

Town of Holland, MA Dec 19, 2022 Analysis

Due on: May 18, 2023

Question CODE-001

Code Content:

Town of Holland, MA

INTRODUCTION

Purpose of Editorial and Legal Analysis

This Editorial and Legal Analysis is an in-depth, chapter-by-chapter review of the Town's legislation. We ask questions on each chapter and provide the Town with an opportunity to make revisions to its legislation.

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. Note that the Editorial and Legal Analysis review stage is the Town's opportunity to submit major revisions for the codification project. All stakeholders should be involved at this review stage, as changes submitted after this stage are chargeable.

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.

Due Date for Completion of Editorial and Legal Analysis

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 **100 business days (by May 18, 2023)** to submit this completed Editorial and Legal Analysis. When answers are received from the municipality, General Code will schedule preparation of the Draft of the final Code.

Legal Advice

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 your Municipal Attorney.

Digital Manuscript on Code Review Site

Your Digital Manuscript (Code in progress) is current through the May 21, 2019, Annual Town Meeting.

- The Manuscript on your *Code Review* site 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 in the "History" included in each chapter.
- Amendments and changes to such legislation have been inserted where appropriate in the text,

and superseded and extraneous material has been omitted.

- Internal references (i.e., a reference to a section number within a law) have been updated to reflect the renumbered legislation.

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

Refer to the file titled "Manuscript - Paginated," found in Misc. Documents on the Town's Code Review site for a visual of the printed Code page format.

Review by Town

Question numbers:

- Each question has a specific number that corresponds to the chapter number. For example, the 5th question for Chapter 4 will be numbered: 4-005.
- If the question number begins with "MLT," that is an indication that the question pertains to more than one chapter (multiple chapters).

Links to Code Review:

- Each question number is followed by a box titled "Code Content," which includes one or more links to chapters and sections in *Code Review*.
- In some cases, the exact text of a portion of the Code will be set out in the "Code Content" portion of the question. If the Editor wishes to draw your attention to a particular phrase, number, or reference, the Editor may highlight some of the text in yellow.
- Some questions contain a link or links to a related section of the Code.

Review Tips:

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?

Extent of Decisions

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 frames.

Deferrable questions:

- Most questions include an option to “Defer decision until after Code publication.” If the Town selects this option, the item in question will be published as is. If the Town decides to make a change after publication, that change will be considered out of the scope of the codification project, but can be adopted by the Town through its usual bylaw adoption procedure and incorporated into the Code as part of a routine future Code supplement.
- Upon request, we will supply the Town with a listing of deferred questions at the end of the project so that municipal officials can revisit these items at a later date.
- If the Town does not need to revisit the question at a later date, check “Do not revise” or “Retain without change.”

Nondeferrable questions. There may be questions in the Editorial and Legal Analysis that are identified as “nondeferrable,” meaning that without a response from the Town, we will not be able to proceed with our final editing.

Acknowledged. Some questions do not require a decision from the Town. Rather, you simply need to read the information then click “Acknowledged.”

Every question requires a decision or acknowledgement. The Town will not be able to submit the completed Analysis until every question has a response.

Sample Legislation

In some cases in this Editorial and Legal Analysis, we have suggested sample language or provided sample legislation for review where the Town’s current laws were outmoded or less comprehensive than we normally see. If the editor has identified subjects that may be improved by reviewing sample legislation, the editor has included links within questions to specific sample legislation from other municipal codes.

Sample legislation adopted by other municipalities is always available for review and comparison purposes. Contact us for instructions on how you can use the Multicode Search feature in eCode360® to browse Codes from other municipalities.

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.

Adoption of Samples. Sample legislation may be adopted via the Code adoption process. However, if a particular subject is controversial or requires in-depth research and discussion, we advise that you pursue its adoption separate from the Code project (after the publication of the Code).

Code Adoption Process

General Code will provide all documents to assist the Town in the Code adoption process, including proposed warrant articles and documents for the approval of regulations.

Process / Next Steps

Once the Town has completed its review of the Editorial and Legal Analysis, then General Code will schedule the next production stage, which is the preparation of the Preliminary Draft. All desired changes from the Town should be submitted prior to preparation of the Preliminary Draft. The Town's moderator will submit the completed Analysis by clicking the "Submit" button on the Questions page. All questions must be answered before the Analysis can be completed and submitted.

