

Approved 7/27/2021



## TOWN OF WILMINGTON

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WILMINGTON, MA 01887

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**Minutes  
Bylaw Review Committee  
Tuesday, July 13, 2021 - 4:30 p.m.  
Wilmington Town Hall  
121 Glen Road, Wilmington, MA – Auditorium**

### **1. Call Meeting to Order**

The meeting was called to order at 4:37 p.m. Present were committee members Robert Peterson, Jr. (Chair), Gary DePalma, John Romano, Michael McCoy, Daniel Ardito, Joseph Desmond, Christine Touma-Conway. Frank Olivieri arrived at 4:49 p.m.

### **2. Approve Minutes to June 16, 2021 and June 29, 2021 meetings**

Upon motion by Gary DePalma, seconded by John Romano, the minutes to the June 16, 2021 meeting were approved unanimously with Mr. Peterson and Chief Desmond abstaining. Upon motion by Mr. DePalma, seconded by Mr. Romano, the minutes to the June 29, 2021 meeting were approved unanimously with Mr. Ardito and Chief Desmond abstaining. (Mr. Olivieri was not present for either vote).

### **3. Continue Review of Editorial and Legal Analysis – all questions are referenced to the General Code Editorial and Legal Analysis (applicable questions attached)**

At the outset, Mr. Peterson recounted a discussion he and Ms. Touma-Conway held with Deb Tuszynski of General Code to address questions that had arisen during the previous meeting on June 29.

He explained that with respect to the 2018 Committee recommendations, where the changes were concrete she included them as potential changes and identified them as 2018 recommendations. Ms. Tuszynski also said that many of the comments on the redlined version of the bylaws that had been provided to her were more just questions rather than proposed changes.

Mr. Peterson also explained that the General Code numbering intentionally leaves Chapter numbers blank and “reserved” to allow for expansion of bylaws in the future.

There was also discussion about the 2018 Committee only getting through the first 4 chapters of the bylaws, leaving the most voluminous bylaws in Chapter 5 for future consideration. It was decided that Ms. Touma-

Conway would review the existing bylaws in Chapter 5 and send a list to each department affected by the bylaws seeking comment on what, if anything, needed to be changed in them.

Mr. Romano at that point suggested that when the committee finally completes its recommendations, that perhaps “form” changes should be segregated from “substance” changes and presented as separate articles.

The Committee then continued its review of the questions presented in the Editorial and Legal Analysis (applicable pages attached), beginning with Question 50-003. The Committee continued its methodology: each question was read by a committee member, who provided what they believed the response should be, and the Committee either agreed individually or discussed.

QUESTION #: 50-003  
READER: Mr. Peterson  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 55-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 58-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Correct “Section 31E” to “Section 81E.”  
DECISION: Committee in agreement

QUESTION #: 64-001  
READER: Chief Desmond  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 69-001  
READER: Mr. Olivieri  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 69-002  
READER: Mr. DePalma  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 69-003  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 69-004  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 73-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 80-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 90-001  
READER: Chief Desmond  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 90-002  
READER: Mr. Olivieri  
PROPOSED RESPONSE: Delete the asterisk and note; disregard  
DECISION: Committee in agreement

QUESTION #: 90-003  
READER: Mr. DePalma  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 90-004  
READER: Mr. Romano  
PROPOSED RESPONSE: Correction of spelling and punctuation errors is authorized  
DECISION: Committee in agreement

QUESTION #: 90-005  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 94-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 98-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

During the discussion on this question, the issue of Pronouns arose. The committee would like Ms. Touma-Conway to consult with General Code as to what is the current most popular way to address pronouns, for example, he/she, his/hers, they/their? The committee would like to uniformly change pronouns throughout the bylaws to remove gender specific references. Additionally, where it is appropriate, to eliminate the need for any pronoun by referring to the formal title of the individual: the Town Treasurer, the Town Tax Collector, the Town Clerk, etc.

QUESTION #: 98-002  
READER: Chief Desmond  
PROPOSED RESPONSE: Revise to “the income therefrom”  
DECISION: Committee in agreement

QUESTION #: 115-001  
READER: Mr. Olivieri  
PROPOSED RESPONSE: Deferred  
DECISION: The Committee directed Ms. Touma-Conway to include with her outreach to each department consideration of this question by the Board of Health, and will await that response.

QUESTION #: 115-002  
READER:  
PROPOSED RESPONSE: Deferred  
DECISION: The Committee directed Ms. Touma-Conway to include with her outreach to each department consideration of this question by the Board of Health, and will await that response.

