote):

1. Public Comment

2. Vote to Approve Meeting Minutes: 3/25/22

3. Food Permits

- Rates for Permits (See Comparison Study)
- Re-Inspection Fee
- Add Request for Food Inspections to Board of Health Page on Town Website

4. FY23 Budget

- SAP
- Town Meeting

5. Covid Related Topics

- Vaccine Clinics
- Re-Appointing Temporary Clerks

4. Public Health Director/Nurse Report

- BOH Duties: Reporting 3-Month Numbers Update
- Planning for May Mental Health Awareness Month



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5. Noise Issues

- Reporting Form for Noise Complaints
- Ken's Warehouse & Planning for BOH Visit

6. Tobacco

- MetroWest Tobacco Control District & Re-Appointing Olivia Dufour
- Southborough Regulations & Smoking in Public Places

7. Upcoming Meeting Schedule

- Regular Meetings – 5/10/22

8. Public Comment

9. Executive Session

The Board will be entering into Executive Session per M.G.L. Chapter 30A, Section 21, and not returning to Open Session to discuss contract for the Public Health Director as the Chair has determined that an open meeting may have a detrimental effect on the Town's position.

Chelsea Malinowski, Dr. Safdar Medina, Nancy Sacco



**Town of Southborough
Board of Health
9 Cordaville Road, Lower Level
Southborough, MA 01772-1662**

RECEIVED
By Town Clerk/amb at 8:32 am, Apr 08, 2022

Phone: (508) 481-3013

**Tuesday, April 12, 2022 at 9:30AM
Meeting Agenda - Revised
Hybrid Meeting – McAuliffe Meeting Room (Town House - 17 Common Street)
& Virtual**

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Board of Health
9 Cordaville Road, Lower Level
Southborough, MA 01772-1662

Phone: (508) 481-3013

5. Noise Issues

- Discussion of Noise ByLaw
- Reporting Form for Noise Complaints
- Ken's Warehouse & Planning for BOH Visit

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Septic

	July-September 2021	October-December 2021	January-March 2022		
Septic Applications	25	15	3		
Septic Plans	43	29	21		
Septic Inspections	87	46	14		
Soil Tests	24	9	11		
Septic Variances/revisions	12/9	3/5	5/9		
Septic Failures	7	3	0		
Plan review-Planning conservation appeals	ND	2	7		
Plan review Building	34	33	30		
As built/certificate of compliance	ND	13	5		
Installation inspection	ND	1	17		
Septic consultation in person/phone	30/34	14/24	16/42		
Title 5 Reports/Review	30/ND	10/2	14/4		
Pumper or hauler/installer license	3/ND	7/18	6/6		
Pumping	165	194	176		
Garbage Grinder letters	8	5	5		

Food/Housing and other Inspections

	July-September 2021	October-December 2021	January-March 2022		
Food Applications	25	3	14		
Food inspections	15	40	19		
Food Plan Review	0	0	1		
Housing inspections	2	2	3		
Camp/Medical	6	0	0		
Camp/Pool	2	0	0		

Body Art	5	0	0		
Nuisance- odor, noise, beaver, other	7	6	5		
Tobacco inspection	0	0	0		
Tobacco compliance	8	2	0		

Phone Call General Inquiries

	July- September 2021	October- December 2021	January-March 2022		
Phone calls inquiries	333	268	164		

Communicable Disease Investigation

	July-September 2021	October- December 2021	January-March 2022		
Covid Case investigations	120	481	745		
Covid Contact calls	151	567	6		
Covid Guidance for business/school/departments	53+	153+	173+		
Food Borne Illness Investigations	1	0	2		
Tick-Borne Illness Disease Investigations	15	6	1		
Communicable Disease other (/Ebola/TB)	5	21	2		
Communicable disease tracking	ND	ND	14		

ARTICLE 26: To see if the Town will vote to amend its general bylaws by inserting a new provision entitled “Noise” at Chapter XX thereof, as follows:

XX. NOISE

SECTION 1: SCOPE

The citizens of Southborough have a right to and should be ensured an environment free from excessive noise. This bylaw is enacted to minimize excessive noise which may jeopardize the health and welfare of its citizens or degrade their quality of life.