Preliminary Draft preparation. We will update the Code content to incorporate the Town's changes. Any legislation submitted after this point will be incorporated into the Final Draft and submitted for approval by Town Meeting.

The Code will be copyread, and titles, cross references and internal references will be inserted and updated. Upon completion, we will update your Code Review site with the Preliminary Draft. Note that we may have a few questions for the Town at that time. Review of the Preliminary Draft is intended to be a quick step (not another cycle for major revisions), and the Town has 45 business days to respond to questions, if any. We will proceed to the Final Draft at the end of the review time frame. The Final Draft will incorporate any amendments to the bylaws and regulations made by new legislation, as well as any responses to questions we pose with the Preliminary Draft. The Final Draft will then be submitted, together with proposed warrant articles, for adoption by the Town and approval by the Attorney General.

After the Attorney General approves the bylaws changes and the relevant Boards adopt their portions of the Code, we will make any final updates and move to the final publication steps. The Code will be formatted, indexed and prepared for printing. We will deliver two print copies of the Town's new Code books, and the Code Review site will be decommissioned. In addition, eCode360 will be posted online.

GENERAL SUBJECTS

Penalties

Where the Town's penalty provisions do not reflect standardized language or are not in compliance with statute, we have made specific mention in the chapter-by-chapter review below.

Fees

This Editorial and Legal Analysis 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. We have addressed statutory fees and occurrences of specific fees in the chapter-by-chapter review below.

Disposition List

The Disposition List is located in **Misc. Documents** on your *Code Review* site. The Disposition List

indicates where each law has been incorporated into the Manuscript, or the reason for its exclusion. The Disposition List will be updated as the project progresses, and a final version will be published in the Code and updated with each Code supplement.

WRAP UP

Final Review

- The governing body and Municipal Attorney have been consulted about and/or have reviewed and approved the decisions in this document.
- Has the latest legislation been submitted? As-adopted copies, with enactment dates and numbers, should be sent directly to: ezsupp@generalcode.com
- Sample language and any wording supplied by the municipality has been customized according to your specific requirements.

Submitting Completed Analysis

Only *Code Review* users with the Moderator status may submit the Editorial and Legal Analysis to General Code.

- On the Questions Page of the *Code Review* site, click “Check” to ensure that all questions have been answered. Any incomplete questions will be revealed.
- If there are no incomplete questions, or once all incomplete questions are resolved, click “Submit.” **PLEASE NOTE** that once you submit the Analysis to General Code, no additional changes can be made through the *Code Review* site.

Options:

Acknowledged

Question History:

2023-03-29 08:51:17 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question CODE-002

Code Content:

Town of Holland, MA

Binder — Colors

As indicated below, please choose one color each for the cover and the lettering for your new Code binders. Binder color options may be reviewed online at <https://www.generalcode.com/codeproject/> by clicking the **Binder Colors** tab.

Options:

 **Cover Color:**

Blue

  **Green**

Burgundy

Gray

Black

Brown

Cover Lettering:

White

  **Gold**

Silver

Question History:

2023-04-12 13:15:03 - Stacy Stout - Town Administrator selected option: "Gold".

2023-04-12 13:14:59 - Stacy Stout - Town Administrator selected option: "Green".

2023-04-12 13:14:43 - Stacy Stout - Town Administrator selected option: "White".

2023-04-12 13:14:42 - Stacy Stout - Town Administrator selected option: "Gray".

2023-04-12 13:14:39 - Stacy Stout - Town Administrator selected option: "Gold".

2023-04-12 13:14:38 - Stacy Stout - Town Administrator selected option: "Green".

2023-04-12 13:14:36 - Stacy Stout - Town Administrator selected option: "White".

2023-04-12 13:14:33 - Stacy Stout - Town Administrator selected option: "Blue".

2023-04-12 13:14:04 - Stacy Stout - Town Administrator selected option: "Cover Color:".

Question CODE-003

Code Content:

Town of Holland, MA

Binder — Seal or Logo

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

Options:

An electronic image of the Seal or Logo (in .tiff or .jpeg format) has been emailed to ezsupp@generalcode.com.

The Seal or Logo is not available for reproduction on binders.

A clear, crisp, black-and-white copy of the Seal or Logo is attached.