QUESTION #: 119-001  
READER: Mr. DePalma  
PROPOSED RESPONSE: Change “these regulations” to “this bylaw”  
DECISION: Committee in agreement

QUESTION #: 119-002  
READER: Mr. Romano  
PROPOSED RESPONSE: Deferred  
DECISION: The Committee directed Ms. Touma-Conway to include with her outreach to each department consideration of this question by the Fire Chief, whether the fine amounts need to be updated.

|                    |  |
|--------------------|--|
| QUESTION #:        | 19-003   |
| READER:            |  |
| PROPOSED RESPONSE: | Deferred   |
| DECISION:          | The Committee directed Ms. Touma-Conway to include with her outreach to each department consideration of this question by the Fire Chief, whether the fine amounts need to be updated to graduated amounts. Additionally, Mr. Peterson pointed out that for fines to be subject to noncriminal disposition, they must be for a set amount, and cannot be defined as “up to” a certain amount. Only matters subject only to criminal disposition may contain a discretionary fine amount. |
| QUESTION #:        | 119-004  |
| READER:            | Mr. Romano   |
| PROPOSED RESPONSE: | Revise as suggested  |
| DECISION:          | Committee in agreement   |
| QUESTION #:        | 123-001  |
| READER:            | Mr. Peterson   |
| PROPOSED RESPONSE: | Do not revise  |
| DECISION:          | Committee in agreement   |
| QUESTION #:        | 127-001  |
| READER:            | Mr. Ardito   |
| PROPOSED RESPONSE: | Deferred   |
| DECISION:          | The Committee directed Ms. Touma-Conway to inquire of what regulations the Board of Selectmen have regarding Amusement Devices.  |
| QUESTION #:        | 131-001  |
| READER:            | Mr. McCoy  |
| PROPOSED RESPONSE: | Do not revise  |
| DECISION:          | Committee in agreement   |
| QUESTION #:        | 131-002  |
| READER:            | Chief Desmond  |
| PROPOSED RESPONSE: | Do not revise  |
| DECISION:          | Committee in agreement   |
| QUESTION #:        | 131-003  |
| READER:            | Mr. Olivieri   |
| PROPOSED RESPONSE: | Do not revise  |
| DECISION:          | Committee in agreement   |
| QUESTION #:        | 131-004  |
| READER:            | Mr. DePalma  |
| PROPOSED RESPONSE: | Correct to “domestic cats.”  |
| DECISION:          | Committee in agreement   |

QUESTION #: 131-005  
READER: Mr. Romano  
PROPOSED RESPONSE: Delete "ace."  
DECISION: Committee in agreement

QUESTION #: 131-006  
READER: Mr. Peterson  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 138-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise to read "No person shall engage in the business of renting boats for use in any waters of the Town without first obtaining a license from the Board of Selectmen."  
DECISION: Committee in agreement

QUESTION #: 138-002  
READER: Mr. McCoy  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 138-003  
READER: Chief Desmond  
PROPOSED RESPONSE: Delete "not more than" and revise as follows: "...shall be punished by a fine of \$20 for each violation."  
DECISION: Committee in agreement

QUESTION #: 144-001  
READER: Mr. Olivieri  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 144-002  
READER: Mr. DePalma  
PROPOSED RESPONSE: Omit the word "maximum" in the last sentence.  
DECISION: Committee in agreement

QUESTION #: 147-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 147-002  
READER: Mr. Peterson  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 155-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 155-002  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 163-001  
READER: Chief Desmond  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

The committee ended its initial review of questions in the Editorial and Legal Analysis at this point. It then circled back to three questions that had been left unanswered during the June 29, 2021 meeting:

QUESTION #: 8-001, 19-001  
READER:  
PROPOSED RESPONSE: Do not revise  
DECISION: This decision was based upon the discussion with General Code as to why such a “question” would have been asked. As Mr. Peterson explained, General Code reviews sections to ensure they remain in accordance with Massachusetts General Laws, rules and regulations, that there are not grammatical or spelling errors, that they remain uniform in use of key words and phrases, that there are not other sections that contradict the section under review, and that the section under review is not redundant with other sections. Other than these considerations, General Code will not insert editorial comments, and instead will remind the reviewers that the bylaw’s provisions should be measured against current practices in the municipality to ensure that the current practice remains consistent with the bylaw provisions. Based upon the committee’s determination that these two considerations remain consistent in the context of municipal contracting, the Committee opines that the section should not be revised.

QUESTION #: 50-002  
READER:  
PROPOSED RESPONSE: Use wording indicated from the 2018 Bylaw Review Committee  
DECISION: Committee in agreement after consultation with the Police Chief

#### **4. 5:45 Appointment with Board of Selectmen**

No member of the Board of Selectmen was able to attend the meeting. Nonetheless, the Committee was in agreement that it is of utmost importance to keep its members in the “loop” of the proceedings of the Bylaw Review Committee and ensure they are aware that they are welcome to attend any meeting of the Committee.

It was also decided that once the minutes to the final July meeting are completed and approved, that sets of minutes through July be sent to the Board of Selectmen.

## **5. Schedule next meeting**

The next meetings for the Bylaw Review Committee were set as follows:

Tuesday, July 27, 2021 4:30 p.m.

Tuesday, August 10, 2021 4:30 p.m.

Tuesday, August 24, 2021 4:30 p.m.

