

Town of Shutesbury

Number: 890515

Non-Criminal disposition

Bylaw Name

Adopted at the Annual/**Special** Town Meeting held: June 15, 1989

and approved by the Attorney General's Office on October 12, 1989

Amendments:

Town Meeting date	Attorney General approval date

(Article 2, page one)

ARTICLE #2

Move to adopt the text of Article 2, as amended on the floor, to provide for noncriminal disposition under MGL Chapter 40 section 21D.

NONCRIMINAL DISPOSITION OF VIOLATIONS OF TOWN BYLAWS

Whoever violates any provision of any Town bylaw with criminal sanctions may be penalized by a noncriminal disposition as provided in the General Laws Chapter 40, section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and sections of bylaws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to any police officers or constables with jurisdiction, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense, unless otherwise specified.

SEVERABILITY: It is the desire of Town Meeting to ratify this Article in its entirety. If any section, subsection, paragraph, sentence or word thereof is found to be invalid it is the intent and desire of Town Meeting to sever those portions so the remainder can be approved pursuant to MGL Chapter 40 section 32.

If any provisions of this Article or the provisions to any person or circumstance shall be held invalid, the validity of the remainder of this Article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

(Article 2, page two.)

SUMMARY OF LISTED BYLAWS:

SUBJECT OR TITLE: TOWN BEACH AT LAKE WYOLA REGULATIONS
PASSAGE DATE: AUGUST 30, 1983 AMENDED MAY 7, 1988
ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT, CONSERVATION COMMISSION
FINE PER OFFENSE: \$25 1ST, \$50 2ND, \$100 3RD & SUBSEQUENT

SUBJECT OR TITLE: ATKINS RESERVOIR AND ADJACENT WATERSHED
PASSAGE DATE: AUGUST 30, 1983 AMENDED 5/7/88 & 6/15/89
ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT, CONSERVATION COMMISSION
FINE PER OFFENSE: \$25 1ST, \$50 2ND, \$100 3RD & SUBSEQUENT

SUBJECT OR TITLE: PERSONS IN CONTROL OF DOGS (LEASH LAW)
PASSAGE DATE: AUGUST 30, 1983 AMENDED MAY 7, 1988
ENFORCING PERSONS: SELECT BOARD, DOG OFFICERS
FINE PER OFFENSE: \$25 1ST, \$50 2ND & SUBSEQUENT

SUBJECT OR TITLE: STRIPPING LAND OF SOIL AND LOAM
PASSAGE DATE: FEBRUARY 11, 1961
ENFORCING PERSONS: SELECT BOARD, CONSERVATION COMMISSION,
ZONING BOARD OF APPEALS,
ZONING ENFORCEMENT OFFICER
FINE PER OFFENSE: \$50 1ST, \$100 2ND, \$200 3RD & SUBSEQUENT

SUBJECT OR TITLE: TRASH DISPOSAL AND RECYCLING
PASSAGE DATE: MAY 7, 1988
ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT
FINE PER OFFENSE: \$15

SUBJECT OR TITLE: LAKE WYOLA BOATING SPEEDS
PASSAGE DATE: JUNE 19, 1973
ENFORCING PERSONS: SELECT BOARD
FINE PER OFFENSE: \$50

SUBJECT OR TITLE: FALSE FIRE AND SECURITY ALARMS
PASSAGE DATE: JUNE 15, 1989
ENFORCING PERSONS: SELECT BOARD, FIREFIGHTERS
FINE PER OFFENSE: \$25 2ND & SUBSEQUENT

SUBJECT OR TITLE: EXCESSIVE NOISE
PASSAGE DATE: JUNE 15, 1989
ENFORCING PERSONS: SELECT BOARD, DOG OFFICER
FINE PER OFFENSE: \$25 2ND & SUBSEQUENT

SUBJECT OR TITLE: UNREGISTERED MOTOR VEHICLES
PASSAGE DATE: FEBRUARY 12, 1966
ENFORCING PERSONS: SELECT BOARD
FINE PER OFFENSE: \$5

FULL TEXT OF CURRENT BYLAWS:

(Article 2, page three)

TOWN BEACH AT LAKE WYOLA REGULATIONS

Town Meeting of August 30, 1983: (As amended 5/7/88)
voted to accept the following bylaws to apply to all Town
property at the Town Beach on Lake Wyola and adjacent to it.