Town Seal.pdf

Question History:

2023-03-29 08:43:08 - Ernie Fancy - Selectman uploaded a file for option: "A clear, crisp, black-and-white copy of the Seal or Logo is attached."

2023-03-29 08:41:41 - Ernie Fancy - Selectman selected option: "A clear, crisp, black-and-white copy of the Seal or Logo is attached."

Question CODE-004

Code Content:

Town of Holland, MA

Binder — Wording

Please indicate your preference for the wording on the Code binders.

Options:

Use standard wording: “Code of the Town of Holland, Massachusetts.”

Use “Code of Holland, Massachusetts.”

Use “Bylaws and Regulations of the Town of Holland, Massachusetts.”

Question History:

2023-04-12 13:05:22 - Stacy Stout - Town Administrator selected option: "Use “Bylaws and Regulations of the Town of Holland, Massachusetts.”".

Question CODE-005

Code Content:

Town of Holland, MA

Code Adoption Process

The new Town Code will be adopted at Town Meeting near the end of this codification project, but it is important to put some thought into the preferred Code adoption method at the beginning of the project.

The codification process offers the Town the opportunity to bring its body of legislation up-to-date. In the case of the bylaws, the process of making these revisions needs to be considered carefully. Any changes to the text of the bylaws will require formal adoption at Town Meeting and approval by the Attorney General. How we handle the project from this point forward depends on the code adoption option the Town chooses. General Code will work with the Town to prepare any necessary warrant articles to provide for the adoption of the new Town Code at Town Meeting. Once the Code is adopted, it can be amended directly to change, add or delete material.

Note that the Town can choose to adopt the General Bylaws using one option and the Zoning Bylaw using a different option.

The Town has four options for code adoption:

Option #1: Accept renumbering only

The General Bylaws and/or the Zoning Bylaw can be renumbered as part of the new Town Code without any changes to the text. The Town Meeting would then vote only to accept the renumbering of the bylaws as they appear in the Code. Under this option, the text of the bylaws cannot be changed in any way.

WHY CHOOSE THIS OPTION? If the Town is interested in simply reorganizing its bylaws into a more user-friendly format without making any substantive changes or correcting any errors, this is a simple approach to take.

HOWEVER, this option does not permit the Town to make any corrections; even errors in spelling, grammar and punctuation must be retained, even though those changes were approved by the Town in the Organizational Analysis.

Option #2: Readopt the bylaws in their entirety

If the Town wishes to make revisions to the General Bylaws and/or the Zoning Bylaw as part of this project, the bylaws can be renumbered as part of the new Town Code, revised as desired by the Town, and then readopted in their entirety by the Town Meeting. This method allows for revisions to the text to bring it up-to-date and allows for the correction of errors in spelling, grammar and punctuation.

WHY CHOOSE THIS OPTION? If the Town has any questions about the accuracy of its current bylaws and anticipates making substantive changes, this is the approach to take.

HOWEVER, this option results in a new set of General Bylaws and/or a new Zoning Bylaw that replaces all prior bylaws. Under this option, the newly adopted bylaws would be subject to a complete review by the Attorney General, which may provide an additional analysis that essentially works in conjunction with the analysis provided by General Code.

Option #3: Separate warrant articles for specific changes

If the Town wishes to make some wording changes to the General Bylaws and/or the Zoning Bylaw without completely readopting the bylaws, General Code can incorporate the desired wording changes into the bylaws and assist the Town in drafting separate warrant articles for the Town Meeting to adopt to put the changes into effect. Each of the articles adopted by the Town Meeting is then subject to review by the Attorney General. Separate warrant articles would be provided to adopt the new numbering and organization of the bylaws.

WHY CHOOSE THIS OPTION? If the Town feels that its bylaws are in pretty good shape and anticipates few substantive changes, this may be the approach to take. This approach also provides a manageable way to present and explain proposed changes at Town Meeting.

HOWEVER, depending on the Town's identification of changes during the project and how many articles the Town feels are necessary to enact the changes (one per chapter? one per change?), this approach can result in a large number of warrant articles.

Option #4: Adoption with reference to a red-line version of the Code

At the Final Draft stage, General Code can provide the Town with both a "clean" version of the Draft (i.e., the Code in its final form), as well as a red-line version showing all changes with strike-throughs and underlines. The Code is then adopted at Town Meeting with reference to the Draft showing the changes.