SECTION 2: DEFINITIONS

Contracted Work: Businesses or other entities that are retained to do work on property and which generates noise, including but not limited to: renovation, landscaping, property maintenance, construction, demolition, deliveries.

Demolition Permit: A permit for the removal of any structure or part thereof on any lot.

Distinctly Audible: Any sound that can be understood by a person using his or her unaided hearing faculties. For example, if music is playing, the words or instrumentation is discernable; or if a conversation is occurring, the words and context of a conversation can be understood.

Enforcement Official: A duly designated police officer shall be an “Enforcement Official”.

Holidays: New Year's Day (January 1); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November); and Christmas Day (December 25).

Homeowners: work performed by an owner or occupant of a residential property which generates noise, including but not limited to: renovation, construction, landscaping, property maintenance.

New Construction Permit: A permit for new residential or commercial construction on any lot, whether or not Planning Board approval is required, excluding both renovations and additions.

SECTION 3: STANDARDS

Exterior Noise Standards

Unless further defined by standards within this bylaw, it shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any loud noise, on property owned, leased, occupied or otherwise controlled by such person, which causes an unreasonable disturbance beyond the property line that disturbs the peace.

Homeowner Work Noise Standards

Noise associated with Homeowner work is allowed between 7:00 AM and 8:00 PM on weekdays, 8:00 AM and 9:00 PM on Saturdays, Sundays and Holidays.

Contracted Work Noise Standards

1. Noise associated with Contracted Work is allowed between 7:00 AM and 7:00 PM on weekdays and 8:00 AM and 6:00 PM Saturdays. Contracted Work shall not be allowed on Sundays or Holidays.
2. Any work that generates an unreasonable noise disturbance beyond the property line with a New Construction Permit or Demolition Permit is only allowed between 7:00 AM and 6:00 PM on weekdays and 8:00 AM and 2:00 PM Saturdays. This activity shall not be allowed on Sundays or Holidays.

SECTION 4: PROHIBITED ACTIVITIES

The following activities are prohibited if they generate an unreasonable disturbance:

1. Yelling, shouting, whistling, singing, playing music or the making of any loud noises so as to annoy or disturb the reasonable quiet, comfort or repose of identified persons is prohibited between the hours of 11:00 p.m. and 7:00 a.m.
2. Noise from truck idling- No person shall operate an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds GVW (gross vehicle weight) for a period in excess of ten (10) minutes when such vehicle is parked on a residential property or on a street or way abutting a residential property, except where such vehicle is standing within a completely enclosed structure. This section shall not apply to delivery or pickup vehicles that require the operation of the engine to unload or load their cargo or equipment.

3. Motor vehicles operating within the town of Southborough must adhere MGL c. 90, § 16 which addresses harsh, objectionable or unreasonable noises.
4. Noise that is audible beyond the property line while loading or unloading trucks between the hours of 9 P.M. and 7 A.M. unless otherwise permitted.
5. No trash collection or dumpster collection shall take place in any area designated as, or directly abutting a residential zone between the hours of 9 P.M. and 7 A.M.
6. Any establishment granted a license for entertainment that is amplified by microphone, amplifier, or the like will be subject to this Bylaw. The entertainment should not be distinctly audible beyond the property boundaries of the establishment.
7. No establishment granted a liquor license shall permit noise to be distinctly audible beyond the premises between the hours of 9:00 P.M. and 7 A.M.
8. Unreasonably loud and disruptive noise emitted by a domesticated animal for a duration of more than 20 minutes intermittently, defined as an average of two vocalizations or more per minute in that period. A domesticated animal includes any animal that a person owns, controls or otherwise cares for.

