

## **Editorial and Legal Analysis**

***Return to General Code by September 8, 2017***

### **Town of Norwell, Massachusetts**

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Norwell Bylaw Review Committee

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Town of Norwell, Massachusetts

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Responses to questions: VOTED to approve on 11/8/17

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## INTRODUCTION

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### **Editorial and Legal Analysis**

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The purpose of the Editorial and Legal Analysis is to give Town officials an overview of the codification project and to guide them in making decisions as to what legislation is or is not to be included in the Code and with what, if any, revisions.

This Editorial and Legal Analysis has been prepared on the basis of a critique of the Town's existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town's law.

### **Legal Advice**

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Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial and Legal Analysis but rather to provide as much information as possible to enable municipal officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of the Town Counsel.

### **Manuscript**

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The Manuscript was prepared using the bylaws and regulations provided by the Town. These materials were sorted and categorized according to subject and the Manuscript prepared, in accordance with the organization approved by the Town.

- The Manuscript has not been edited but represents the Town's current legislation of a general and permanent nature, organized and renumbered in the new Code's format.
- Each piece of legislation in the Manuscript is identified by its adoption date (where available) in the "History" included in each chapter.
- Internal references (i.e., a reference to a section number within a law) have been updated to the new numbering.

The Manuscript is designed as a working document to be used for reference during this stage of review and discussion and as a temporary compilation pending publication of the Code books.

Please note that at this stage of the project the Manuscript does not include an Index. The Index will be prepared as the last step in the project before final publication of the finished Code.

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**Derivation Table**

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Included at the end of the Manuscript is the Derivation Table, which shows where the articles in the Town's compilation of Bylaws, Rules and Regulations have been included in the Manuscript. This document will be updated throughout the project and included in the final publication to assist Code users in the transition to the new Code's organization.

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**Time Frame**

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The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The Town will have 90 business days (by September 8, 2017) to return the completed Editorial and Legal Analysis and submit any other revisions to the Manuscript. When all answers are received from the municipality, General Code will schedule preparation of the Preliminary Draft.

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**Review by Town**

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This Editorial and Legal Analysis is set up as a workbook. Where the phrase "satisfactory as written" is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the experiences of the Town. We encourage the Town officials to review all chapters of the Manuscript, using this Editorial and Legal Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?
- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town's cost in administering the legislation?

Our experience indicates that the Town may find it helpful to designate one person or a small committee to perform the detailed review work and to report back to the governing body with specific recommendations and any questions needing some type of policy decision. Often at this point the completed workbook is passed on to the Municipal Attorney for his or her review of the decisions.

Please make a copy of the completed Editorial and Legal Analysis and any accompanying documents for the Town's internal records and send General Code the original copies.

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**Extent of Decisions**

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It is not necessary for the Town to answer every single question in the Editorial and Legal Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is and revising it in the future. The aim should be to answer as many questions as possible within the time frame.

If the Town wishes to use this approach, either mark the checkbox option indicating "Make no change" and/or make a notation of "Leave as is" at the chapter title in the Editorial and Legal Analysis.

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**Sample Legislation**

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Sample legislation adopted by other municipalities is always available for review and comparison purposes upon request. Simply contact the project editor. A number of Massachusetts codes are also posted on our website and can be reviewed for samples: <http://www.generalcode.com/ecode360/MA>

It is important to note that **sample legislation is unlikely to meet the Town's requirements without some sort of revision**. The purpose of sample legislation is to give officials an opportunity to see what other municipalities have enacted on certain subject matters and to provide a basis for legislation that the governing body may wish to adopt. Sample legislation should be thoroughly reviewed and revisions made to bring the samples in line with your community's needs before adoption.

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**Process/Next Steps**

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Once the Town has completed its review of the Editorial and Legal Analysis and submitted all desired changes to the Manuscript, General Code will incorporate those revisions and provide a Preliminary Draft within 100 business days. The Town will have 30 business days to review the Preliminary Draft. Once the Preliminary Draft is reviewed by the Town, General Code will incorporate any revisions and submit a Final Draft and any necessary warrant articles and other materials to provide for the approval of the Code (see "Code Adoption Process" below). Following adoption of the Final Draft by the Town, General Code will proceed with final publication. Deliverables under the terms of the contract are 10 hard copies and eCode360<sup>®</sup> (the Town's Code on the Internet).

## GENERAL COMMENTS

### Binders

- A. Binder colors. Please choose binder and lettering colors for the hard copies of the new Code. Binder color options may be reviewed on our website at: <http://www.generalcode.com/codification/binder-colors>.

Binder Color		Lettering
<input type="checkbox"/> Blue	<input type="checkbox"/> Brown	<input type="checkbox"/> White
<input type="checkbox"/> Green	<input type="checkbox"/> Burgundy	<input type="checkbox"/> Gold
<input type="checkbox"/> Gray	<input type="checkbox"/> Black	<input type="checkbox"/> Silver

- B. Seal or logo. If the Town can provide us with a clear, crisp, black-and-white copy of the Town Seal, or the current logo, we will include it on the Code binders.

#### Decision:

- ☐ Clear, crisp, black-and-white copy of the Seal or logo is attached.
- ☐ Electronic image of Seal or logo (in .tiff or .jpeg format) has been e-mailed to [ezsupp@generalcode.com](mailto:ezsupp@generalcode.com).
- ☐ Seal or logo is not available for reproduction on binders.

- C. Wording. The cover of the binders will read "Charter and Code of the Town of Norwell Massachusetts" unless otherwise requested.

#### Decision:

- ☐ This wording is acceptable
- ☐ Use the following: Charter, Bylaws, and Rules and Regulations of the Town of Norwell

### Penalties

This project provides an opportunity for the Town to review the fines that are imposed for violation of the various bylaws and regulations. Each penalty section is noted in the specific comments below for the Town's review. Pursuant to MGL c. 40, § 21, the Town can impose a fine of up to \$300 for a violation of a bylaw. If the noncriminal disposition procedure is used, the fine must be set in a specific amount. See MGL c. 40, § 21D.

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**Fees**

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This project also provides a good opportunity for the Town to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. All fees should be reviewed to ensure that they adequately reflect the current administrative and enforcement costs to the Town. All fees included in the bylaws and regulations are noted in the specific comments below under each chapter.

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**Code Adoption Process**

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Once the new Town Code is completed it will need to be formally adopted. The chapters in Division 3, Rules and Regulations, will need to be acted on by the appropriate agency (Board of Appeals, Planning Board, Conservation Commission, Board of Health, etc.) to ratify the renumbering of the regulations and adopt any revisions that are made as part of this project. We will work with the Town to provide the appropriate materials for the approval of the regulations.

The renumbering of the General Bylaws and Zoning Bylaw and any revisions to the bylaws made as part of this project will need to be formally adopted by the Town Meeting and approved by the Attorney General. Our standard process is to produce a draft of the updated bylaws which incorporates all of the changes that have been authorized by the Town. Revisions to the General Bylaws can be handled in one of two ways:

- Option 1: Readoption. The bylaws can be updated and then readopted in their entirety by the Town Meeting. This method would result in a new set of General Bylaws that will replace all prior bylaws. Under this method, the newly adopted bylaws would be subject to a complete review by the Attorney General. (A sample warrant article is included below.)
- Option 2: Separate warrant articles for specific changes. If the Town wishes to make some wording changes to the General Bylaws without completely readopting the bylaws, we can incorporate the desired wording changes into the bylaws and draft separate warrant articles for the Town Meeting to adopt to put each of these changes into effect, and to accept the renumbering of the bylaws. Depending on the number of changes the Town decides to make, this method can result in a large number of warrant articles. These articles would then be subject to review by the Attorney General.

Changes to the Zoning Bylaw will also need to be handled in one of the two ways outlined above.

***Sample Warrant Article***  
***Readoption of General Bylaws***

*Article \_\_\_\_: To see if the Town will vote to accept the renumbering and revision of the general bylaws of the Town to the numbering or codification, arrangement, sequence and captions and the comprehensive revisions to the text of the general bylaws as set forth in the Final Draft of the Code of the Town of Norwell, dated \_\_\_\_\_, said codification having been done under the direction of the Board of Selectmen and Town Attorney, and said Code being a compilation and comprehensive revision of the present general bylaws of the Town. All general bylaws of a general and permanent nature, as amended, heretofore in force and not included in the Code shall be repealed, except that such repeal shall not affect any suit or proceeding pending as the result of an existing law, and such repeal shall not apply to or affect the zoning bylaw or any personnel bylaw or any bylaw, order or article heretofore adopted accepting or adopting the provisions of any statute of the commonwealth.*

Please indicate below how the Town would like to handle adoption of the General Bylaws (Division 1) and Zoning Bylaw (Division 2) as part of the new Code. If more information is needed in this regard please contact the project editor.

**Adoption method for General Bylaws:****Decision:**

- ☐ Use Option 1 (readoption, one warrant article)
- ☒ Use Option 2 (separate warrant articles for renumbering and text changes)

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**Adoption method for Zoning Bylaw:****Decision:**

- ☐ Use Option 1 (readoption, one warrant article)
- ☒ Use Option 2 (separate warrant articles for renumbering and text changes)

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## CHARTER

### Charter

1973; 2012

The Town Charter will appear first in the Code.

- A. We received a copy of a proposed act titled "An act relative to the recall of elected officials in the town of Norwell" which amends the Charter to add a new Section 3-13. Has this act been adopted? If so, please provide a copy of the adopted act and we will incorporate the new section into the Charter.

#### Decision:

- ☒ Act has been adopted; copy of final act enclosed
- ☐ Act has not yet been adopted

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- B. The copy we received for the Charter skipped from Section 3-12 to Section 4-1. The title (and number) for Article 4 were missing. Is the title of Article 4 "Appointed Officials"?

#### Decision:

- ☐ Title of Article 4 is "Appointed Officials"
- ☒ Title of Article 4 is: **Appointed Officials, Boards, Committees, and Commissions**
- ☐ Leave title blank for Article 4

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- C. Section 3-2(b) contains an error in the last sentence; it appears the word "Charter" is missing: "The Board of Selectmen shall be authorized to enter into intergovernmental and other agreements on such terms it deems beneficial to the citizens of Norwell, subject to the General Laws, **This**, Town by-laws or by vote of Town Meeting."

#### Decision:

- ☐ Change to "this Charter" **Need Town Meeting Warrant Article**
- ☒ Amendment required; make no change

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- D. In § 5-4(b) the same sentence has been included twice:

The Board of Selectmen shall give the Town Administrator not less than five (5) days written notice of the date, time and location of the hearing. **The Town Administrator may waive, in writing, such time limits. The Town Administrator may waive, in writing,**

## Town of Norwell, MA

**such time limits.** The Town Administrator may file a written statement with the Board of Selectmen responding to the reasons cited for the proposed removal;

Decision:

☐ Delete duplicate sentence **Need Town Meeting Warrant Article**

☒ Amendment required; make no change

E. Changes to the Charter will not be made as part of this project. The Town might want to review the following the next time the Charter is amended:

- (1) In Article 3, similar wording is included at the beginning and the end of the article; the Town might want to consider deleting one of these sentences. Also, it appears that "this section" should be changed to "this article."

First paragraph of Article 3: All elected officials and all boards and committees established or continued under this section shall have all the powers and duties under the constitution and laws of the Commonwealth, the Town by-law and Town Charter.

Last paragraph of Article 3: All elected officials and all board (sic) and committees established or continued under this section shall have all of the powers and duties that they may have under the constitution and laws of the Commonwealth, the by-laws and Charter of the Town.