The Committee goal is to be completely through the initial run-through of the questions posed in General Codes Editorial and Legal Analysis by the end of the August meetings.

At its September meetings, the Committee is hopeful that it will have requested feedback from individual departments regarding bylaws that affect them to consider, and that by the end of September it complete its recommendations for presentation to the Board of Selectmen in October.

## **6. Adjourn**

Mr. DePalma made a motion to adjourn, seconded by Chief Desmond.

The meeting adjourned at 6:16 p.m.

**Respectfully submitted,**

**Christine R. Touma-Conway  
Town Clerk**



Question 50-003

Chapter 50 Noncriminal Disposition

Article II Board of Selectmen Rules and Regulations

§ 50-3 Enforcement of rules and regulations.

**Code Content:**

*[§ 50-3] As an alternative to criminal prosecution for violations of the rules and regulations referred to in § 50-2 of this bylaw under applicable provisions of the General Laws, including but not limited to General Laws, Chapter 45, Section 24, the Town, acting through its Police Department, may elect to use the noncriminal disposition procedure set forth in General Laws, Chapter 40, Section 21D. The penalty under this § 50-3 for violation of such rules and regulations shall be \$50 for each offense.*

Article II of Chapter 50 authorizes the use of the noncriminal disposition procedure for violations of the rules and regulations adopted by the Board of Selectmen acting as the Board of Park Commissioners, with the penalty set at \$50 for each offense. Is this penalty still satisfactory?

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 55-001

Chapter 55 Officers and Employees  
§ 55-2 Town Collector.

**Code Content:**

*[§ 55-2] The Collector of Taxes shall collect, under the title of Town Collector, all accounts due the Town, and all bills for accounts due the Town shall state that all checks, drafts or money orders shall be payable to the order of the Town and not to the order of any officer, board or any officer, board or commission.*

In § 55-2 the words "any officer, board or" appear to have been accidentally included twice. The following revision could be made: "all checks, drafts or money orders shall be payable to the order of the Town and not to the order of any officer, board or ~~any officer, board or~~ commission."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 58-001

Chapter 58 Official Map  
§ 58-1 Appeals.

**Code Content:**

*[§ 58-1] The Selectmen shall appoint the present Board of Appeals to be the Board of Appeals under the provision of Chapter 41, Section 81Z of the General Laws for the purpose of hearing and acting upon appeals under the provisions of Chapter 41, Section 31E through 81H, inclusive, Official Map.*

Section 58-1 contains a typographical error. The reference to "Chapter 41, Section 31E" should read "Chapter 41, Section 81E."

**Pick one option from list below**

☐ Correct "Section 31E" to "Section 81E."

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 64-001

Chapter 64 Public Property Naming  
§ 64-1 Memorializing public property.

**Code Content:**

*[§ 64-1] The authority to name any Town-owned property, field, park, stadium, playground or building after any person, living or deceased, or organization shall be exercised solely by Town Meeting vote. Notwithstanding the foregoing, the Town, acting through the Yentile Farm Development Committee and subject to the approval of the Town Manager, shall have the authority to determine the names of fields, play areas and structures at the 9 Cross Street property. Such authority shall not extend to naming the entire property, which shall remain with Town Meeting.*

Chapter 64 deals with the authority to name Town-owned property and appears satisfactory as written, provided that it reflects current practice.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 69-001

Chapter 69 Records and Reports  
§ 69-2 Public records available for inspection.

**Code Content:**

*[§ 69-2] All public records, as defined in G.L. Chapter 4, Section 7, shall be available for inspection at reasonable times and under the supervision of the person having custody, who shall furnish copies thereof on payment of a reasonable fee.*

Section 69-2 refers to the furnishing of copies of records "on payment of a reasonable fee." The process for determining fees for public records is now prescribed by MGL c. 66, § 10(d). The Town might want to reference this statute by revising this section to read "who shall furnish copies thereof on payment of a reasonable fee determined in accordance with MGL c. 66, § 10(d)."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 69-002

Chapter 69 Records and Reports

§ 69-3 Filing of reports.

**Code Content:**

*[§ 69-3] On or before the 15th day of January in each year all elected or appointed officers of the Town and the boards, committees, commissions and trustees referred to in § 69-1 shall make a report to the Town of work done and business transacted in their respective departments during the fiscal year of the Town last preceding. Such reports shall be made by filing the original thereof with the appointing authority prior to January 16, except the Town Accountant and Town Manager who shall report on date designated by the Board of Selectmen in the year in which it is made and at the same time copies thereof, one with the Town Manager and one with the Town Clerk for a permanent record.*

The second sentence in § 69-3 is awkward and unclear. Perhaps the following revisions could be made: "Such reports shall be made by filing the original thereof with the appointing authority prior to January 16, except the Town Accountant and Town Manager who shall report on a date designated by the Board of Selectmen in the year in which ~~it~~ the report is made, and at the same time copies thereof shall be filed, one with the Town Manager and one with the Town Clerk for a permanent record."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 69-003

Chapter 69 Records and Reports

§ 69-4 Annual reports.