- a. No person shall possess or imbibe any alcoholic beverages.
- b. No person shall possess any firearms, fireworks or glass containers.
- c. No person shall camp.
- d. No person shall maintain any open fire or use any cooking equipment of any kind.
- e. No person shall deposit any trash except in containers provided for that specific purpose.
- f. No person shall bring any dog or horse onto the Town Beach or onto the adjacent Town land.
- g. The beach, beach facilities and adjacent Town property shall be closed to the public from sunset to sunrise.

Whoever violates any of the above bylaws (a-g) shall pay a fine of \$25.00 for the first offense; \$50.00 for the second offense; and \$100 for the third and each subsequent offense within a twelve month period.

ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT, CONSERVATION COMMISSION

ATKINS RESERVOIR AND ADJACENT WATERSHED

Town Meeting of August 30, 1983: (As amended 5/7/88)
voted to accept the following regulations to apply to land in
the Town of Shutesbury designated as the Amherst Watershed
adjacent to Atkins Reservoir, specifically Parcels V12, V13,
W7, W8, W9, W10, W11, W12, W13, W14, X1, and X2, as shown on
the Town's tax map:

- a. No person shall possess or imbibe any alcoholic beverages.
- b. No person shall possess any firearms, fireworks or glass containers.
- c. No person shall camp.
- d. No person shall maintain any open fire or use any cooking equipment of any kind.
- e. No person shall swim, boat or fish in the Atkins Reservoir.

Whoever violates any of the above regulations (a-e) shall pay a fine of \$25.00 for the first offense; \$50.00 for the second offense; and \$100 for the third and each subsequent offense within a twelve month period.

ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT, CONSERVATION COMMISSION

PERSONS IN CONTROL OF DOGS (LEASH LAW)

Town Meeting of August 30, 1983 (As amended 5/7/88)
voted to accept the following regulations to apply to
the conduct of persons in control of dogs:

- a. No person shall allow a dog of which she/he is the owner or keeper to go beyond the confines of his property unless the dog is held firmly on a leash or is under the control of its owner, keeper or agent.
- b. In the event that the dog officer is required to collect and/or keep a dog in the performance of his/her official duties, said dog officer may charge a fee of \$10.00 to the owner for every dog collected plus the cost of necessary inoculations; a fee of \$3.00 per day may be charged to the owner for storage and board of any collected dogs for a period of ten days, or until any rabies tests have been conducted, after which time the dog shall be destroyed humanely and disposed of, or taken for adoption. Whoever violates section (a) of this bylaw shall pay a fine of \$25.00 for the first offense, and \$50.00 for each subsequent violation.

ENFORCING PERSONS: SELECT BOARD, DOG OFFICERS

(Article 2, page five)

STRIPPING LAND OF SOIL AND LOAM

Town Meeting of February 11, 1961 voted to accept the following bylaw to apply to stripping land of soil and loam.

Section 1.

No person, firm or corporation shall strip, remove or convey away any soil, loam, sand or gravel from any land in the Town not in public use, unless and until such stripping, severance, removal or conveyance away, is first authorized by a permit issued by the Selectmen of Shutesbury, except in conjunction with construction of a building on the parcel, and except for the continued operation of an existing sand or gravel pit. No such permit shall be issued until and unless an application therefore has been filed with the Board. Said Board shall then hold a public hearing on the application and notice of the filing of the application and date and time of the holding of the public hearing thereon, shall be advertised forthwith, at the expense of the applicant, in a newspaper, published in Franklin County, seven days at least, before the meeting.

Section 2.

The Superior Court shall have jurisdiction in equity to compel compliance with this Bylaw. The penalty for this Bylaw shall be as follows: For the first offense, Fifty Dollars, for the second offense, One Hundred Dollars, and for each subsequent offense, Two Hundred Dollars.