- (2) The Regional Vocational School District Committee member is included in Article 3, Elected Officials (see § 3-10) but this is an appointed position. Should this section be moved to Article 4?
- (3) Section 4-1(e) includes the following: "The chief shall have all the powers and duties conferred by statute on fire engineers, and shall appoint a deputy chief and such other officers and fireman as the chief may think necessary, and may remove the same at any time for cause and after a hearing." Is "fireman" supposed to read "firemen"?
- (4) Section 5-2(c)(2) reads: "The Town Administrator shall detail in the proposed budget all estimated revenues from all sources and all expenditures, including debt service, in case for the previous, current and ensuing years." Is the wording "in case for" correct?
- (5) In § 6-2(b) the following corrections should be made: "Any office or position in the administrative service of the Town or incumbents in such ~~office's~~, offices shall continue to function until a change in those offices, positions or incumbents is ~~affected~~ effected under this Charter."

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## DIVISION 1: GENERAL BYLAWS, PART I

### Ch. 1, General Provisions

#### *Former Art. I*

- A. Section 1-6A provides as follows: "Any use in these bylaws of the phrase 'by-law' shall mean the General Laws and Statutes of the Commonwealth of Massachusetts, as from time to time amended." This provision is unusual and puzzling. The term "by-law" refers to a local law adopted by the Town, not a state law. Was the intent to refer to the phrase "by law" rather than the term "by-law"?

#### **Decision:**

☒ Change to "the phrase 'by law' shall mean the General Laws..." (hyphen removed)

☐ Revise as follows:

- B. In § 1-7 should the wording "those articles or section parts thereof" read "those articles, sections or parts thereof"?

#### **Decision:**

☒ Revise as indicated

☐ Revise as follows:

☐ Make no change

- C. Section 1-8 provides that a violation of the bylaws, where no other penalty is provided, is subject to a fine of not more than \$150. Pursuant to MGL c. 40, § 21, the Town can impose a fine of up to \$300 for bylaw violations. Is any revision desired?

#### **Decision:**

☒ Change maximum fine from \$150 to \$300

☐ Revise as follows:

☐ Make no change

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## Ch. 2, Town Meetings

*Former Art. IV*

This chapter should be reviewed to ensure it reflects current procedures for the Town Meeting.

**Decision:**

- ☐ See revisions on enclosed copy
- ☒ No revisions needed

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## Ch. 3, Elected Officials

*Former Art. V*

- A. Section 3-6 consists of an incomplete sentence. The following correction could be made: "A The Housing Authority ~~consisting~~ consists of five members[;], four elected for three-year overlapping terms[,], and one appointed in accordance with the General Laws."

**Decision:**

- ☒ Revise as indicated
- ☐ Revise as follows:

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- B. Section 3-11E provides as follows: "A charge of \$2 or such other larger sum as the Water Commissioners from time to time may determine shall be made whenever the Water Commissioners, or their representatives, at the request of the water taker, turn on or shut off the water in any service pipe." If this charge is set by the Water Commissioners and is now higher than \$2, the Town might want to revise this wording as follows: "A charge of ~~\$2 or such other larger sum~~ as the Water Commissioners from time to time may determine..." In the regulations in Chapter 305, § 305-2H provides for a charge of \$10 "For a service requiring water to be turned off or on at a street connection."

**Decision:**

- ☒ Delete "of \$2 or such other larger sum" as indicated
- ☐ Revise as follows:
- ☐ Make no change

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- C. Section 3-11H provides as follows: "If any person shall open a hydrant or remove the cover thereof or make any opening or connection with any Town pipe or turn on or off the water from any Town pipe except in case of fire or by authority of the Water Commissioners, he

shall be liable to a fine of not more than \$20." Is this maximum fine amount still satisfactory?

**Decision:**

- ☐ Revise as follows: \$50 Need Town Meeting Warrant Article
- ☒ Make no change

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**Ch. 4, Appointed Officials**

*Former Art. VI*

A. Section 4-1A contains a long list of officials appointed by the Selectmen. The list should be reviewed to ensure it is up-to-date. We note the following:

- (1) The Affordable Housing Trust and Norwell Affordable Housing Partnership are listed as having been dissolved by the Board of Selectmen in 2012. If these agencies no longer exist they should be deleted from this section.

**Decision:**

- ☒ Delete Affordable Housing Trust and Norwell Affordable Housing Partnership
- ☐ Make no change

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- (2) There is an entry reading "Groundwater Protection." The Town might want to clarify. Is this a committee, or a single official? Is this the correct/complete title?

**Decision:**

- ☐ Revise as follows: Delete
- ☐ Make no change

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- (3) There is an entry for "Municipal Finance Department." All of the other entries are for a specific official (individual) or board/committee. It is unusual to see a department being referred to as appointed official in this manner. The Finance Director, who is the head of this Department (see Chapter 5, Article I), Town Accountant and Treasurer-Collector are listed separately in § 4-1A.

**Decision:**

- ☐ Delete "Municipal Finance Department"
- ☐ Revise as follows: Municipal Finance Director
- ☐ Make no change

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- (4) The entry "Pathway Committee – Appointed by Planning Board" could be moved out of Subsection A (which lists appointments by the Selectmen) and included as new Subsection E reading "The Pathway Committee shall be appointed by the Planning Board." Likewise the entry "South Shore Recycling Committee – Appointed by the Board of Health" could also be moved.

**Decision:**

- ☒ Move Pathway Committee and South Shore Recycling Committee
- ☐ Handle as follows:
- ☐ Make no change

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- (5) The entry "Salt Use Study Committee" includes the following note: "10-5-2009 Selectmen voted." It is not clear what this note means. This bylaw cannot be directly amended by the Board of Selectmen; only the Town Meeting can amend the bylaw to add or remove material.

**Decision:**

- ☐ This entry was added by the Board of Selectmen and needs to be adopted by Town Meeting
- ☒ 10-5-2009 is the date the Selectmen appointed this Committee
- ☐ Other:

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- (6) There is an entry for "Treasurer-Collector" but there are also references to the Treasurer and Collector as separate positions. See § 4-15 for example, particularly § 4-15D. Have these positions been combined or are they separate?

**Decision:**

- ☐ Positions are separate; change "Treasurer-Collector" to "Treasurer" and "Collector"
- ☒ Positions are combined; change all references to "Treasurer" and "Collector" to "Treasurer-Collector"
- ☐ Other:

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- B. Section 4-1B(3) reads "Veterans' Agent, Director of Veterans' Services." Are these two different positions? That is, should this subsection read "Veterans' Agent and Director of Veterans' Services"?

**Decision:**

- ☒ Revise to "Veterans' Agent and Director of Veterans Services"
- ☐ Revise as follows:
- ☐ Make no change

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- C. The Town indicated that the School Building Committee for the Construction Phase of Norwell 2001 has been disbanded. Accordingly we have removed this Committee from § 4-1A and deleted the section providing for this Committee from this chapter. We will provide for these changes in the warrant article to approve the codification of the bylaws.
- D. The terms "Chair" and "Chairman" are both used in the bylaws. See for example § 4-3B and D. The Town might want to take this opportunity to update any remaining references to "Chairman" to "Chair."

**Decision:**

- ☒ Change all references to "Chairman" to "Chair"
- ☐ Make no change

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- E. Section 4-4 consists of an incomplete sentence. The following correction could be made: "A The Board of Appeals ~~consisting~~ consists of three members, appointed for three-year overlapping terms, and not more than five associate members."

**Decision:**

- ☒ Revise as indicated
- ☐ Revise as follows:

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- F. Section 4-8, Division of Inspections.
- (1) We recommend the following change in Subsection A to make a complete sentence: "A There shall be a division composed of:"

**Decision:**

- ☒ Revise as indicated
- ☐ Revise as follows:

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- (2) Subsection A(3) provides for "An Inspector of Plumbing and Gas appointed by the Building Inspector for a term of one year." According to § 4-1A, the "Gas and Plumbing Inspector" is appointed by the Board of Selectmen.

**Decision:**

- ☒ Delete "Gas and Plumbing Inspector" from § 4-1A
- ☐ Change Subsection A(3) to "A Gas and Plumbing Inspector appointed by the Board of Selectmen for a term of one year."
- ☐ Other:

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## Town of Norwell, MA

- G. Section 4-13 is an incomplete sentence. We recommend the following correction: "One member of a Regional Vocational School District Committee shall be appointed for a three-year term."

**Decision:**
☒ Revise as indicated

☐ Revise as follows:

- H. At the Annual Town Meeting in 1994 the Town adopted a bylaw prohibited the issuance of licenses and permits if back taxes are owed. This bylaw was included twice in the Town's compilation, following the "Town Collector and Treasurer" section in Article VI (now § 4-15) and also in Article XI, Licenses (now Chapter 21). To eliminate this duplication we have included this bylaw once, in Chapter 21, Licenses, and removed it from Chapter 4. A footnote has been included at the end of § 4-15H providing a cross-reference to the bylaw in Chapter 21.
- I. We have included the sections regarding the Design Review Board and Community Preservation Committee which appeared under Article XII of the Town's compilation in this chapter as §§ 4-17 and 4-18. This Board and Committee are listed in § 4-1A of this chapter, and the sections appear to have been adopted by the Town Meeting (they are bylaws).

**Ch. 5, Finance****Art. I, Department of Finance**

*Former Art. VI (part)*

There are references in § 5-3B, C and D to the Treasurer-Collector and the Treasury/Collecting Division in the Department of Finance. Are these references correct? See Comment A(6) under Chapter 4 above regarding whether the positions of Treasurer and Collector have been combined.

**Decision:**
☐ References are correct

☒ See revisions on enclosed copy **Need Town Meeting Warrant Article???**
**Art. II, Contracts**

*Former Art. VII*

- A. Section 5-5 requires competitive bidding to be used for purchases and contracts exceeding \$1,000. We question if this section reflects current practice, as this amount is substantially lower than the threshold established by the State Uniform Procurement Act. See MGL

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**Comment [1]:** Peter to send attachment per telecom 10/25/17

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c. 30B, §§ 4 and 5, which require written quotations for contracts from \$10,000 to \$50,000 and competitive bidding over \$50,000.

**Decision:**

☐ Revise as follows:

☒ Make no change **Need Town Meeting Warrant Article???**

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- B. Section 5-11 is an incomplete sentence. The following revision could be made: "~~To permit~~ The Board of Selectmen shall be permitted to sign, award and negotiate leases, rentals and contracts in excess of three years, but no more than 20 years, subject to Town Meeting approval."

**Decision:**

☐ **Revise as indicated**

☐ Revise as follows:

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**Ch. 6, Legal Affairs**

*Former Art. VIII*

Provided that it reflects current procedures, this chapter appears satisfactory as written.

**Ch. 7, Records and Reports***Former Art. IX; Art. XII, § 1*

- A. Article XII, § 1, of the Town's current compilation provides as follows: "Every committee of the Town shall file with the Town Clerk, within two weeks after their adoption, a copy of their rules and/or regulations and all revisions, corrections and additions made thereto." We have included this sentence in this chapter as § 7-1B.
- B. Article XII, § 2, of the Town's current compilation provides as follows: "The Town Clerk shall file, immediately following Article XII, a copy of the rules and regulations of every committee of the Town." This wording should not be included in the new Code unless it is the Town's intent that that the rules and regulations of all committees will be included in the Town Code. If that is the case then the following revised wording could be included in this chapter: "The Town Clerk shall cause a copy of the rules and regulations of every committee of the Town to be included in Division 3, Rules and Regulations, of the Town Code."

**Decision:**

- ☐ Add revised wording to this chapter as indicated
- ☐ Do not add this wording
- ☐ Other:

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**Ch. 8, Town Seal***Former Art. II*

This chapter refers to the Seal as "a design imprinted herein" but does not actually include an image of the Seal. Should one be added? If so, can the Town provide a clear, reproducible copy of the Seal?