SECTION 5: EXEMPTIONS

Noise limits in this regulation shall not apply to noise emitted by or related to any of the following:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities, specifically including, but not limited to any vehicle, device or equipment in the performance of emergency work.
2. Emergency activities including but not limited to: storm cleanup, power outages, snow removal, and use of generators provided that, to the extent practical or feasible, such equipment be operated with a working muffler and/or a sound reduction device while in use.
3. Non-commercial speech as guaranteed by, and subject to the limitations of, State and Federal constitutions.
4. Any bell or chime from any school or church, and any device used in conjunction with places of religious worship.
5. Parades, public gatherings, or events for which appropriate permits or licenses have been issued or which are constitutionally protected.
6. Necessary work on bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the Commonwealth of Massachusetts.
7. Farming equipment or farming activity as defined by MGL c. 128, § 1A.
8. Any activity to the extent the regulation thereof has been preempted by State or Federal laws or regulations.

SECTION 6: VIOLATIONS AND PENALTIES

Any person or business who violates any provision of this bylaw, if found responsible, may be fined as follows:

A warning for the first offense;

\$50 for the second offense within 180 days of first offense;

\$100 for the third offense within 180 days of second offense;

\$300 for each succeeding offense within 180 days of the preceding offense;

provided that an Enforcement Official shall have the option to issue a warning instead of a fine for violations if, in the Enforcement Official's reasonable judgment and sole discretion, a warning is appropriate under the circumstances. Each day of violation of any provision of this chapter, whether such violation is continuous or intermittent, shall be construed as a separate and succeeding offense.

Fines may be administered by the Enforcement Official in accordance with MGL c. 40, §21D.

SECTION 7: ENFORCEMENT

1. The Police Department shall be charged with the enforcement of the provisions of this bylaw.
2. All Town departments and agencies shall, to the fullest extent consistent with other laws, carry out their programs in such a manner as to further the policy of this bylaw.
3. All Town departments and agencies shall comply with Federal, State and local laws and regulations and the provisions and intent of this bylaw respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.
4. Temporary exceptions (no more than 3 days) to this bylaw may be granted by the Select Board. The Select Board shall establish appropriate procedures for processing applications, including such hearing(s) as the

Select Board deems appropriate. The Select Board may require notification of the activity to all abutters within three hundred (300) feet of the exception location.

SECTION 8: SEVERABILITY

If any provision or portion of a provision of this chapter is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

SECTION 9: EXISTING NOISE REGULATIONS OUTSIDE OF THIS BYLAW (INFORMATION ONLY)

The Massachusetts Department of Environmental Protection (DEP) noise regulation is regulated by Noise control Regulation 310 CMR 7.10(1) which states that no person or persons owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, suffer, allow, or permit unnecessary emissions from said source of sound that may cause noise. 310 CMR 7.10(1) is subject to the enforcement provisions specified in 310 CMR 7.52.

Additionally adopted by Division of Air Quality Control Policy DAQC Policy 90-001, Southborough Board of Health will lead enforcement with assistance from the Police Department, and use MassDEP noise Policy to determine compliance of certain stationary noise sources or excessive sound 310 (CMR 7.10). After receiving a complaint, if the Southborough Board of Health (SBOH) determines that excessive noise is being generated, the SBOH can request the commercial source conduct a noise study to determine compliance and shall include a Return to Compliance Plan for any violations of DAQC Policy 90-001.

; or do or act anything in relation thereto.

Proposed by: SELECT BOARD

Select Board Recommendation:

Advisory Committee Recommendation:

Summary: *As a result of the 2021 Town meeting, an ad hoc committee was formed to create this proposed noise bylaw. Many, but not all, residents have their tranquility and health threatened by noise near their homes. This proposed noise bylaw implements a simple date and time approach to noise regulation in which homeowners are still in control of their property and paid contractors have to act neighborly while doing their work. Noise enforcement is not possible without a bylaw on the books.*

Permit	Boylston	Northborough
<u>Food Establishment</u>		

0 -40 Seats	\$100.00 - \$200.00	\$250.00
41 and over	\$100.00 - \$200.00	\$250.00
Drive-Thru	\$200.00	