WHY CHOOSE THIS OPTION? If the Town is interested in highlighting all changes to its bylaws when the Code is presented for adoption at Town Meeting, this is the approach to take. The red-line draft provides a useful reference document to show changes to Town Meeting members.

HOWEVER, a red-line draft can be cumbersome to present at Town Meeting (it is typically between

150 and 200 pages) and can be less than clear, with both minor changes (e.g., spelling corrections) and major changes (e.g., deleted text that no longer conforms to state statute) highlighted across the pages.

Options:

Adoption with reference to red-line draft (Option #4).

Other:

Acceptance of renumbering only (Option #1).

■ ■ *Readoption of General Bylaws and Zoning Bylaw in their entirety (Option #2).*

Separate warrant articles to adopt changes to General and Zoning Bylaws (Option #3).

Question History:

2023-04-12 13:07:08 - Stacy Stout - Town Administrator selected option: "Readoption of General Bylaws and Zoning Bylaw in their entirety (Option #2)".

Question CODE-006

Code Content:


Town of Holland, MA

General Law Acceptances. In the Organizational Analysis, the Town requested an estimate of the cost to include a listing of the General Laws accepted by the Town and/or the Special Acts enacted by the General Court for the Town for the General Bylaws, Zoning Bylaw, Subdivision Regulations, and Zoning Board of Appeals Rules and Regulations. However, the Town did not submit a record of Special Acts or General Law acceptances for this estimate, and we were not able to find a complete list on the Town's website. If the Town is still interested in an estimate for the inclusion of these materials as an appendix to the Code, please return a complete list with this Analysis.

Options:

A complete list of General Law Acceptances and/or Special Acts is attached; please provide an estimate.

Do not include the General Law Acceptances and/or Special Acts as part of the Code.

 ***A complete list of General Law Acceptances and/or Special Acts will be emailed separately to General Code.***

Question History:

2023-04-03 11:06:22 - Ernie Fancy - Selectman selected option: "A complete list of General Law Acceptances and/or Special Acts will be emailed separately to General Code.".

Question 1-001

Code Content:

§ 1-3 Manner of repeal and amendment.

Code / Part I: Administrative Legislation / General Provisions

Any or all of these bylaws may be repealed or amended or other bylaws may be adopted at a Town meeting, an article or articles for that purpose having been inserted in the warrant for such meeting by the Selectmen Any article proposing, the repeat or amendment of any part of the General Bylaws, or the enactment of a new bylaw, shall include an appropriate chapter and section designation for any new matter and shall identify the chapter and section designation in the codified bylaws of any existing provision to be repealed or amended.

Throughout the bylaws, there are references to both "Board of Selectmen" and "Select Board." The Town could take this opportunity to make the term consistent across the Code. Recently, many Massachusetts towns with Town Meeting forms of government have begun updating their bylaws with gender-neutral language, specifically changing "Board of Selectmen" and "Selectmen" to "Select Board."

Options:

Revise "Board of Selectmen" and "Selectmen" to read "Select Board" throughout the bylaws.

Revise "Select Board" to read "Board of Selectmen."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-04-12 13:17:14 - Stacy Stout - Town Administrator selected option: "Revise "Board of Selectmen" and "Selectmen" to read "Select Board" throughout the bylaws.".

Question 1-002

Code Content:

§ 1-4 *Penalty.*

Code / Part I: Administrative Legislation / General Provisions

Whoever violates any provision of these bylaws or of any regulation promulgated pursuant thereto whereby any act or thing is enjoined or prohibited, shall, unless other provision is expressly made, forfeit and pay a fine not exceeding \$150 for a first offense and \$300 for each subsequent offense within a twelve-month period.

Section 1-4 sets a penalty for violation of the Town's bylaws of not more than \$150 for a first offense and \$300 for each subsequent offense, unless otherwise provided. Is this penalty still satisfactory? The maximum penalty for bylaw violations permitted by MGL c. 40, § 21, is \$300. If noncriminal disposition is to be used, a specific amount must be stated.

Options:

Defer decision until after Code publication

Revise as follows:

Do not revise.