**Decision:**

- ☐ Add image of Seal; file will be e-mailed to General Code
- ☐ Handle as follows:

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Comment [2]: Received from Ben Magro on 11/2/17

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## Ch. 9, Town Property

*Former Art. XIII; Art. XV, § 18*

- A. Section 9-6 provides as follows: "No vehicle shall be allowed on any Town landing without a permit issued under the direction of the Board of Selectmen." The Town might want to consider whether this section is necessary as parking on Town landings is also regulated by Chapter 64, Article I, Town Landings, specifically § 64-3.

### Decision:

☐ Delete § 9-6 **Need Town Meeting Warrant Article**

☒ **Make no change**

- B. Please note that we have included the bylaw relating to the display of the American flag on Town property in this chapter as § 9-7.

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**DIVISION 1: GENERAL BYLAWS, PART II**

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**Ch. 21, Licensing Procedures**

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*Former Art. XI, §§ 1, 2, 4 and 5*

Section 21-5, Issuance of licenses and permits if back taxes are owed, was based on MGL c. 40, § 57, which has been amended since the Town adopted this bylaw in 1994. To bring § 21-5 in line with the current wording of the statute, the following revisions could be made:

A. In Subsection A:

The Tax Collector shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges ~~for not less than a twelve-month period~~, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

**Decision:**

- ☐ Revise as indicated Need Town Meeting Warrant Article  
☒ Make no change

B. In Subsection B:

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice.

**Decision:**

- ☐ Revise as indicated Need Town Meeting Warrant Article  
☒ Make no change

C. In Subsection D the reference to MGL c. 268 is incorrect and should be to MGL c. 268A. We will make this correction.

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- D. Subsection E is missing wording. Based on the corresponding wording in MGL 40, § 57, we will make the following correction:

This bylaw shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; bicycle permits, MGL c. 85, § 11A; sale of articles for charitable purposes, MGL c. 101, § 33; children's work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping licenses, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.

- E. Subsection E refers to MGL c. 85, § 11A, regarding bicycle permits. That section was repealed by St. 2008, c. 525.

**Decision:**

- ☐ Delete "bicycle permits, MGL c. 85, § 11A"
- ☐ Revise as follows:
- ☐ Make no change

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**Ch. 22, Junk and Secondhand Dealers**

*Former Art. XI, §§ 3 and 7*

- A. Section 22-2 is titled "Dealers in precious metals" and Subsection A requires a license to purchase, barter or sell "secondhand articles containing precious metals or semi-precious metals." Subsection B then refers to "junk, precious metals or secondhand jewelry" and Subsection D refers to "junk jewelry, old metals, secondhand jewelry, precious metals or semi-precious metals." The Town might want to clarify the intent of this section and this license. Does it apply only to precious metals or also to junk and old metals? See also § 22-1 which refers to a license for dealers in junk, old metals and secondhand articles.

**Decision:**

- ☐ See revisions on enclosed copy
- ☒ Make no change

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- B. In § 22-2A the wording "nor place within the limits of the Town" is awkward and unclear. We question if this wording is supposed to read as follows:

No person shall collect, deal or keep a shop for the purpose of purchase, barter or sale of secondhand articles containing precious metals or semi-precious metals, nor store the same in any building, ~~nor~~ or place within the limits of the Town, without the issuance of a license for this purpose, issued by the Board of Selectmen or appointed authority.

## Town of Norwell, MA

**Decision:**☒ Revise as indicated☐ Revise as follows:☐ Make no change

- C. The last sentence in § 22-2B reads "The licensee shall pay said fee to the Town Clerk for the use of the Town." There is no prior mention of a fee in this subsection.

**Decision:**☒ Change "said fee" to "a fee set by the Selectmen"☐ Revise as follows:

- D. Section 22-2G provides as follows: "Whoever violates any provision of this section shall be punished by a fine or not less than \$50 nor more than \$100." Is this penalty still satisfactory? We note that with respect to dealers in junk, old metals and secondhand articles, MGL c. 140, § 55, limits the penalty for operating without a license to \$20. It states:

*Whoever acts as a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles without a license, or in any other place or manner than that designated in his license or after notice to him that his license has been revoked, or violates any such rule, regulation or restriction, shall forfeit twenty dollars.*

**Decision:**☐ Revise as follows:☒ Make no change **Need Town Meeting Warrant Article****Ch. 23, Peddling and Soliciting**

*Former Art. XI, § 6*

This chapter restricts peddling and soliciting in the Town. Do these provisions reflect current practice?

**Decision:**☐ See revisions on enclosed copy☒ Make no change **Need Town Meeting Warrant Article**

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## Ch. 24, Self-Service Gasoline Stations

*Former Art. XV, § 12*

This chapter provides for the Board of Selectmen to issue a permit and impose traffic control regulations on self-service gasoline stations. Section 24-3 imposes a fine of not more than \$20 for violations. Are any updates needed?

### Decision:

☐ See revisions on enclosed copy

☒ Make no change Need Town Meeting Warrant Article

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**DIVISION 1: GENERAL BYLAWS, PART III**

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**Ch. 41, Board of Health**

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**Art. I, Smoking in Public Places and Workplaces***5-5-1994; 5-15-2000 (former Art. XV, § 15)*

- A. This article should be reviewed as to whether it reflects current smoking restrictions enforced in the Town, particularly in light of the state-wide smoking ban established by MGL c. 270, § 22, Smoking in public places, as amended in 2004 and 2008.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ **Make no change** Needs to be a separate warrant article to delete

- B. In § 41-4H we will make the following correction: "In the event of a breakdown or malfunction, in whole or in part, of a barrier[,] or air ventilation system, smoking will not be permitted until the barrier or system is fully repaired."

- C. Section 41-10 sets the penalty for violation of this article at a fine of \$20 for a first offense, \$50 for a second offense, and \$200 for a third and each subsequent offense. Are any changes desired?

**Decision:**

- ☐ Revise as follows:
- ☐ **Make no change** Needs to be a separate warrant article to delete

**Art. II, Sale of Tobacco Products***4-23-1996; 5-15-2000 (former Art. XV, § 16)*

This article authorizes the noncriminal disposition of violations of the Board of Health regulations regarding the sale and distribution of tobacco. This article was last amended in 2005; the Board of Health revised its regulations effective March 2016. See Chapter 304, Board of Health, Article III, Sale of Tobacco Products, in the Manuscript.

- A. It is not clear whether this article is still needed, as the 2016 Board of Health regulations provide for noncriminal disposition and include a fine schedule. See Chapter 304, § 304-51, Violations and penalties, and § 304-52, Noncriminal disposition.

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**Decision:**

- ☐ Delete this article
- ☐ Retain this article
- ☐ **Make no change** Needs to be a separate warrant article to delete

- B. If this article is retained, it is not clear how the wording "Fine schedule for C, D, E, F, and G" and "Fine schedule for B" should be revised to reflect the current Board of Health regulations. These appear to be references to Section II, Subsections B through G, of the old regulations which were replaced in 2016.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ Not applicable; article deleted
- ☐ **Make no change** Needs to be a separate warrant article to delete

- C. One of the enforcement agents listed is the Director of Public Health. This title does not appear anywhere else in the Town's bylaws or regulations.

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change
- ☐ Not applicable; article deleted
- ☐ **Make no change** Needs to be a separate warrant article to delete

**Ch. 42, Board of Water Commissioners****Art. I, Water Use Restrictions***5-15-2000*

- A. The definition of "state of water supply emergency" in § 42-3 refers to MGL c. 21G, § 15-27. Chapter 21G only contains 20 sections; water emergencies are dealt with in §§ 15 through 17. We will correct this reference to MGL c. 21G, §§ 15 to 17.
- B. We will make the following revision in § 42-4 for consistency with the rest of this article: "Public notice of a state of water supply conservation shall be given under § 42-6 of this bylaw before it may be enforced."
- C. In § 42-8 it appears the following corrections should be made: "no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department intended to bring about an end to the state of emergency."

**Decision:**☒ Revise as indicated☐ Revise as follows:

- D. Section 42-9 provides for a warning for a first violation, a fine of \$50 for a second violation and a fine of \$100 for each subsequent violation; it also authorizes noncriminal disposition. Are these fine amounts still satisfactory?

**Decision:**☐ Revise as follows:☒ Make no change **Need Town Meeting Warrant Article**

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**Ch. 43, Division of Inspections****Art. I, Excavations***Former Art. XV, §§ 8 and 9*

This article appears satisfactory as written. The maximum fine of \$200 in § 43-2 is prescribed by MGL c. 40, § 21(19), and should not be changed.

**Art. II, Storage of Construction Machinery***5-7-2012 (former Art. XV, § 17)*

- A. The wording of § 43-3 is awkward and unclear. This section could be revised to read as follows:

This bylaw is proposed for the purpose of maintaining the rural and scenic character of Norwell's neighborhoods, conserving the value of real estate, and lessening the threat of an adverse environmental impact by restricting the length of time the storage of construction machinery, excluding that which is owned by the property owner, used or intended to be used in the construction, maintenance, and demolition of structures or altering of land may be permitted.

**Decision:**
☒ **Revise as indicated**
☐ Revise as follows:

- B. Section 43-5 authorizes noncriminal disposition of violations of this article but sets the fine at "not more than \$50." In order for the noncriminal disposition procedure to be used, the fine must be set at a specific amount.

**Decision:**
☐ Revise to "punishable by a fine of \$50"

☐ Revise to "punishable by a fine of \_\_\_\_\_"

☐ **Need Town Meeting Warrant Article**
**Art. III, Swimming Pools***Former Art. XV, § 7*

- A. Section 43-6 begins "A swimming pool shall be a body of water contained ~~in~~ **by** an artificial or semi-artificial means from a natural watercourse." Is this wording correct?

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## Town of Norwell, MA

Decision:

- ☐ Revise as follows: **per above**
- ☐ Make no change

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- B. Swimming pool enclosures are regulated by the State Building Code. See Section 3109, Swimming Pool Enclosures and Safety Devices, of the 2009 International Building Code, with amendments by the State Board of Building Regulations and Standards, 780 CMR. The Building Inspector should be consulted as to whether § 43-7 of this article is still in use or if it should be removed as covered by the State Building Code.

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**Comment [3]:** 2015 International Building Code supersedes 2009 per Tom Barry 11/7/17Decision:

- ☐ Revise as follows:
- ☐ **Make no change** **Need Town Meeting Warrant Article**

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**Art. IV, Stretch Energy Code***5-4-2015 (former Art. XXI)*

- A. Section 43-10 refers to the Stretch Energy Code as Appendix 120.AA of the State Building Code. The Stretch Energy Code is now Appendix 115.AA of the State Building Code. We will update this reference accordingly.
- B. Section 43-10 also refers to 780 CMR 13.00, 34.00, 61.00 and 93.00. In the current State Building Code (8<sup>th</sup> Edition), Chapter 13 is titled "Energy Efficiency" and Chapter 34 is titled "Existing Buildings," but there is no Chapter 61 or 93. Chapters 52 through 109 are listed as "Reserved."

Decision:

- ☐ **Delete reference to 61.00 and 93.00**
- ☐ Revise as follows:
- ☐ Make no change

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**Ch. 44, Fire Department****Art. I, Underground Storage Tanks***4-7-1986 (former Art. XV, § 13)*

The Town might want to have this article reviewed by the Fire Chief to ensure that it reflects current standards. We note the following:

- A. Section 44-5A and B(2) refer to the Massachusetts Board of Fire Protection Regulations. The correct title is the Board of Fire Prevention Regulations. We will update these references accordingly.
- B. Section 44-5B(1) begins "Prior to the issuance of a permit for new underground tank storage." Should "permit" be changed to "license"? Other references in this chapter are to a license.