Retail Space

Under 10,000 sf
Over 10,000 sf

Limited Retail Food Service Establishment

Other

Bakeries under 3,000 sf		
Bakeries over 3,000 sf		
Frozen Dessert Manufacturing		
Food Storage Warehouse		
Sushi Bars		
Temporary and Event		\$25.00
Bed and Breakfast		
Catering		
Farmer's Market (Organizer)		
Farmer's Market (Vendor)		
Mobile food	\$50.00	
Residential	\$50.00	
Church	\$50.00	
Non-profit	\$50.00	

Non-compliance fee (inspection policy)
Non-compliance fee (unauthorized equipment and/or operations)
Plan Review Fee
Special Process Review

Southborough	Westborough	Marlborough	Natick	Framingham
\$100.00 - \$200.00	\$190.00	\$200.00	\$300.00	\$225.00
\$100.00 - \$200.00	\$375.00	\$300.00	\$500.00	\$400.00
\$100.00	\$150.00	\$125.00	\$750.00	\$225.00
\$100.00	\$350.00	\$275.00	\$1,250.00	\$400.00
\$25.00	\$25.00		\$75.00	\$50.00
		\$150.00	\$350.00	
		\$200.00	\$700.00	
		\$25.00	\$50.00	
	\$400.00			
	\$25.00			
\$25.00	\$40.00	\$50.00	\$50.00	\$40.00
	\$50.00			
\$25.00	\$50.00	\$125.00	\$300.00	
\$100.00	\$25.00			
\$50.00				
\$75.00	\$125.00		\$100.00	\$100.00
	\$25.00	\$75.00	\$125.00	\$150.00
N/C				
N/C			\$20.00	
\$50.00	\$200.00	\$75.00	\$75.00	
	\$200.00		\$200.00	
		\$150.00	300 - 750	
		\$75.00	\$100.00	

Ashland**West Boylston****Recommended Fees**

\$415.00

\$200.00

\$250.00

\$570.00

\$400.00

\$400.00

\$415.00

\$200.00

\$200.00

\$1,265.00

\$300.00

\$400.00**\$50.00****\$200.00****\$400.00**

\$100.00

\$100.00**\$300.00****add \$25 to permit fee**

\$50.00

\$50.00

\$50.00**\$50.00**

\$160.00

\$200.00

\$200.00**\$150.00****\$50.00**

\$200.00

\$200.00

\$150.00

\$95.00

\$150.00

\$100.00

\$150.00

\$150.00**\$250.00**

\$100.00

\$250.00

\$250.00**\$50.00**

Retail		Boylston		Northborough		Southborough
under 1,000 sf	\$	50.00	\$	125.00	\$	100.00
under 10,000 sf	\$	50.00	\$	150.00	\$	100.00
10,000 sf and over	\$	50.00			\$	100.00
Over 15,000 sf			\$	250.00	\$	100.00
Supermarkets			\$	1,000.00	\$	100.00
Limited Retail					\$	25.00

with salad bar (Add)

with buffet (Add)

Westborough

\$ 200.00
\$ 500.00

\$ 800.00

\$ 50.00
\$ 50.00

Plan Review	Boylston	Northborough
0 - 40 seats	\$300.00 - \$500.00	\$ 200.00
41 seats and over	\$300.00 - \$500.00	\$ 200.00
Under 10,000 sf of retail space	\$300.00 - \$500.00	\$ 200.00
10,000 sf and over of retail space	\$300.00 - \$500.00	\$ 200.00
 Revisions	 \$ 150.00	
 Restaurant Kitchen Remodeling		
< 500 sf		
> 500 sf		
 Construction Re-inspections		
0 - 40 seats		
41 seats and over		
Under 10,000 sf of retail space		
10,000 sf and over of retail space		

Southborough

Westborough

Varies	\$	150.00
Varies	\$	250.00
Varies	\$	150.00
Varies	\$	350.00

\$	75.00
\$	200.00

\$	150.00
\$	250.00
\$	175.00
\$	300.00