Question History:

2023-02-21 10:16:12 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 7-001

Code Content:

§ 7-3 *Vacancy.*

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Finance Board

The Chairman of said Board shall notify the Moderator and Town Clerk in writing of any vacancy in its membership. In the event of a vacancy, the Moderator has the discretion to fill the vacancy with a qualified candidate as soon as possible or at a later time, if the minimum board membership is satisfied. The term of office of any person so chosen shall be the unexpired term of the member in whose office the vacancy originally occurred. If any member is absent from five consecutive meetings of said board, except his position may, on vote of said board, be deemed vacant and filled as provided above.

There are several references in the bylaws to "Chairman" and "Chair." Would the Town like to make these terms consistent?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Change "Chairman" to "Chair."

Change "Chair" to "Chairman."

Question History:

2023-03-21 19:27:10 - Stacy Stout - Town Administrator selected option: "Change "Chairman" to "Chair.""

Question 7-002

Code Content:

Ch 7 Art II Recreation Committee

Code / Part I: Administrative Legislation / Boards, Commissions and Committees

Chapter 7, Article II, Recreation Committee, establishes the Recreation Committee and addresses its membership, duties, powers, and a revolving fund. This article was last amended in 2013; provided that it reflects the current practices of the Town, this article appears satisfactory as written. Is any revision desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-02-06 14:19:43 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 7-003

Code Content:

§ 7-16 Enforcement; violations and penalties.

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Board of Health

The Board of Health is authorized to enforce the provisions of MGL Ch 270, Section 16, regarding the disposal of rubbish and other materials in unlawful places by civil infraction procedure pursuant to Chapter 40, Section 21D of the General Laws In the event of noncriminal disposition it is authorized to impose a civil assessment of \$150 for any violation of such provisions.

Section 7-16 authorizes the Board of Health of the Town to enforce statutory provisions regarding the unlawful disposal of rubbish by civil infraction procedure pursuant to MGL c. 40, § 21D. That section of the statutes pertains to noncriminal disposition. Civil infraction procedure is addressed in MGL c. 277, § 70C; however, this statute also provides that noncriminal disposition may be used. The following revision could be made:

The Board of Health is authorized to enforce the provisions of MGL c. 270, § 16, regarding the disposal of rubbish and other materials in unlawful places by civil infraction procedure pursuant to ~~Chapter 40, Section 21D of the General Laws~~ MGL c. 277, § 70C. In the event of noncriminal disposition under MGL c. 40, § 21D, it is authorized to impose a civil assessment of \$150 for any violation of such provisions.

Options:

Do not revise.

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-29 08:33:00 - Ernie Fancy - Selectman selected option: "Revise as suggested."

2023-03-28 11:04:47 - Ernie Fancy - Selectman selected option: "Do not revise."

Question 7-004

Code Content:

§ 7-16 Enforcement; violations and penalties.

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Board of Health

The Board of Health is authorized to enforce the provisions of MGL Ch 270, Section 16, regarding the disposal of rubbish and other materials in unlawful places by civil infraction procedure pursuant to Chapter 40, Section 21D of the General Laws In the event of noncriminal disposition it is authorized to impose a civil assessment of \$150 for any violation of such provisions.

In § 7-16, is the penalty of \$150 for violations of MGL c. 270, § 16, still satisfactory? Pursuant to MGL c. 40, § 21D, the Town may impose a penalty of up to \$300 for noncriminal disposition. Note that if the Town revises this fine, an exact amount must be provided for noncriminal disposition to be used.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-08 08:19:20 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 7-005

Code Content:

§ 7-17 *Membership; terms of office.*

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Planning Board

The Planning Board shall consist of -five elected members At the Annual Town Election of 1970, one member shall be elected for a one-year term, one member elected for a two-year term, one member elected for a three-year term, one member elected for a four-year term, and member elected for a five-year term, and thereafter, one member shall be elected annually at the Town Election for a five-year term

In § 7-17, it appears that "and member elected for a five-year term" should read "and one member elected for a five-year term." We will make this correction.

Options:

Acknowledged

Question History:

2023-01-18 13:49:43 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 7-006

Code Content:

§ 7-18A

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Planning Board / Associate member of Planning Board.

The Planning Board Chairman may appoint a Planning Board associate member for the purpose of acting on any Planning Board business requiring a quorum of four. The Associate member shall be appointed annually or continue on the Board past the one year until specific business requiring the quorum is completed. Should the Associate Planning Board position become vacant, it shall be filled forthwith by the Planning Board for the unexpired term.