**Decision:**

☐ Change "permit" to "license"

☒ Make no change

- C. Section 44-6B(1) refers to 527 CMR 9.13. We were unable to confirm this reference. The current code contains 527 CMR 1, Massachusetts Comprehensive Fire Safety Code (which replaced former Chapters 1 through 11 and 13 through 50), and 527 CMR 12, Massachusetts Electrical Code amendments.

**Decision:**

☒ Revise to 527 CMR (delete "9.13")

☐ Revise as follows:

☐ Make no change

- D. Section 44-6B(4) refers to MGL c. 148, § 38A. That section was repealed by St. 2009, c. 4. The current reference is MGL c. 210, § 1. We will update this reference accordingly.
- E. In § 44-6C we will update the reference to the Department of Environmental Quality Engineering to the Department of Environmental Protection.
- F. In § 44-8C it appears that "permit" should be changed to "license" as follows:

Licenses issued in accordance with MGL c. 148, § 13, for underground tanks must be renewed annually in April in the Town Clerk's office. Tank owners must submit to the Fire Chief and the licensing authority a statement certifying satisfactory leak detection result

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## Town of Norwell, MA

over the period of the license (in accordance with this by-law), and inventory verification, at least 30 days before the issuance of a ~~permit~~ license renewal for the time periods specified herein.

**Decision:**

- ☒ Change "permit" to "license" as indicated
- ☐ Make no change

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- G. Section 44-8D provides: "Whoever violates any provision of this by-law shall be subject to a fine of not less than \$50 or more than \$100 per day per violation."

(1) We will revise "or more than" to "nor more than": "a fine of not less than \$50 nor more than \$100."

(2) Are the fine amounts still satisfactory? Need Town Meeting Warrant Article

**Decision:**

- ☐ Revise as follows:
- ☒ Make no change

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**Ch. 45, Police Department****Art. I, Alarm Systems***5-5-1994 (former Art. XV, § 14)*

- A. In the definition of "alarm system" in § 45-1 we recommend the following revision to clarify this wording and for consistency with the rest of this article: "and to which police and/or fire are the Police and/or Fire Department is expected to respond." Likewise in § 45-5 the wording "the Police and/or Fire" could be changed to "the Police and/or Fire Department."

**Decision:**☐ **Revise as indicated**☐ Make no change

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- B. Section 45-3A prohibits use of an alarm system which emits noise for more than 30 minutes, subject to a fine of not more than \$200 for each day the system is in operation. Is this penalty still satisfactory?

**Decision:**☐ Revise as follows:☐ **Make no change** Need Town Meeting Warrant Article,

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- C. The false alarm fines in § 45-6A and C should be reviewed to ensure they are still satisfactory.

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**Decision:**☐ See revisions on enclosed copy☐ **Make no change** Need Town Meeting Warrant Article,

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- D. Section 45-6C currently reads "Alarm systems...shall be fined." We recommend the following revision:

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Alarm systems that have continuous false alarms or a series of malfunctions shall be reviewed by the Police Chief, and the user shall be fined an additional \$300 if a serious attempt has not been made to correct the alarm system so that it does not malfunction, or the Police Chief may order that the user of the alarm system discontinue use of the alarm system.

**Decision:**☒ Revise as indicated☐ Revise as follows:☐ Make no change

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**Art. II, Animal Control***Former Art. XV, § 11*

- A. In § 45-7C the wording "the Clerk of the Town in which the dogs are kept" could be revised to read simply "the Town Clerk."

**Decision:**☒ Revise to "the Town Clerk"☐ Make no change

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- B. In § 45-8 the wording "Town Treasurer of Plymouth County" does not make sense. This wording apparently should read: "and shall not thereafter be paid over by the Town Treasurer of to Plymouth County."

**Decision:**☒ Revise as indicated☐ Revise as follows:

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- C. We will make the following correction in § 45-11A: "Unless life threatening, the Animal Control Officer will not be called out."
- D. All references in this article are to the Animal Control Officer except in § 45-11C which refers to the Dog Officer.

**Decision:**☒ Change "Dog Officer" to "Animal Control Officer"☐ Revise as follows:

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- E. Section 45-12A is awkward and unclear. This subsection could be revised to read as follows:

No person shall own or keep a dog which by barking, biting, howling, being unlicensed or uncollared, causing littering, property damage, harassment, or display~~ing~~ of vicious behavior, or in any other manner disturbs the peace and quiet in any neighborhood or endangers the safety or damages the property of any person or otherwise violates the intent of the by-law.

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**Decision:**

☐ Revise as indicated above

Revise as follows:

- F. Section 45-12C provides: "Dogs impounded and unclaimed by the owner or the keeper after 12 days shall be disposed of by Animal Control Officer." In MGL c. 140, § 151, the impoundment period provided is seven days.

**Decision:**

☐ Change 12 days to 7 days

☐ Revise as follows: Disposition of dogs and dogs impounded and unclaimed shall be in accordance with the laws of the Commonwealth of Massachusetts

☐ Make no change

- G. Section 45-13 provides for noncriminal disposition of violations of the Animal Control Bylaw and sets the fine at \$25 for the first offense, \$50 for the second offense, \$100 for the third offense, and \$200 for the fourth and subsequent offenses. Are these amounts still satisfactory?

**Decision:**

☐ Revise as follows:

☒ Make no change

- H. Section 45-14 prohibits domestic animals on athletic fields in the Town.

- (1) We recommend the following revision to clarify the penalty for violations of this section: "Any person in violation of this bylaw shall be liable to the Town in the amount of \$25 for the first offense[,] and \$50 for each subsequent violation, ~~in the amount of \$50.~~"

**Decision:**

☒ Revise as indicated

☐ Revise as follows:

☐ Make no change

- (2) Are the fine amounts (\$25 and \$50) still satisfactory?

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**Decision:**☐ Revise as follows:☒ **Make no change** Need Town Meeting Warrant Article**Art. III, Peace and Good Order***Former Art. XV, §§ 1 to 6 and 10*

- A. In § 45-15, General regulations, Subsection E provides for a fine of not more than \$50. Is this penalty still satisfactory?

**Decision:**☐ Revise as follows:☒ **Make no change** Need Town Meeting Warrant Article

- B. Section 45-16, Unregistered motor vehicles, provides for noncriminal disposition of violations but the fine is set at "not more than \$50." In order for the noncriminal disposition procedure to be used, the fine must be set at a specific amount.

**Decision:**☐ Change to "punishable by a fine of \$50" Need Town Meeting Warrant Article☐ Change to "punishable by a fine of \_\_\_\_"☒ **Make no change**

- C. Section 45-17, Public consumption of alcoholic beverages, includes a fine of not more than \$200. Is any revision desired?

**Decision:**☐ Revise as follows:☒ **Make no change** Need Town Meeting Warrant Article

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## DIVISION 1: GENERAL BYLAWS, PART IV

### Ch. 61, Conservation Commission

#### Art. I, Wetlands Protection

5-13-2002 (former Art. XVI-a)

- A. In § 61-3 it appears the word "employers" should be "employees": "The Commission, its agent, officers and **employers**, may enter upon the land upon which the proposed work is to be done..."

##### Decision:

☒ Change "employers" to "employees"

☐ Make no change

- B. Section 61-8 refers to "mosquito control work done under the provisions of MGL c. 40, § 5, Clause 36, or MGL c. 252." Section 5 of Chapter 40 was rewritten by St. 1989, c. 687, and no longer contains the cited clause. Section 5 now consists of a single paragraph reading:

*A town may at any town meeting appropriate money for the exercise of any of its corporate powers; provided, however, that a town shall not appropriate or expend money for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law.*

##### Decision:

☒ Revise reference to MGL c. 40, § 5 (delete reference to Clause 36)

☐ Revise as follows:

☐ Make no change

- C. Section 61-12 provides for enforcement of the Wetlands Protection Bylaw and regulations.

- (1) This section provides for noncriminal disposition and fines of \$100 for the first offense, \$200 for the second offense and \$300 for the third offense and each subsequent offense. Are these amounts still satisfactory?

##### Decision:

☐ Revise as follows:

☒ Make no change

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- (2) This section also includes the following: "Any person who violates any provision of this bylaw, regulations or permits issued thereunder, may be punished by a fine jsued by the Conservation Commission." This provision is puzzling in light of the specific fines which are included in this section.

**Decision:**

- ☐ **Revise as follows:** Please change as noted in the paragraph above. The word shall is to be converted to may and the word set is to be changed to issued.
- ☐ Make no change

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**Ch. 62, Soil, Loam, Sand or Gravel Removal**

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*Former Art. XVI*

Provided it reflects current procedures this chapter appears satisfactory as written. The fines in § 62-5 are prescribed by MGL c. 40, § 21(17), and should not be changed.

**Ch. 63, Right to Farm**

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*5-3-2016*

This chapter appears satisfactory as written.

## Ch. 64, Waterways

### Art. I, Town Landings

5-9-2006 (former Art. XIX)

This article should be reviewed to ensure it reflects current regulations for use of Town landings. No specific penalties are included. Sections 64-3 and 64-5 state that fines will be determined by the Board of Selectmen. Note that MGL c. 88, § 19, provides as follows:

*The city council of a city and the selectmen of a town may make rules and regulations concerning the use of a common landing place laid out under this chapter; provided, that no such rule or regulation shall be effective unless it shall have been published in one or more newspapers, if there be any published in the city or town in which the public landing is located, otherwise in one or more newspapers published in the county in which the city or town is situated. Any person convicted of a violation of any such rule or regulation shall be punished by a fine of not more than twenty dollars.*

#### Decision:

- \* See revisions on enclosed copy

\* **Make no change** Need Town Meeting Warrant Article

### Art. II, Moorings

5-15-2007 (former Art. XX)

- A. Section 64-10C authorizes the Harbormaster to prepare regulations and states: "All such regulations shall be submitted approval." This wording could be clarified. Are the regulations approved by the Board of Selectmen?

#### Decision:

- \* Revise to "All such regulations shall be submitted for approval by the Board of Selectmen."
- \* Revise as follows:

\* **Make no change** Needs to be a separate warrant article to delete

- B. Section 64-11 sets the penalty for violation of this article at a fine of up to \$50 (for noncriminal disposition, a fine of \$50 is prescribed). Is this amount still satisfactory?

#### Decision:

- \* Change maximum fine and noncriminal fine from \$50 to \_\_\_\_\_
- \* Revise as follows:

\* **Make no change** Need Town Meeting Warrant Article

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## DIVISION 1: GENERAL BYLAWS, PART V

### Ch. 81, Public Ways

*Former Art. X*

- A. Section 81-11, Parking restrictions, should be reviewed in conjunction with the following, as there appears to be overlap between these sections:

- (1) Chapter 64, Article I, Town Landings, § 64-3, Town landing parking areas.
- (2) Chapter 306, Article II, Traffic Rules and Orders, § 306-7, Parking.

**Decision:**

- \* Revise as follows:

- \* **Make no change**

- B. Section 81-14 prohibits engine braking and includes the following: "Violations of this section shall be enforced by the Norwell Police Department by the issuance of a civil citation with a fine not to exceed \$300 per violation and shall be disposed of as a noncriminal disposition under MGL c. 40, § 21D." In order for the noncriminal disposition procedure to be used the fine must be set at a specific amount.