ENFORCING PERSONS: SELECT BOARD, CONSERVATION COMMISSION,
ZONING BOARD OF APPEALS, ZONING ENFORCEMENT OFFICER

TRASH DISPOSAL AND RECYCLING

Town Meeting of May 7, 1988 unanimously voted to accept the following bylaw governing trash disposal and recycling.

TRASH DISPOSAL AND RECYCLING: In order to implement a recycling program in conjunction with ordinary waste collection, residents of every household whose trash is collected by the Town shall separate waste material into the following categories before depositing same for collection:

1. Glass and cans
2. Paper
3. Other waste

If no separation takes place, the material will not be collected, and the residents of that household must remove the material within an eighteen (18) hour period or suffer a fine of \$15.00 for that and each subsequent eighteen (18) hour period.

Materials must not be placed at the collection site more than eighteen (18) hours before the scheduled pickup time. For each eighteen hour period of premature deposit of material at the collection site, the offender will suffer a fine of \$15.00.

ENFORCING PERSONS: SELECT BOARD, BOARD OF HEALTH,
HEALTH AGENT

LAKE WYOLA BOATING SPEEDS

Town Meeting of June 19, 1973 voted to establish maximum speeds of 30 miles per hour on Lake Wyola, except that it be a maximum of 5 miles per hour within 150 feet of shore. No amount of a fine was noted at that time.

FINE UNDER THIS SECTION: \$50 per offense.

ENFORCING PERSONS: SELECT BOARD

(Article 2, page seven)

FALSE FIRE AND SECURITY ALARMS

Town Meeting of June 15, 1989 to passed the following bylaw governing "false alarms".

Any residence, facility, vehicle or business equipped with an intrusion or fire alarm system shall be subject to a fine of \$25.00 for each second and subsequent falsely activated alarm, as determined by the responding Fire or Police personnel, in any twelve month period commencing on the date and time of the first such false alarm.

ENFORCING PERSONS: SELECT BOARD, FIREFIGHTERS

EXCESSIVE NOISE

Town Meeting of June 15, 1989 passed the following bylaw governing excessive or unnecessary noise.

PROHIBITION OF EXCESSIVE NOISE:

No person(s) shall create, assist in creating, continue or allow to continue any excessive, unnecessary or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the Town of Shutesbury.

EXEMPTIONS:

The following shall not be deemed violations of this bylaw:

Noise generated while engaged in necessary business by any police, fire, or Town equipment or vehicles.

Noise generated by any construction, maintenance or repair vehicles or equipment between the hours of 7 AM and 9 PM.

PENALTIES:

Any person(s) violating this bylaw shall be punished by a fine of \$25.00 for each second and subsequent offense. The first such offense shall be addressed as a warning by the enforcing person(s). Any act which either continues or is repeated more than thirty minutes after a warning or violation notice is issued shall be a separate offense, and each subsequent thirty minute period of an ongoing disturbance shall constitute subsequent offenses. If the person(s) responsible for the offense cannot be determined, then the person in lawful custody or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

ENFORCING PERSONS: SELECT BOARD, DOG OFFICER

UNREGISTERED MOTOR VEHICLES

Town Meeting of February 12, 1966 passed the following bylaw concerning unregistered motor vehicles:

SECTION 1. The keeping of more than one unregistered motor vehicle assembled or disassembled, except by a person licensed under General Laws Chapter 140 section 59, on any premises, shall not be permitted unless said motor vehicle is stored within a closed building.

SECTION 2. A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the Board of Selectmen, if it finds that such keeping (1) is in harmony with the general purposes and intent of this bylaw; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

SECTION 3. All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

SECTION 4. This article shall not apply to motor vehicles which are designed and used for farming purposes, nor to contractor's equipment. This article shall not apply to landowners or tenants who store motor vehicles out of sight of abutters and the public ways; but a temporary cover shall not be considered as providing suitable concealment.

SECTION 5. Whoever violates any provision of this Article of the bylaws shall be liable to a penalty of five dollars (\$5.00) per day for each day of violation, commencing ten days following date of receipt of written notice from the Board of Selectmen. This bylaw shall not take effect before September 1, 1966.

ENFORCING PERSONS: SELECT BOARD

Motion passed. Unanimous.