**Code Content:**

*[§ 69-4B] In order to provide the maximum information necessary and useful to Town voters in disposing of the warrants for Town Meetings, and except as otherwise prohibited by law, the Selectmen shall also publish in their annual report a reasonable summary of the findings and conclusions of all reports prepared during the prior year for or on behalf of Town officers, boards, commissions, and committees, by experts or consultants for the preparation of which public funds were expended, and in addition, the Selectmen shall provide a listing of all currently uncompleted contracts with experts and other consultants, specifying the name of the consultant, the contract scope of services, the consideration to be paid therefore by the Town, and the completion date specified in each such contract.*

In § 69-4B the wording "paid therefore" is incorrect and should read "paid therefor." Note that "therefore" and "therefor" are two different words; "therefor" means "for that purpose"; "therefore" means consequently.

**Pick one option from list below**

- ☐ Revise as suggested.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 69-004

Chapter 69 Records and Reports

§ 69-5 Filing of regulations.

**Code Content:**

*[§ 69-5] All boards, officers, commission, committees, boards of trustees or departments shall adopt or promulgate administrative rules or regulations and shall forthwith file a copy thereof with the Town Clerk, Town Manager and Town public library for a permanent record. Whenever there are additions to or amendments of any such rules and regulations, the board, officer, commissioner, committee, board of trustees or department responsible therefore shall file with the Town Clerk, Town Manager and Town public library a new and complete copy of such rules and regulations in substitution for the copy already on file.*

The following corrections are needed in § 69-5:

All boards, officers, commissions, committees, boards of trustees or departments shall adopt or promulgate administrative rules or regulations and shall forthwith file a copy thereof with the Town Clerk, Town Manager and Town public library for a permanent record. Whenever there are additions to or amendments of any such rules and regulations, the board, officer, commissioner, committee, board of trustees or department responsible ~~therefore~~ therefor shall file with the Town Clerk, Town Manager and Town public library a new and complete copy of such rules and regulations in substitution for the copy already on file.

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 73-001

Chapter 73 Revolving Funds

Chapter 73 provides for revolving funds in accordance with MGL c. 44, § 53E ½, and appears satisfactory as written.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 80-001

Chapter 80 Selectmen, Board of

Chapter 80 contains bylaws relating to the authority of the Selectmen to institute, prosecute and defend suits involving the Town; to execute deeds; and to accept easements and gifts of land. Provided that it reflects current practice, Chapter 80 appears satisfactory as written.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 90-001

Chapter 90 Town Meetings

Chapter 90 should be reviewed by the appropriate Town officials to ensure it reflects current procedures for Town Meetings.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 90-002

Chapter 90 Town Meetings

§ 90-2 Election and term of office of Moderator.

**Code Content:**

*[§ 90-2] At the first Town election following the adoption of this by-law, the Moderator shall be elected for a term of three years, and each third year thereafter, the Moderator shall be elected for a term of \*three years. If a vacancy in the office of Moderator occurs during any term, it shall be filled by the electing of a Moderator for the unexpired term at the next Town election following said vacancy. If the Moderator is absent at a Town Meeting, or if a Town Meeting is called after a vacancy occurs, in the office of the Moderator, but before the next Town election following said vacancy, a temporary Moderator shall be elected for said Town Meeting by the voters as the first order of business of said Town Meeting. The Town Clerk shall preside over the meeting until the election of a temporary Moderator. \*4/87*

In § 90-2 an asterisk is included before "three years" at the end the first sentence and the note "\*4/87" is included at the end. Is this note meant to indicate that this section was amended in April 1987?

**Pick one option from list below**

- ☐ Add to § 90-2 the history "Amended 4-25-1987."
- ☐ Delete the asterisk and note; disregard.
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 90-003

Chapter 90 Town Meetings  
§ 90-6 Notice of adjourned Town Meeting.

**Code Content:**

*[§ 90-6] Notice of every adjourned Town Meeting shall be posted by the Town Clerk in various conspicuous public places in Town. At least one in each precinct and in addition thereto, he shall if practicable publish the same in one or more newspapers published or circulated in Town, at least 24 hours, before the time of said adjourned meeting.*

Section 90-6 has multiple punctuation errors, including an incorrect period making what should be one sentence into two sentences. We recommend revising this section to read as follows: "Notice of every adjourned Town Meeting shall be posted by the Town Clerk in various conspicuous public places in Town, at least one in each precinct, and in addition thereto the Town Clerk shall, if practicable, publish the same in one or more newspapers published or circulated in Town at least 24 hours before the time of said adjourned meeting."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 90-004

Chapter 90 Town Meetings  
§ 90-16 Use of yes and no ballots.