**Decision:**

- \* Change "a fine not to exceed \$300 per violation" to "a fine of \$300 per violation"

- \* Revise as follows:

- \* **Make no change** Need Town Meeting Warrant Article

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### Ch. 82, Private Ways

*Former Art. Xa*

This chapter consists of a single section dealing with temporary repairs on private ways. It is not clear whether this wording is still in effect. The following note was included in the Town's compilation (see Article Xa): "Voted at Annual Town Meeting, May 5, 1994, to delete paragraph, regarding Temporary Repairs of Private Ways."

**Decision:**

- \* **Remove this chapter; deleted in 1994**

- \* Note refers to another paragraph that was deleted from the Town's compilation; retain this chapter

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- \* Other:

### Ch. 83, Scenic Roads

3-15-1976

- A. Section 83-4B(3) refers to the Massachusetts Highway Department. Should this reference be updated to the Massachusetts Department of Transportation?

**Decision:**

\* Update to Department of Transportation

\* Make no change

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- B. Section 83-8E sets the penalty for violations of this chapter at \$100 for a first violation, \$200 for a second violation and \$300 for a third violation and provides for noncriminal disposition.

- (1) Should the wording "the third violation shall result in a fine of \$300" be revised to "the third or subsequent violation shall result in a fine of \$300"?

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**Decision:**

\* Revise as indicated

\* Make no change Need Town Meeting Warrant Article

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- (2) Are the fine amounts still satisfactory?

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**Decision:**

\* Revise as follows:

\* Make no change Need Town Meeting Warrant Article

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- C. The list of scenic roads in § 83-10 should be reviewed to ensure it is up-to-date.

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**Decision:**

\* See revisions on enclosed copy

\* Make no change Need Town Meeting Warrant Article

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## DIVISION 2: ZONING BYLAW

### Ch. 201, Zoning

4-10-1952

- A. There are five references to the "Zoning Bylaws" (plural). All other references are to the "Zoning Bylaw" or "this bylaw" (singular). For consistency, we recommend changing "Zoning Bylaws" to "Zoning Bylaw."

#### Decision:

\* Change "Zoning Bylaws" to "Zoning Bylaw"

\* Make no change

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- B. In § 201-1.1 it appears the word "by" in the last sentence should be deleted: "This Zoning Bylaw is enacted in accordance with the provisions of MGL c. 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts."

#### Decision:

\* Revise as indicated

\* Revise as follows:

\* Make no change

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- C. Section 201-1.2, Definitions.

- (1) This section is intended to provide definitions which apply to the entire Zoning Bylaw. Certain articles within the Zoning Bylaw contain definitions which apply to that article. For example, § 201-16.2 contains definitions which apply to Article 16, Stormwater Management. It is very common for certain subjects to contain their own definitions, and we do not recommend moving these definitions to § 201-1.2. They should be retained within the articles (or sections) where they apply; moving them to § 201-1.2 might cause confusion and have unintended consequences. For example, the term "applicant" is used multiple times throughout the Zoning Bylaw; however, a specific definition of "applicant" is included in § 201-16.2 as follows (emphasis added):

APPLICANT – Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department or political subdivision of the commonwealth or the federal government to the extent permitted by law **requesting a soil erosion and sediment control permit for proposed construction activity.**

This definition is meant to apply only in Article 16 and really only makes sense in the context of that article; if this definition is moved to § 201-1.2, it could be construed to apply to any use of the term "applicant" throughout the Zoning Bylaw, which is not the intent. Accordingly, we recommend that the definitions in § 201-16.2 and similar definitions throughout the Zoning Bylaw be left in their current locations.

**Decision:**

## \* Retain definitions where they appear as recommended

- \* Move all definitions to § 201-1.2
- \* Other:

- (2) The following definitions were added in 1997 and relate to personal wireless service facilities. The Town might want to consider moving these definitions and including them in Article 23, Personal Wireless Service Facilities, where they apply: "above ground level (AGL)"; "antenna"; "camouflaged"; "carrier"; "co-location"; "concealed"; "cross-polarized (or dual-polarized) antenna"; "elevation"; "environmental assessment (EA)"; "equipment shelter"; "fall zone"; "functionally equivalent services"; "guyed tower"; "lattice tower"; "licensed carrier"; "monopole"; "mount"; "omni-directional antenna"; "panel antenna"; "personal wireless service facility"; "public utility"; "radiofrequency engineer"; "radiofrequency radiation"; "security barrier"; and "separation."

**Decision:**

- \* Move these definitions to Article 23, Personal Wireless Service Facilities

## \* Do not move these definitions

- (3) In the definition of "accessory sign" it appears the following correction should be made: "Any sign that advertises or indicates the person occupying the premises on which the sign is erected or maintained or the business transacted ~~thereof~~ thereon or advertises the property itself or any part thereof as for sale or rent and which contains no other matter."

**Decision:**

## \* Revise as indicated

- \* Revise as follows:
- \* Make no change

- (4) The Town might want to consider deleting the definitions of "adult bookstore," "adult motion picture theater," "adult paraphernalia store," "adult video store" and "establishment which displays live nudity." These terms only appear in Article 26, § 201-26.2B, and that subsection refers to the statutory definitions of these terms. It reads: "Adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video stores, and establishments which display live nudity, as those terms are defined in MGL c. 40A, § 9A, as amended."

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**Decision:**

- \* Delete definitions as covered by § 201-26.2B

\* **Make no change**

- (5) If the definition of "establishment which displays live nudity" is retained, we will make the following correction: "Establishment which provides live entertainment for its patrons, which includes the display of nudity, as that ~~there~~ term is defined in MGL c. 272, § 31."
- (6) In the definition of "Town Stormwater Management System" the placement of the word "owned" in Subsection D seems incorrect: "Any berm, channel, culvert, ditch, gutter, pipe or swale, whether natural or artificial, **owned**, that is used or maintained by the Town."

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**Decision:**

\* **Revise to read "whether natural or artificial, that is owned, used or maintained by the Town"**

- \* Revise as follows:

\* Make no change

- (7) Also in the definition of "Town Stormwater Management System" we believe "drywall" is supposed to read "dry well": "Any catch basin, drywall, French drain and outfall structure that is owned, used or maintained by the Town." See similar wording in Subsection A of the definition of "stormwater management system."

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**Decision:**

\* **Change "drywall" to "dry well"**

\* Make no change

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D. Article 2, Administration.

- (1) Section 201-2.1 provides for the enforcement of this bylaw by the "Inspector of Buildings/Zoning Officer." Listed below are several different titles that are all used in the Zoning Bylaw, the General Bylaws and the regulations of the Board of Appeals. The Town might want to take this opportunity to make these references consistent. Also, you might want to clarify whether the Building Inspector and Zoning Officer are in fact separate positions or if these positions have been combined. The titles used are:

## Town of Norwell, MA

Building Inspector  
 Inspector of Buildings  
 Zoning Officer  
 Zoning Enforcement Officer  
 Building Inspector/Zoning Officer  
 Inspector of Buildings/Zoning Officer  
 Inspector of Buildings/Zoning Enforcement Officer

**Decision:**

- \* Handle as: ~~above~~
- \* Make no change

- (2) Section 201-2.2 refers to a "certification of use and occupancy" then a "certificate of use and occupancy." There are references elsewhere in the bylaw to a "certificate of occupancy" and "occupancy permit." If these terms all refer to the same document, we recommend using one term consistently.

**Decision:**

- \* ~~Revise all to "certificate of occupancy"~~
- \* Revise all to "occupancy permit"
- \* Handle as follows:

- (3) Section 201-2.3G provides fines for violations of the Zoning Bylaw of \$50 for the first day, \$100 for the second day, \$200 for the third day and \$300 for the fourth and each subsequent day. Does this schedule reflect current practice? Note that § 201-16.13C contains a slightly different fine schedule for violations of Article 16, Stormwater Management.

**Decision:**

- \* Revise as follows:
- \* ~~Make no change~~ **Need Town Meeting Warrant Article**

E. Article 3, Board of Appeals.

- (1) The titles "Board of Appeals," "Zoning Board of Appeals" and "Zoning Board" are all used. Should one title be used consistently?

**Decision:**

- \* ~~Use "Board of Appeals"~~
- \* Use "Zoning Board of Appeals"
- \* Make no change (retain all titles)

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- (2) Section 201-3.4B(1)(n) refers to the Massachusetts Department of Public Works. Should this reference be updated to the Department of Transportation?

**Decision:**

- \* Update to Department of Transportation
- \* Make no change

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- F. Article 4, Applicability. Section 201-4.3 provides as follows: "Construction or use under a building permit or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within not more than six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable." This wording is based on MGL c. 40A, § 6, which was amended by St. 2016, c. 219, to change the time frame from six months to 12 months. The statute now reads:

*A zoning ordinance or by-law shall provide that construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or by-law unless the use or construction is commenced within a period of not more than 12 months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.*

**Decision:**

- \* Change 6 months to 12 months Need Town Meeting Warrant Article
- \* Make no change

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- G. Article 6, Establishment of Districts.

- (1) The list of districts in § 201-6.1 does not include the Solar Photovoltaic Overlay District, provided for in Article 22. Should this district be added?

**Decision:**

- \* Add Solar Photovoltaic Overlay District to § 201-6.1
- \* Do not add this district

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- (2) The business districts are sometimes cited with a hyphen (C-1) and sometimes cited without a hyphen (C1). Which format is correct?

**Decision:**

- \* Do not include hyphen (B1, B2, C1, C2, etc.)
- \* Include hyphen (B-1, B-2, C-1, C-2, etc.)

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- H. Article 8, District Use Regulations.

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- (1) Section 201-8.1C(3) begins "Customary house occupations." The term "home occupation" is used elsewhere in this bylaw and is the more common term.

**Decision:**

- \* Change to "customary home occupations"
- \* Make no change

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- (2) Section 201-8.1F, Common driveways, includes the following fees: \$100 for a building permit and \$500 for a special permit. Are these amounts up-to-date? There are no other specific fees included in the Zoning Bylaw.

**Decision:**

- \* Revise as follows:
- \* Make no change **Need Town Meeting Warrant Article**

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- (3) Section 201-8.1F(3)(a) provides: "The Building Inspector may issue a building permit common driveway permit to allow a common driveway." Should "building permit common driveway permit" read "common driveway building permit"? See similar wording in Subsection F(3)(b), which refers to a "common driveway special permit."

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**Decision:**

- \* Revise to "common driveway building permit"
- \* Revise as follows:
- \* Make no change

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- (4) Section 201-8.1F(4)(g)[7] refers to "Massachusetts D.P.W. Type 2-1 bituminous concrete." Is this designation still correct?

**Decision:**

- \* Change to Massachusetts Department of Transportation (DOT)
- \* Revise as follows:
- \* Make no change

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- I. Article 9, Intensity of Use Regulations. Section 201-9.4B(1) and (2) refer to the "back line" of a lot. The more common term is "rear line."

**Decision:**

- \* Change "back line" to "rear line"
- \* Make no change

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- J. Article 12, Off-Street Parking.



- (1) Section 201-12.7H(3)(c) begins "Pavement shall comply with MassHighway standards." Should "MassHighway" be changed to the Massachusetts Department of Transportation (MassDOT)?

**Decision:**

\* **Change to MassDOT**

\* Make no change

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- (2) In § 201-12.7I(5) we question if the word "offside" is supposed to read "off site" as follows: "In the event that stormwater cannot be controlled on the premises, stormwater may be permitted to run ~~offside~~ off site through drainage easements from all property owners upon whose property drainage will pass or end."

**Decision:**

\* **Change "offside" to "off site"**

\* Revise as follows:

\* Make no change

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- K. Article 15, Building Demolition. Section 201-15.6A provides for a fine of not less than \$1,000 nor more than \$25,000 for demolishing a building without obtaining a demolition permit. We note that MGL c. 40A, § 7, provides as follows: "No local zoning by-law or ordinance shall assess a penalty of more than \$300 per violation; provided, however, that nothing in this section shall be construed to prohibit local zoning by-laws or ordinances from providing that each day the violation continues shall constitute a separate offense." See also the penalties prescribed for violations of the Zoning Bylaw in § 201-2.3G, which includes a maximum fine of \$300 consistent with the statute. Is a revision needed?

**Decision:**

\* Revise to "a fine of not more than \$300" **Need Town Meeting Warrant Article**

\* Revise as follows:

\* **Make no change**

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- L. Article 16, Stormwater Management.

- (1) Section 201-16.2, Definitions:

- (a) In the definition of "authorized enforcement agency" in § 201-16.2 we believe the word "designed" should be "designated" as follows: "The Planning Board (hereafter the Board), its employees or agents ~~designed~~ designated to enforce this article."

**Decision:**

\* Change "designed" to "designated"

\* Make no change

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(b) We will make the following correction in the definition of "NPDES": "National ~~Pollution~~ Pollutant Discharge Elimination System construction general permit issued by the Environmental Protection Agency to the applicant." The abbreviation NPDES stands for "National Pollutant Discharge Elimination System."

(c) The definition of "outfall" is unclear and appears to contain a portion of the definition of "point source." Perhaps the following revision could be made: "The point at which stormwater flows out from a point source (a discernible, confined and discrete conveyance) into waters of the commonwealth."

**Decision:**

\* Revise as indicated

\* Revise as follows:

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(d) The definition of "outstanding resource waters" refers to the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement. These titles appear to be outdated. There is a Division of Fisheries and Wildlife within the Department of Fish and Game, and there is an agency designated the Massachusetts Environmental Police in the Executive Office of Energy and Environmental Affairs.

**Decision:**

\* Revise to "Massachusetts Division of Fisheries and Wildlife and Environmental Police"

\* Revise as follows:

\* Make no change

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(e) The definition of "site" begins "Any lot of parcel or land." We believe this wording should read "Any lot **or** parcel **of** land."

**Decision:**

\* Revise to "Any lot or parcel of land"

\* Make no change

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(f) The definition of "TTS" reads "Total suspended solids." This term is usually abbreviated "TSS." We note, however, that neither the term "total suspended solids" nor the abbreviation TSS (or TTS) appears in this article, so this definition would not appear to be needed.

**Decision:**

- \* Remove this definition
- \* **Change TTS to TSS**
- \* Make no change

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- (2) In § 201-16.5B(2) we believe the word "not" should be deleted, based on the context and a review of similar laws adopted by other towns:

B. The Board may waive strict compliance with any requirement of this article or the rules and regulations promulgated hereunder, where: (1) Such action is allowed by federal, state and local statutes and/or regulations; (2) The project is ~~not~~ in the public interest; and (3) The project is not inconsistent with the purpose and intent of this article.

**Decision:**

- \* **Delete "not" as indicated**
- \* Make no change

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- (3) In § 201-16.7I the first sentence reads: "Surveyed property lines of the construction site showing distances and monument locations, all existing easements, rights-of-way and other encumbrances, the area of the entire area that is to be disturbed." In similar laws this sentence reads as follows:

Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed.

**Decision:**

- \* Revise as set forth above
- \* Revise as follows:
- \* **Make no change**

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- (4) In § 201-16.7M and P we recommend changing "municipal separate stormwater sewer system" to "municipal separate storm sewer system" for consistency with the rest of this article. See the definition of "municipal separate storm sewer system (MS4)" in § 201-16.2.

**Decision:**

- \* Revise as indicated
- \* **Make no change**

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- (5) Section 201-16.12 begins "Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a professional engineer

## Town of Norwell, MA

(PE), surveyor." We question if the word "or" should be included: "from a professional engineer (PE) or surveyor."

**Decision:**

- \* Revise to read "from a professional engineer (PE) or registered land surveyor (RLS)"
- \* Delete "surveyor"
- \* Other:

- (6) Section 201-16.13C sets the fine for violations of this article under noncriminal disposition at \$100 for a first offense, \$200 for a second offense and \$300 for a subsequent offense. Are these amounts still satisfactory?

**Decision:**

- \* Revise as follows:
- \* Make no change

- (7) Section 201-16.13C(1)(b) reads "Under MGL c. 40, § 21D, by criminal complaint at the appropriate venue." We believe this reference should be to MGL c. 40, § 21. Section 21D provides for noncriminal disposition.

**Decision:**

- \* Change to MGL c. 40, § 21
- \* Make no change

- (8) Section 201-16.15, Severability, could be deleted as covered by § 201-5.5, Severability, which applies to the entire Zoning Bylaw.

**Decision:**

- \* Delete § 201-16.15
- \* Retain § 201-16.15

M. Article 18, Floodplain, Watershed and Wetlands Protection District.

- (1) In § 201-18.4E it appears the word "by" should read "but" as follows: "Outdoor recreation including play areas, nature study, boating, foot, bicycle and horse paths and bridges, fishing and hunting where otherwise legally permitted ~~by~~ but excluding buildings and structures therefor."

**Decision:**

- \* Revise as indicated
- \* Make no change

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- (2) In § 201-18.7 the first sentence is incomplete, reading "Notifying, in a riverine situation, the following of any alteration or relocation of a watercourse." This wording should be revised to state who is responsible for making this notification, such as "The Building Inspector shall notify..."

**Decision:**

- \* Change "Notifying" to "The Building Inspector shall notify"
- \* Revise as follows:
- \* Make no change

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- (3) In § 201-18.8C we will add the word "shall" to make a complete sentence: "In case of a building permit for an interior improvement to a building or structure, the foregoing overall topographic plan shall not be required."

- N. Article 19, Aquifer Protection District. In the definition of "non-sanitary treatment or disposal works" in § 201-19.9 we will correct "Standard Industrial Classified Codes" to "Standard Industrial Classification Codes." This definition references 310 CMR 15.004(6). The Standard Industrial Classification Codes are listed in Subsection (5), not Subsection (6), of that section.

**Decision:**

- \* Revise reference to 310 CMR 15.004(5)
- \* Make no change

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- O. Article 20, Accessory Uses. In § 201-20.1 is the wording "scientific development of related production" correct or should this wording read "scientific development **or** related production"?

**Decision:**

- \* Revise to "scientific development or related production"
- \* Make no change

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- P. Article 23, Personal Wireless Service Facilities. In § 201-23.4C(3)(c) is "Sitting elevations" supposed to read "Siting elevations"?

**Decision:**

- \* Change to "Siting elevations"
- \* Make no change

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- Q. Article 24, Village Overlay District. The term "Village Residence Development (VRD)" is defined in § 201-24.4 but the term "Village Residential Development" is also used. Which term is correct?

## Town of Norwell, MA

**Decision:**

- \* "Village Residence Development" is correct
- \* "Village Residential Development" is correct
- \* Other:

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## R. Article 25, Open Space Residential Design.

- (1) Section 201-25.1A(2) refers to the Town's Open Space Plan. Section 201-25.1A(5) then refers to the Town's Open Space and Recreational Plan. Which title is correct?

**Decision:**

- \* "Open Space Plan" is correct
- \* "Open Space and Recreational Plan" is correct
- \* Other: "Open Space and Recreation Plan" is correct
- \*

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- (2) In § 201-25.4E(1) we believe the reference to "National Heritage Endangered Species Program" is meant to be a reference to the Natural Heritage and Endangered Species Program (part of the Massachusetts Division of Fisheries and Wildlife).

**Decision:**

- \* Revise to Natural Heritage and Endangered Species Program
- \* Make no change

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- (3) In § 201-25.7C(4) we question if the following revision should be made: "The development plan reduces the total amount of land disturbance ~~land~~ on the site."

**Decision:**

- \* Change "disturbance land" to "land disturbance"
- \* Revise as follows:

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- (4) Section 201-25.9, Severability, could be deleted as covered by § 201-5.5, Severability, which applies to the entire Zoning Bylaw.

**Decision:**

- \* Delete § 201-25.9
- \* Retain § 201-25.9

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## S. Article 26, Adult Entertainment Overlay District.

- (1) Section 201-26.4 contains a description of the AEOD District that is identical to the description already provided in § 201-6.2H. Section 201-26.4 could be deleted to eliminate this duplication.

**Decision:**

\* Delete § 201-26.4

\* **Make no change**

- (2) In § 201-26.6, Application information, wording should be added to provide a lead-in for Subsections A through J, such as the following: "An application for a special permit under this article shall include the following:"

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**Decision:**

\* **Add suggested wording**

\* Make no change

- (3) Section 201-26.7, Severability, could be deleted as covered by § 201-5.5, Severability, which applies to the entire Zoning Bylaw.

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**Decision:**

\* Delete § 201-26.7

\* **Retain § 201-26.7**

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## DIVISION 3: RULES AND REGULATIONS

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### Ch. 301, Zoning Board of Appeals

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4-30-2014

- A. Section 301-4.2 adopts Exhibits A through G, containing application forms and other documents. We did not receive copies of these exhibits so they have not been included in this chapter. Most of our clients choose to exclude such forms from the Code. A note could be added to this section indicating where the forms can be obtained. Section 301-5.5 indicates that application forms are available at the Building and Zoning Office.

**Decision:**

- \* Add note that Exhibits A-G are available at the Building and Zoning Office
- \* Add note that Exhibits A-G are available at: <https://www.townofnorwell.net>
- \* Other:

- B. It appears the following revision should be made in § 301-4.6B. Compare this sentence with the first sentence in § 301-4.6A and C.

For commercial property and multifamily housing applications, requiring review by other Town officials or authorities, a minimum of six complete copies of the application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required to be submitted to the Board of Appeals at the time the original application and supporting and required documents are filed with and stamped by the office of the Town Clerk ~~shall be submitted to the Board of Appeals~~.

**Decision:**

- \* Revise as indicated above
- \* Revise as follows:

- C. Sections 301-4.6D and 301-5.5 refer to the "Building and Zoning Office." Sections 301-6.13 and 301-7.5 refer to the "Zoning Office." Which title is correct? Note that §§ 301-6.11 and 301-7.5 also refer to the Building Department.

**Decision:**

- \* "Building and Zoning Office" is correct, except\*\*\*
- \* "Zoning Office" is correct
- \* Revise both to: \_\_\_\_\_
- \* \*\*\*Do not change references cited in your "Note", which should remain "Building Department" or "Zoning Office and Building Department", respectively: *Note that §§ 301-6.11 and 301-7.5 also refer to the Building Department.* This reference is correct for both §§ 301-6.11 and 301-7.5.



- D. Section 301-6.1, Notice to abutters, contains almost the same wording as § 301-4.3B; see below (differences are boldfaced). Could one of these sections be deleted?

§ 301-4.3B: While current practice is to have the administrative assistant to the Board of Appeals **receive** a list of **abutters** from the Board of Assessors and complete a mailing to those parties as soon as practicable after the receipt of an application and the establishing of a hearing date, the final responsibility for ensuring that proper notice is given to all parties in interest rests with the applicant.

§ 301-6.1: While current practice is to have the administrative assistant to the Board of Appeals **obtain** a list of **parties in interest** from the Board of Assessors and complete a mailing to those parties as soon as practicable after the receipt of an application and the establishing of a hearing date, the final responsibility for ensuring that proper notice is given to all parties in interest rests with the applicant.

**Decision:**

- \* Delete § 301-6.1
- \* Delete § 301-4.3B
- \* Retain both sections

- E. In § 301-8.1, Documentation required, Subsection E(18) reads "21E status." The Town might want to clarify this requirement. What does "21E" refer to?