**Code Content:**

*[§ 90-16] A motion that the vote upon any question be taken by the use of "Yes" and "No" ballots with the use of the check lists, shall be in order at any time, except on an immediate repetition of the same motion or pending verification of a vote, and such motions shall be decided without a debate.*

It is our standard practice to correct misspelled words and punctuation errors as part of the codification of the bylaws. Such corrections are not typically considered as being substantive and requiring formal amendment. Section 90-16 contains examples of both types of errors. The word "checklist" is correctly spelled as one word, not two, and the comma between the noun and the verb ("a motion, shall be in order") is incorrect and should be removed. The corrected sentence would read: "A motion that the vote upon any question be taken by the use of "Yes" and "No" ballots with the use of the checklists shall be in order at any time, except on an immediate repetition of the same motion or pending verification of a vote, and such motions shall be decided without a debate."

As another example of a punctuation error, the first comma and the semicolon in the first sentence of § 90-17 are both wrong: "When a motion is put, (applicable to a majority or two-thirds vote); the sense of the meeting shall be determined by the voices of the voters, and the Moderator shall declare the vote as it appears to him." This sentence should read "When a motion is put (applicable to a majority or two-thirds vote), the sense of the meeting shall be determined by the voices of the voters, and the Moderator shall declare the vote as it appears to him."

Is the correction of spelling and punctuation errors acceptable? Please note that these are just a few examples out of many which currently appear in the bylaws; we have not attempted at this time to identify every single correction needed. Typically these corrections are made during the final editorial work to prepare the Draft of the new Code. The Town has requested a red-lined draft, so these changes would be shown in that draft.

**Pick one option from list below**

- ☐ Correction of spelling and punctuation errors is authorized.
- ☐ Do not correct spelling and punctuation errors.
- ☐ Defer decision until after Code publication.

Question 90-005

Chapter 90 Town Meetings

§ 90-20 Meeting not to dissolve until every article is acted upon.

**Code Content:**

*[§ 90-20] No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant therefore, has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.*

The following correction is needed in § 90-20: "No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant ~~therefore~~, therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place."

**Pick one option from list below**

- ☐ Revise as suggested.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 94-001

Chapter 94 Town Property, Sale of

Chapter 94 establishes requirements for the sale of personal property and the sale of Town-owned land. Provided it reflects current procedures, this chapter appears satisfactory as written.

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Revise as follows: (revisions attached).
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 98-001

Chapter 98 Trust Funds

§ 98-1 Duties of Treasurer and Trustees.

**Code Content:**

*[§ 98-1] All funds left to the Town in trust for various purposes shall be deposited with the Town Treasurer. He shall give a receipt to the depositor for any sum so received, and shall then notify the Trustees or Trust Funds of the receipt of such funds, and hand to them the deed of trust. The Treasurer shall be the custodian of all funds and securities of such trust funds, and shall invest and reinvest them at the direction of the Trustees, and shall expend therefrom money as directed by the Trustees. Said Trustees of Trust Fund shall report in every Annual Town Report the names of all persons whose deposits the Treasurer has received, and the income therefor, and the balance then standing to the credit of all funds.*

In § 98-1 the reference to "Trustees or Trust Funds" in the second sentence should read "Trustees of Trust Funds" and the reference to "Said Trustees of Trust Fund" in the last sentence should read "Said Trustees of Trust Funds."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 98-002

Chapter 98 Trust Funds

§ 98-1 Duties of Treasurer and Trustees.

**Code Content:**

*[§ 98-1] All funds left to the Town in trust for various purposes shall be deposited with the Town Treasurer. He shall give a receipt to the depositor for any sum so received, and shall then notify the Trustees or Trust Funds of the receipt of such funds, and hand to them the deed of trust. The Treasurer shall be the custodian of all funds and securities of such trust funds, and shall invest and reinvest them at the direction of the Trustees, and shall expend therefrom money as directed by the Trustees. Said Trustees of Trust Fund shall report in every Annual Town Report the names of all persons whose deposits the Treasurer has received, and the income therefor, and the balance then standing to the credit of all funds.*

In § 98-1, in the last sentence, should the wording "the income therefor" read "the income therefrom"? Is the reference to income derived from the deposits?

**Pick one option from list below**

- ☐ Revise to read "the income therefrom."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 115-001

Chapter 115 Air Pollution Control  
§ 115-1 Board of Health regulations.

**Code Content:**

*[§ 115-1] It shall be the duty of the Board of Health to develop rules and regulations in conformity with the State Air Pollution Regulations for the purpose of comparing the level of pollution in Wilmington with standards of air quality as established by the Commonwealth, Department of Public Health, Division of Environmental Health and/or federal air quality control programs and public law.*

Chapter 115 requires the Board of Health to develop rules and regulations relating to air pollution. Does this bylaw reflect current practice? Does the Board of Health have regulations in place in accordance with this bylaw?

**Pick one option from list below**

☐ This bylaw is obsolete; remove.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 115-002

Chapter 115 Air Pollution Control  
§ 115-1 Board of Health regulations.