**Decision:**

- \* Revise to MGL c. 21E (Massachusetts Oil and Hazardous Material Release Prevention and Response Act)
- \* Revise as follows:

- F. In § 301-8.1E(24) should the reference to MassHighway be changed to Mass DOT? The Highway Division is part of the Department of Transportation.

**Decision:**

- \* Change MassHighway to MassDOT
- \* Make no change

- G. Section 301-8.1E(40) and F refer to "Dark Skies (Sky) International." Is this meant to be a reference to the International Dark-Sky Association?

**Decision:**

- \* Revise to International Dark-Sky Association
- \* Revise as follows:
- \* Make no change

- H. In § 301-9.2, Documentation and plans, Subsection E(4) and (5) are incomplete. The following revisions could be made:

(4) Soil permeability testing is required for infiltration systems.

(5) Soil testing shall be performed at a minimum of every 250 feet along the access drive/roadway and at proposed cuts of three feet or greater and at other locations requested by the Board, in order to demonstrate suitable soils for site construction.

**Decision:**

\* **Revise as indicated**

\* Revise as follows:

- I. Section 301-9.7K reads as follows: "Location of specific major structures controls (i.e., where the stabilization practices will be placed, surface water locations, soil disturbance areas, drainage patterns and during and following grading)." Is this wording correct? It is not clear what "and during and following grading" refers to. Note that the same wording appears in Chapter 302, § 302-6.4F(12).

**Decision:**

\* **Revise to read "...soil disturbance areas, and drainage patterns during and following grading"**

\* Revise as follows:

\* Make no change

- J. The definition of "local board" in § 301-10.2 refers to "Groundwater Protection" and "Lands and Natural Resources."

(1) Is "Groundwater Protection" the title of a board or committee?

**Decision:**

\* **Change to "Groundwater Protection Committee"**

\* Revise as follows:

(2) There are references elsewhere in the Code to a Director of Lands and Natural Resources.

**Decision:**

\* Change reference to "Director of Lands and Natural Resources"

\* Revise as follows:

\* **Make no change**

- K. The definition of "local board" in § 301-10.2 also refers to the Norwell Affordable Housing Partnership and Affordable Housing Trust. According to the list of appointed officials in § 4-1A, both of these agencies were dissolved by the Board of Selectmen in 2012.

**Decision:**

- \* Delete reference to Affordable Housing Partnership and Affordable Housing Trust
- \* Revise as follows: Community Housing Trust
- \* Make no change

- L. Section 301-10.7 deals with the selection of a technical review consultant. Subsection E provides for appeal to the Board of Selectmen regarding the selection and includes the following: "In the event that no decision is made by the Board of Selectmen within 20 business days following the filing of the appeal, the selection made by the Board shall be final." A similar provision in § 301-8.2D provides 30 days: "The failure by the Board of Selectmen to render a decision on such administrative appeal within 30 days shall be deemed to be an approval of the determination by the Board." The statutory requirement is one month; MGL c. 44, § 53G states: "In the event that no decision is made by the city council or the town board of selectmen within one month following the filing of the appeal, the selection made by the municipal permit granting authority shall stand."

**Decision:**

- \* Change 20 days to 30 days in § 301-10.7E(4)
- \* Revise as follows:
- \* Make no change

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**Ch. 302, Planning Board**

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**Part 1, Subdivision Rules and Regulations***4-5-2004*

## A. Article 2, Definitions.

- (1) The term "Building Code" is defined as the "Massachusetts Building and Highway Construction Code." This is not a title we typically see used for the State Building Code. In 780 CMR it is designated as the "Massachusetts State Building Code."

**Decision:**

- \* Change to "Massachusetts State Building Code"
- \* Revise as follows:
- \* Make no change

- (2) In the definition of "municipal services or utilities" the term "communication cables" is included twice: "telephone lines, **communication cables**, fire alarm lines, **communication cables**, and their respective appurtenances."

**Decision:**

- \* Delete second instance of "communication cables"
- \* Revise as follows:
- \* Make no change

- (3) The term "state highway standards" is defined as "The Massachusetts Standard Specifications for Highways, Bridges and Waterways as adopted by the Massachusetts Department of Public Works or Massachusetts Highway Department."
  - (a) The current title of this document (as posted on the Department of Transportation website) is "Standard Specifications for Highways and Bridges."

**Decision:**

- \* Revise title to "Massachusetts Standard Specifications for Highways and Bridges"
- \* Make no change

- (b) There are several references in this chapter, in addition to this definition, to the Massachusetts Department of Public Works and Highway Department. Should these references be changed to the State Department of Transportation?

**Decision:**

- \* Revise Department of Public Works and Highway Department to Department of Transportation
  - \* Revise as follows:
  - \* Make no change
- B. Article 3, General Regulations. Section 302-3.6 contains several references to MGL c. 39, §§ 32A, 32B and 32C. All three of these sections were repealed in 2009 (St. 2009, c. 28). Open Meeting Law requirements are now contained in MGL c. 30A, §§ 18 to 25. We will update these references as follows:
- The Planning Board shall schedule and hold regular meetings at such a place and on such dates and times as may be designated by notice filed with the Town Clerk at least 48 hours in advance as required under MGL c. 39, § ~~23B~~ 30A, § 20.
- The only exception to the four-day rule shall be that the nature of the business is confidential under MGL c. 39, § ~~23A~~ 30A, § 18 et seq.
- If, after warning from the presiding officer, a person persists in disorderly behavior, the presiding officer may order that person to withdraw from the meeting and, if the disorderly person does not withdraw, the presiding officer may order a constable or any other person to remove the disorderly person and confine said person in some convenient place until the meeting is adjourned. MGL c. 39, § ~~23C~~ 30A, § 20.
- Executive sessions of the Planning Board may be held as authorized by the Open Meeting Law. MGL c. 39, § ~~23B~~ 30A, § 21.
- Maintenance of such records shall be consistent with the requirements of MGL c. 39, §§ ~~23A and 23B~~ 30A, §§ 18 to 25.
- C. Article 5, Preliminary Plans. In § 302-5.1 we will make the following correction in the last sentence to complete the sentence: "It is recommended that a preliminary plan be filed in every case, and a preliminary plan is required for a nonresidential subdivision under MGL c. 41, § 81S, Paragraph 2."
- D. Article 6, Definitive Plans.
- (1) In § 302-6.4D(13) it appears the word "and" should be included: "Location, names and present widths and grades of streets and public and private ways bounding, approaching, or within reasonable proximity of the subdivision, with existing water, electrical, cable, gas, telephone, fire hydrants, and drainage facilities."

## Town of Norwell, MA

**Decision:**

- \* Add "and" as indicated
- \* Revise as follows:

- (2) Section 302-6.4D(22) contains an incomplete sentence. The following correction could be made: "Soil testing shall be performed at a minimum of every 250 feet along the roadway and at locations requested by the Planning Board, in order to demonstrate suitable soils for roadway construction."

**Decision:**

- \* Revise as indicated
- \* Revise as follows:

- (3) Section 302-6.8A(1) refers to the "Board of Health or Health Officer." There are no other references in the Town bylaws or regulations to a Health Officer.

**Decision:**

- \* Delete reference to "Health Officer"
- \* Change to "the Board of Health or its designee"
- \* Make no change

- E. Article 7, Design Standards. In § 302-7.1R, the following wording in the last sentence is incorrect: "No work shall be performed **in the right of to a private way** other than to tie the pavement of a new subdivision way into the private way at grade level without providing evidence of the legal right to do so."

**Decision:**

- \* Revise to "in a private way"
- \* Revise to "in the right-of-way of a private way"
- \* Other:

- F. Article 8, Construction Requirements. Section 302-8.1B(1) begins "At least seven days prior to the proposed construction start date and before the pre-construction meeting takes place, an applicant shall provide the Planning Board, Planning Board's engineer with the following information." Is this wording supposed to read "shall provide the Planning Board and the Planning Board's engineer with the following information"?

**Decision:**

- \* Revise to "the Planning Board and the Planning Board's engineer"
- \* Revise to "the Planning Board's engineer"
- \* Other:

- G. Article 9, Mandatory Conditions of Subdivision of Approval.

- (1) In § 302-9.1B the wording "on required revisions and notes" seems incorrect: "until the approved plan has been properly revised to set forth **on** required revisions and notes as to each condition of approval."

**Decision:**

- \* Delete "on"
- \* Revise as follows:

- (2) In § 302-9.1F we will correct "play and maintain monuments" to "place and maintain monuments."

H. Article 11, Administration and Supervision of Construction.

- (1) Section 302-11.1 refers to the Town's Highway Supervisor. This title is not used anywhere else. All other references are to the Highway Surveyor.

**Decision:**

- \* Change "Highway Supervisor" to "Highway Surveyor"
- \* Revise as follows:

- (2) In § 302-11.2A we question if the following revision should be made: "The applicant shall allow the Planning Board's engineer and other duly authorized representatives access to all parts of the subdivision for purposes of inspection and shall ~~be furnished~~ furnish them with such information and assistance as is required to make a complete and detailed inspection."

**Decision:**

- \* Revise as indicated
- \* Revise as follows:
- \* Make no change

- I. Appendices I through VI have been included. This material appears to date from the original adoption of these rules and regulations in 2004. The appendices should be reviewed to ensure that the forms and other documents reflect the current forms used by the Planning Board. In particular, note that the fee schedule in Appendix V was adopted in 2012.

**Decision:**

- \* Handle as follows:
- \* Retain Appendices without change

**Ch. 303, Conservation Commission****Art. I, Wetlands Regulations**

5-5-2009

- A. In § 303-8D(1) we question if the following highlighted wording is correct:

The term "isolated land subject to flooding" shall include an area, depression, or basin that holds at minimum **one-eighth acre-foot** of water and at least six inches of standing water once a year.

**Decision:**☐ Revise as follows:☒ **Make no change**

- B. Section 303-8D(3)(c) refers to the Massachusetts Department of Wildlife and Fisheries. We will correct this reference and the reference in § 303-8E(1)(a) to the Division of Fisheries and Wildlife (part of the Department of Fish and Game).

- C. Section 303-9B(6) requires the appeal of the selection of a consultant to be filed within 10 days. Does this subsection reflect current practice? We note that similar provisions in the Board of Appeals regulations require this type of appeal to be filed within 20 days. See Chapter 301, §§ 301-8.2D and 301-10.7E.

**Decision:**☐ Change 10 days to 20 days☒ **Make no change**

- D. Section 303-10C includes the following: "If the Commission must record any document, the applicant will be charged the cost of registration plus a fee of \$150." Is this fee amount up-to-date?

**Decision:**☐ Revise as follows:☒ **Make no change**

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## Ch. 304, Board of Health

### Art. I, Body Art Establishments

2-5-2001

- A. Section 304-2 includes the following: "These regulations have been modeled after 105 CMR Section 124 of the Massachusetts Department of Public Health." This citation is incorrect; 105 CMR 124 is titled "Provision of Thyroid Blocking Agents." The "Model Regulations for Body Art Establishments" promulgated by the Department of Public Health are posted on the Department's website; we were unable to determine whether they are actually included in the Code of Massachusetts Regulations (CMR).

#### Decision:

- ☐ Delete this sentence
- ☐ Revise as follows:

- B. The definition of "Board of Health" in § 304-3 reads "The Board of Health that has jurisdiction in the community in which a body art establishment is located including the Board or officer having like powers and duties in towns where there is no Board of Health." Should this definition be revised to refer to the Town of Norwell Board of Health?