**Code Content:**

*[§ 115-1] It shall be the duty of the Board of Health to develop rules and regulations in conformity with the State Air Pollution Regulations for the purpose of comparing the level of pollution in Wilmington with standards of air quality as established by the Commonwealth, Department of Public Health, Division of Environmental Health and/or federal air quality control programs and public law.*

Section 115-1 refers to the "Commonwealth, Department of Public Health, Division of Environmental Health." This title appears to be incorrect. There is a Bureau of Environmental Health in the Department of Public Health. State air pollution regulations are now promulgated by the Department of Environmental Protection. See 310 CMR 7.00, Air Pollution Control.

**Pick one option from list below**

- ☐ Change to "Commonwealth Department of Environmental Protection."
- ☐ Change to "Commonwealth Department of Public Health, Bureau of Environmental Health."
- ☐ No longer applicable; bylaw to be removed.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 119-001

Chapter 119 Alarm Systems  
§ 119-1 Definitions.

**Code Content:**

*[§ 119-1] For the purpose of these regulations, the following definitions shall apply:*

We recommend changing the references to "these regulations" in Chapter 119 to "this bylaw."

**Pick one option from list below**

- ☐ Change "these regulations" to "this bylaw."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 119-002

Chapter 119 Alarm Systems  
§ 119-8 False alarm charges.

**Code Content:**

*[§ 119-8A(2)] For the fourth and subsequent such false alarm response: \$25 each alarm.*

Section 119-8A(2) provides for a charge of \$25 for the fourth and each subsequent false alarm within a calendar year. Is this amount still satisfactory?

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 119-003

Chapter 119 Alarm Systems  
§ 119-11 Violations and penalties.

**Code Content:**

*[§ 119-11] Any person who performs or causes to be performed any of the following acts shall be subject to a fine of up to \$100 for each such act:*

Section 119-11 imposes a fine of up to \$100 for intentionally causing a false alarm, failure to register an alarm device or give notice of changes in registration information, and use of an automatic dial alarm or an exterior audible alarm device in violation of this bylaw. Is this fine amount still satisfactory? Note that the fine is not set at a specific amount, it is "up to" \$100. Accordingly, the noncriminal disposition procedure could not be used to enforce this bylaw. If the Town wants to use the noncriminal disposition procedure to enforce this bylaw, the fine would need to be revised to be a specific amount.

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 119-004

Chapter 119 Alarm Systems  
§ 119-12 Town assumes no responsibility.

**Code Content:**

*[§ 119-12] Notwithstanding the provisions of these regulations, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy or maintenance of any alarm device or of the alarm monitoring facilities at police/fire headquarters. No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities, or for failure to respond to alarms for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold harmless the Town, its departments, officers, agents and employees for liability in connection with the alarm user's alarm device.*

It appears that the word "or" is missing and should be included in the following sentence in § 119-12: "No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities, or for failure to respond to alarms, or for any other act or omission in connection with such alarm devices."

**Pick one option from list below**

- ☐ Revise as suggested.
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 123-001

Chapter 123 Alcoholic Beverages  
§ 123-5 Violations and penalties.

**Code Content:**

*[§ 123-5] Violations of this by-law are punishable by a fine of \$50 for each offense.*

Chapter 123 restricts the possession and consumption of alcoholic beverages and imposes a fine of \$50 for each offense. Is this penalty still satisfactory?

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 127-001

Chapter 127 Amusement Devices  
§ 127-3 Violations and penalties.

**Code Content:**

*[§ 127-3] Any person found in violation of this by-law shall be punished by a fine of \$200 for each offense.*

Section 127-3 sets a fine of \$200 for violations of Chapter 127, Amusement Devices, but it is not clear what violation this penalty would apply to. Section 127-1 provides that the Selectmen will not issue a license for an amusement device that can be used as a gaming device. Section 127-2 authorizes the Police Department to inspect licenses and seize any amusement device that is not licensed. There do not appear to be any provisions in these sections that could be violated. The bylaw does not state, for example, that it is unlawful to operate an amusement device without a license. Should the penalty in § 127-3 be removed, or are there provisions that should be added to this bylaw? If the Board of Selectmen has established regulations for licensing of amusement devices, this bylaw should be reviewed against those regulations. For statutory provisions see MGL c. 140, § 177A.

**Pick one option from list below**

- ☐ Delete § 127-3.
- ☐ Revise as follows:

- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 131-001

Chapter 131 Animals

Article I Dogs

§ 131-11 Enforcement.

**Code Content:**

*[§ 131-11D] This article of the by-laws may be enforced by noncriminal disposition through the provisions of General Laws Chapter 140, Section 173A as an alternative to criminal prosecution. The penalty for each violation of any provision of this article shall be \$50 for the first offense, \$100 for the second offense and \$300 for a third and each subsequent offense for the purposes of such enforcement by noncriminal disposition.*

Section 131-11D provides for noncriminal disposition of violations of Article I, Dogs, in accordance with MGL c. 140, § 173A, and sets the fines at \$50 for the first offense, \$100 for the second offense and \$300 for a third and each subsequent offense. The statute provides as follows: "The fine for the first offense committed by a person shall be \$50. The fine for a second offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent offense, the fine shall be \$500 and the municipality may order the animal spayed or neutered." Should § 131-11D be revised to match the statute? Note that MGL c. 140, § 173A, also provides: "Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that the fines shall not be lower than those stated in this section."