#### Decision:

- ☐ Revise to "The Board of Health of the Town of Norwell, Plymouth County, Massachusetts."
- ☐ Revise as follows:
- ☐ Make no change

- C. Section 304-6A provides as follows: "Body art establishments will be allowed in any business-zoned district approved by ZBA/Planning Board." According to the Town Zoning Bylaw, body art establishments are only allowed in Business District B upon issuance of a special permit by the Board of Appeals. See § 201-8.3.D(7).

#### Decision:

- ☐ Revise to "Body art establishments will be allowed in Business District B upon issuance of a special permit by the Board of Appeals in accordance with the Zoning Bylaw."
- ☐ Revise as follows:
- ☐ Make no change

- D. Section 304-6E(4) reads "An occupancy and use permit as issued by the local building official." This wording could be more specifically tailored to Norwell and indicate the type

of permit and the issuing official, such as "An occupancy permit issued by the Building Inspector."

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

E. The following fees are established in this article; are these amounts current?

- (1) For a body art establishment permit: \$200. See § 304-10.
- (2) For a body art practitioner permit: \$100. See § 304-11.

**Decision:**

- ☐ See revisions marked above
- ☐ Make no change

F. Section 304-16 sets the penalty for violations of this article at \$100 for a first offense, \$200 for a second offense and \$300 for a third offense.

- (1) Should "third offense" read "third or subsequent offense"?

**Decision:**

- ☐ Revise to "third or subsequent offense"
- ☐ Make no change

- (2) Are these fine amounts still satisfactory? Note that MGL c. 111, § 31, authorizes a fine of up to \$1,000 for violation of a health regulation.

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

**Art. II, Massage and Baths**

*1-30-1985*

- A. This article requires a license from the Board of Health to "practice massage or conduct an establishment for the giving of massage or vapor, pool, shower, or other baths." To the extent that it regulates massage, this article would appear to be preempted by MGL c. 112, §§ 228 to 235, added by St. 2006, c. 135, which provide for massage therapists to be licensed by the state. The Board of Health can still regulate "businesses for vapor, pool,

shower or bath houses" pursuant to MGL c. 140, § 51. The Town will need to review these regulations to determine what if any provisions are still in use and should be retained.

**Decision:**

- ☐ Remove this article in its entirety
- ☐ Retain article with revisions as shown on enclosed copy
- ☐ Other:

B. If this article is retained:

- (1) Are any updates needed to the license fees in § 204-18A?

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

- (2) We will make the following correction in § 304-18B: "No license or permit shall be ~~used~~ issued hereunder to a person or a corporation..."
- (3) Section 304-20A refers to "a barber or an apprentice under the provisions of MGL c. 112, § 87H or 87I." Both of these sections were repealed in 2014 (St. 2014, c. 236).

**Decision:**

- ☐ Delete "a barber or an apprentice under the provisions of MGL c. 112, § 87H or 87I"
- ☐ Revise as follows:

**Art. III, Sale of Tobacco Products**

*3-31-2016*

This article appears generally suitable as written. Section 304-51 provides for a fine of \$300 for violations of this regulation, and § 305-52 provides for noncriminal disposition. Is any revision desired?

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

**Art. IV, Groundwater Protection***7-19-2010*

- A. We have revised §§ 304-57B and 304-60 to include the effective date of July 19, 2010. These sections previously referred to this date as being "on the front page."
- B. Section 304-61C sets the penalty for violation of this regulation at a fine of not less than \$200 nor more than \$1,000. Is any revision desired? The maximum fine of \$1,000 is consistent with MGL c. 111, § 31.

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

**Art. V, Sewage Disposal; Private Water Supplies; Floor Drains***1-1-2004*

- A. Section 304-65A(2) provides: "A fee of \$200 well must accompany each application for a private water for a private drinking water supply and \$50 for an irrigation well."
- (1) The wording of this sentence is awkward and unclear. The following revisions could be made: "A fee of \$200 ~~well~~ must accompany each application for a ~~private water~~ ~~for a~~ private drinking water supply and \$50 for an irrigation well."

**Decision:**

- ☐ Revise as indicated
- ☐ Revise as follows:

- (2) Are the fee amounts still correct?

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

- B. Section 304-65E(1) refers to the Well Drillers Registration Act as MGL c. 21, § 16. That section was repealed in 2009 (St. 2009, c. 4). We will update this reference to MGL c. 21G, § 20, Persons engaged in the business of digging or drilling wells; certification; reports.

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**Ch. 305, Board of Water Commissioners**

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5-1-1980

- A. Section 305-2, Water rates and charges, was last amended in 2006 and should be reviewed as to whether it reflects the current rates and charges imposed by the Town.

**Decision:**

- ☐ See revisions on enclosed copy  
☐ Make no change

- B. The first line in § 305-2 cites MGL c. 41, § 69, as the authority for imposing rates. This citation appears to be incorrect. Section 69 provides for appointment of a superintendent and does not mention rates. The correct citation appears to be MGL c. 41, § 69B, Water commissioners; powers and duties.

**Decision:**

- ☐ Correct reference to MGL c. 41, § 69B  
☐ Revise as follows:  
☐ Make no change

- C. Section 305-3A(4) provides as follows: "A Water Board Supervisor shall be on the premises while mains and hydrants are being installed and a fee of \$10 per hour will be charged for this supervision." Does this subsection reflect current practice and the current fee?

**Decision:**

- ☐ Revise as follows:  
☐ Make no change

- D. Section 305-3D(10) also provides for a fee of \$10 per hour: "All services installed in a development must be installed under the supervision of the Water Department for which the Town shall be paid a fee of \$10 per hour for the inspection of the installation of such services."

**Decision:**

- ☐ Revise as follows:  
☐ Make no change

**Town of Norwell, MA**

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- E. The specifications in this chapter and in the document "Procedures for Installation of Water Services" included at the end of this chapter should be reviewed to ensure they reflect current standards.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ Make no change

**Ch. 306, Board of Selectmen****Art. I, Taxi Rules and Regulations***5-18-1959*

The notes included with these regulations indicate that they were adopted by the Selectmen in 1959 and last amended in 1978, although the license fee in § 306-31 was changed to \$45 in 1990. Are these regulations still in use? If so, do they reflect current procedures for licensing taxicab operators and the current authorized rates and charges?

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ No revisions needed
- ☐ Regulations are obsolete; remove

**Art. II, Traffic Rules and Orders***12-3-1956*

- A. The definition of "loading zones" in § 306-4 reads "No person shall park a vehicle upon any street in any loading zone for a period of time longer than 30 minutes and except while actually engaged in loading or unloading." This wording does not really constitute a definition of the term "loading zone" but rather a restriction on parking in loading zones. We recommend that this wording be moved out of § 306-4 (Definitions) and included in § 306-7E, Loading zones.

**Decision:**

- ☐ Move wording as suggested
  - ☐ Revise as follows:
  - ☐ Make no change
- B. There are references to the State Department of Public Works in the definitions of "official street marking" and "official traffic signs" in § 306-4 and in § 306-9A(1). Should these references be changed to the State Department of Transportation?

**Decision:**

- ☐ Revise to Department of Transportation
  - ☐ Make no change
- C. The definition of "U Turn Prohibited" in § 306-4 reads: "No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or

## Town of Norwell, MA

traveling on the following streets." There are two issues here: first, no actual streets are listed; second, this wording is not really a definition. Section 306-9C prohibits a U-turn on Main Street. The indicated wording in § 306-4 should either be moved to § 306-9 as shown below or, if there are no other streets where U-turns are prohibited, it could be deleted.

§ 306-9C. U-turns prohibited.

- (1) U-turns prohibited. No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling on the following streets: \_\_\_\_\_ (streets need to be inserted)
- (2) U-turn prohibited at central fire station. No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling on Main Street (Route 123).

**Decision:**

- ☐ Move wording to § 306-9C as shown above and add streets as shown on enclosed copy
- ☐ Delete "U Turn Prohibited" from definitions (§ 306-4)
- ☐ Other:

- D. Section 306-7C(1) and D(2)(a) contain slightly different requirements for angle parking on Main Street; Subsection D(2)(a) includes an exception that is not stated in Subsection C(1):

Subsection C(1): One-hour angle parking upon the southerly side of Main Street, from River Street to the northwesterly property line of the First Parish Cemetery.

Subsection D(2)(a): One-hour angle parking upon the southerly side of Main Street, from River Street to the northwesterly property line of the First Parish Cemetery **excluding 690 Main Street**.

**Decision:**

- ☐ Add "excluding 690 Main Street" to Subsection C(1)
- ☐ Revise as follows:
- ☐ Make no change

- E. In 2006 the Town Meeting adopted a bylaw relating to engine braking. That bylaw had been incorporated into the Traffic Rules and Orders. We have moved the bylaw and included it with the other Town bylaws in Division 1 of the Code. See Chapter 81, Public Ways, § 81-14.

- F. Section 306-9A(1) includes the following: "In the case of a line of two or more vehicles approaching such 'Stop' sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the



intersection." We note that this wording was deleted from MGL c. 89, § 9, when that section was amended by St. 1977, c. 838.

**Decision:**

- ☐ Delete indicated sentence
- ☐ Make no change

- G. Section 306-10B provides for a fine not exceeding \$20 for violations of these traffic rules and regulations. Is this penalty still satisfactory?

**Decision:**

- ☐ Revise as follows:
- ☐ Make no change

- H. The Town might want to take this opportunity to review the parking restrictions and the one-way street and stop sign designations in §§ 306-7 through 306-9 to ensure they reflect current signs and regulations enforced in the Town. We have put the lists of stop signs in § 306-9A(2) and (3) in alphabetical order by street.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ Make no change

- I. We have included as an appendix to this chapter the document listing the special speed regulations adopted by the Board of Selectmen. There is a note at the end of this document reading "Printed with most recent amendments: May 1979." We would like to confirm that no speed regulations have been adopted by the Selectmen since 1979.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ Make no change

**Ch. 307, Cemetery Committee**

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*11-15-2006; 3-1-2011*

- A. Section 307-2B refers to MGL c. 190, § 3, Chapter 190 was repealed and replaced by St. 2008, c. 521. We will update this reference to MGL c. 190B, § 2-103.
- B. Section 307-4C prohibits dogs on the cemetery grounds. Should an exception be made for service dogs, such as seeing eye dogs?

**Decision:**

- ☐ Add "This rule shall not apply to a service dog assisting a person with a disability."
- ☐ Revise as follows:
- ☐ Make no change
- C. Section 307-6 refers to the revised schedule of charges voted by the Board of Selectmen on December 8, 2016. We received a copy of the "Approved Cemetery Price List" which can be added at the end of this chapter if desired by the Town.

**Decision:**

- ☐ Include "Approved Cemetery Price List" dated 12-7-2016 in this chapter
- ☐ Do not include price list; current list will be posted on Town website or otherwise made available

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**Ch. 308, Permanent Drainage Committee**

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*November 1970*

- A. Section 308-2B refers to the "Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways, Bridges, and Waterways, including amendments and addenda, and in the same Department's Construction Manual, Part 3, Constructions Standards."

- (1) The current title of this document (as posted on the Department of Transportation website) is "Standard Specifications for Highways and Bridges."

**Decision:**

- ☐ Revise title to "Standard Specifications for Highways and Bridges"
- ☐ Make no change

- (2) Should the reference to the Department of Public Works in this section and in § 308-18 be updated to the Department of Transportation?

**Decision:**

- ☐ Revise to Department of Transportation
- ☐ Revise as follows:
- ☐ Make no change

- B. These regulations apparently have not been revised since 1970 and should be reviewed as to whether they reflect current standards used by the Town.

**Decision:**

- ☐ See revisions on enclosed copy
- ☐ Make no change