**Pick one option from list below**

☐ Revise to read "\$50 for the first offense, \$100 for the second offense and \$300 for a third offense. For a fourth or subsequent offense the fine shall be \$500 and the Town may order the animal spayed or neutered."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 131-002

Chapter 131 Animals

Article I Dogs

§ 131-11 Enforcement.

**Code Content:**

*[§ 131-11E] Any dog impounded by the Town may be vaccinated and/or treated for fleas, ticks, and other infestations, and receive other medical treatment that may be deemed necessary at the time of impounding and for the duration of the impound, at the Town's discretion. The owner shall be responsible for all charges reasonably incurred while the dog is impounded, including routine and emergency medical care and boarding fees. Any charges shall be itemized on an invoice to the owner detailing the purpose of the fees. The owner of an impounded dog must pay the Town a processing fee of \$20 per day for the duration of the impoundment. Payment of all amounts owed shall be made prior to release of the dog. If after seven days the owner does not claim the dog, the Animal Control Officer may release the dog for adoption or authorize its humane euthanasia at such official's discretion. Return of the dog to the licensed owner or keeper shall be conditioned on admission of ownership or the keeping of the dog and the assumption of responsibility by the licensed owner or keeper.*

Section 131-11E includes the following: "The owner of an impounded dog must pay the Town a processing fee of \$20 per day for the duration of the impoundment." Is this amount still correct?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 131-003

Chapter 131 Animals

Article II Waterfowl

§ 131-13 Feeding waterfowl on public land prohibited.

**Code Content:**

*[§ 131-13] No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be \$10. The provisions of Chapter 40, Section 21D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.*

Article II of Chapter 131 prohibits feeding waterfowl on public land in the Town, authorizes use of the noncriminal disposition procedure and sets the fine at \$10. Is this fine amount still satisfactory?

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 131-004

Chapter 131 Animals

Article III Traveling Animal Acts

§ 131-14 Definitions.

**Code Content:**

*[§ 131-14{1}F] Felidae, including any hybrids thereof, but excluding domestic cates;*

In Subsection F of the definition of "covered animal" in § 131-14 "domestic cates" should read "domestic cats."

**Pick one option from list below**

- ☐ Correct to "domestic cats."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 131-005

Chapter 131 Animals  
Article III Traveling Animal Acts  
§ 131-14 Definitions.

**Code Content:**

*[PERFORMANCE] Any exhibition, public showing, presentation, display, exposition, fair, animal act, circus, ride, trade show, petting zoo, carnival, parade, ace, or similar undertaking in which animals are required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience.*

In the definition of "performance" in § 131-14 the reference to "ace" appears to be a typographical error: "parade, ace, or similar undertaking." It is not clear what word was meant.

**Pick one option from list below**

- ☐ Delete "ace."
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 131-006

Chapter 131 Animals  
Article III Traveling Animal Acts  
§ 131-15 Prohibition.

**Code Content:**

*[§ 131-15A] Notwithstanding any other provision of law, it shall be unlawful for a person to allow for the participation of a covered animal in a traveling animal act with in the Town of Wilmington.*

Article III of Chapter 131 regarding traveling animal acts does not include a penalty, so the general penalty in Chapter 1, § 1-5, which is currently set at \$300, would apply. Is this acceptable, or should a different penalty be added to this article?

**Pick one option from list below**

- ☐ Revise as follows:
- 
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.



Question 138-001

Chapter 138 Boats and Boating  
§ 138-1 Renting boats.

**Code Content:**

*[§ 138-1] No person shall engage in the business of renting boats or bathing suits in any waters of the Town without first obtaining a license from the Board of Selectmen.*

Section 138-1 refers to the "business of renting boats or bathing suits in any waters of the Town." Are any updates needed? Does the Town allow the rental of bathing suits? Is the inclusion of "in any waters" appropriate?

**Pick one option from list below**

☐ Revise to read "No person shall engage in the business of renting boats for use in any waters of the Town without first obtaining a license from the Board of Selectmen."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 138-002

Chapter 138 Boats and Boating  
§ 138-1 Renting boats.

Section 138-1, Renting boats, does not include a penalty, so the general penalty of \$300 in Chapter 1, § 1-5, would apply. Is that acceptable, or should a different penalty be included here?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 138-003

Chapter 138 Boats and Boating  
§ 138-2 Boating.

**Code Content:**

*[§ 138-2C] Whoever violates any of the provisions of this boating by-law shall be punished by a fine of not more than \$20 for each violation.*

Section 138-2 establishes restrictions for motorboats on Silver Lake and sets a fine of not more than \$20 for each violation. Is this penalty still satisfactory? If the Town wants to enforce this bylaw using the noncriminal disposition procedure, the fine would need to be changed to a specific amount.

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 144-001

Chapter 144 Building Numbers  
§ 144-1 Assignment and posting of numbers.

**Code Content:**

*[§ 144-1A] The Board of Assessors shall assign and order numbers to be displayed on buildings on all ways as herein provided. In all cases, odd numbers shall be on the right and even numbers shall be on the left, beginning from the point of origin.*

Chapter 144 provides for the assignment of building numbers by the Board of Assessors. Does this bylaw reflect current practice?

**Pick one option from list below**

- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 144-002

Chapter 144 Building Numbers

§ 144-1 Assignment and posting of numbers.

**Code Content:**

*[§ 144-1B] Upon being notified in writing by the Board of Assessors of the assignment of a house number, the owner of the property shall affix this number to the property within 30 days of the date of said notice. Said number shall be affixed to a position, which is in close proximity to the entrance, but must be clearly visible from the curb. If the house or building is set back 50 feet or more from the curb, said number shall be affixed to a substantial support at the entrance of the property (such that the number is clearly visible from the curb at all times). Failure to comply shall be subject to a maximum fine of \$50.*

Section 144-1B requires the posting of building numbers and sets a maximum fine of \$50 for failure to comply. Is this penalty still satisfactory? If the Town wants to use the noncriminal disposition procedure to enforce this bylaw, the amount will need to be changed from a maximum to a specific amount.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 147-001

Chapter 147 Buildings. Moving of  
§ 147-1 Permit required.

**Code Content:**

*[§ 147-1] No person shall move or assist in moving any building over any way, which the Town is obliged to keep in repair, without the written permit of the Selectmen or Town Manager being first obtained. Such permit shall state clearly the restrictions and provisions with which to be complied.*

The wording "with which to be complied" in § 147-1 is awkward and unclear. This sentence could be revised to read "Such permit shall state clearly the restrictions and provisions with which the permittee shall comply."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 147-002

Chapter 147 Buildings. Moving of  
§ 147-1 Permit required.

**Code Content:**

*[§ 147-1] No person shall move or assist in moving any building over any way, which the Town is obliged to keep in repair, without the written permit of the Selectmen or Town Manager being first obtained. Such permit shall state clearly the restrictions and provisions with which to be complied.*

Section 147-1 requires a permit from the Selectmen or Town Manager to move a building over a Town way. Should any additional provisions be added, such as the procedure for obtaining a permit, the permit fee, or a specific penalty for failure to obtain the permit?

**Pick one option from list below**

☐ Revise as follows:

- ☐ Revise as follows: (revisions attached).
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 155-001

Chapter 155 Criminal History Background Checks

§ 155-1 Fingerprint-based criminal history checks.

**Code Content:**

*[§ 155-1C] Authorization to conduct fingerprint-based state and national criminal record background checks. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS) and the Federal Bureau of Investigation (FBI), and their successors as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities. Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the Police Department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wants to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct or update the record are set forth in Title 28 CFR 16.34. The Police Department shall not utilize and/or transmit the results of the fingerprint-based criminal record background check to any licensing authority pursuant to this by-law until it has taken the steps detailed in this subsection.*

In § 155-1C the reference to the Massachusetts Department of Criminal Justice Information Systems is incorrect and should read "Massachusetts Department of Criminal Justice Information Services."

**Pick one option from list below**

- ☐ Revise as suggested.
- ☐ Revise as follows:
- ☐ Defer decision until after Code publication.

Question 155-002

Chapter 155 Criminal History Background Checks  
§ 155-1 Fingerprint-based criminal history checks.

**Code Content:**

*[§ 155-1E] Regulations. The Board of Selectmen is authorized to promulgate regulations for the implementation of the proposed by-law, but in doing so it is recommended that they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database and other applicable state laws.*

In § 155-1E the reference to the "proposed bylaw" could be revised now that this bylaw has been adopted. We recommend the following revisions in this subsection:

The Board of Selectmen is authorized to promulgate regulations for the implementation of ~~the proposed by-law~~ this bylaw, but in doing so it is recommended that they ~~the Selectmen~~ consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database and other applicable state laws.

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 163-001

Chapter 163 Earth Removal  
§ 163-2 Earth removal procedure.

**Code Content:**

*[§ 163-2F] Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at such other time as may be specified in said permit, but in no case for a period more than one year.*

In § 163-2F the wording "but in no case for a period more than one year" is incomplete (it has no subject). The following revision could be made: "but in no case shall a permit be issued for a period of more than one year."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 163-002

Chapter 163 Earth Removal  
§ 163-7 Violations and penalties.

**Code Content:**

*[§ 163-7C] The penalties for violations of this by-law shall be as follows:*

The penalties prescribed in § 163-7C, \$50 for the first offense, \$100 for the second offense and \$200 for each subsequent offense, are prescribed by MGL c. 40, § 21(17). No changes should be made.