Section 7-18A provides that an associate Planning Board member may be appointed for business requiring a quorum of four. The Open Meetings Law, in MGL c. 30A, § 18, defines "quorum" as a "simple majority" of the members. The Town might wish to revise "quorum of four" to "supermajority of four" to comply with the definition of "quorum" in the Open Meetings Law.

Options:

Change "quorum of four" to "supermajority of four."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-13 17:23:41 - ALL MEMBERS - Member selected option: "Change "quorum of four" to "supermajority of four.""

Question 7-007

Code Content:

Ch 7 Art V Council on Aging

Code / Part I: Administrative Legislation / Boards, Commissions and Committees

Chapter 7, Article V, Council on Aging, establishes a seven-member Council on Aging in the Town, appointed by the Board of Selectmen. Provided that it reflects current practice, this article appears satisfactory as written. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-18 16:47:40 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 7-008

Code Content:

Ch 7 Art VI Bylaw Committee

Code / Part I: Administrative Legislation / Boards, Commissions and Committees

Chapter 7, Article VI, Bylaw Committee, was adopted in 1994 and establishes the Bylaw Committee and its duties. Provided that it reflects current practice, this article appears satisfactory as written. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-18 16:48:05 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 7-009

Code Content:

Ch 7 Art VII Park Commission

Code / Part I: Administrative Legislation / Boards, Commissions and Committees

Chapter 7, Article VII, Park Commission, was adopted in 1997 and establishes the composition, duties, and powers of the Park Commission. Provided that it reflects current practice, this article appears satisfactory as written. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-18 16:48:37 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 7-010

Code Content:

§ 7-26 *Member at large.*

Code / Part I: Administrative Legislation / Boards, Commissions and Committees / Capital Planning Committee

The member at large to be appointed by the Board of Selectmen.

Section 7-26 is comprised of an incomplete sentence. The following revision could be made: "The member at large to ~~to~~ shall be appointed by the Board of Selectmen."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-18 16:49:20 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 7-011

Code Content:

Ch 7 Art IX Lake Oversight Committee

Code / Part I: Administrative Legislation / Boards, Commissions and Committees

Chapter 7, Article IX, establishes the membership and duties of the Lake Oversight Committee. Provided that it reflects current practice, this article appears satisfactory as written. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-18 16:50:17 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 13-001

Code Content:

Ch 13 Contracts and Compensation

Code / Part I: Administrative Legislation

Chapter 13, Contracts and Compensation, has not been amended since its adoption in 1955 and should be reviewed carefully by the relevant Town officials to ensure that its provisions are up-to-date. For example, [§ 13-3](#) provides that contracts are not binding upon the Town if they are in the amount of \$100 or less; the Town should determine whether this is still the correct limitation for nonbinding contracts. Are any revisions desired?

Options:

Defer decision until after Code publication

Revise as follows:

See attached revisions.

Do not revise.

Question History:

2023-03-08 08:22:07 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 24-001

Code Content:

§ 24-1 *Audit of accounts.*

Code / Part I: Administrative Legislation / Finances

An audit of the accounts of the Town shall be made annually under the supervision of the state Division of Accounts, as provided by Section 35 of Chapter 44 of the general laws.

In § 24-1, it appears that the reference to the State Division of Accounts should be updated to "Bureau of Accounts."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-18 16:52:29 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 24-002

Code Content:

§ 24-7E(7)

Code / Part I: Administrative Legislation / Finances / Departmental revolving fund. / Departmental revolving fund.

The fiscal years each fund shall operate under this bylaw.

Section 24-7E(7) provides that the table of revolving funds in this subsection establishes the fiscal years each fund shall operate. The last column in the table reads "Fiscal Year Began," and each entry in that column for the corresponding revolving fund reads "July 1, 2017," which is now five years out of date. The Town could change the column head to "Fiscal Year Begins" and the dates to "July 1," thereby eliminating both the outdated information in this column and the need to update the table each year to ensure it stays current.

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-18 16:53:48 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 45-001

Code Content:

Ch 45 Legal Affairs

Code / Part I: Administrative Legislation

Chapter 45, Legal Affairs, provides for the powers and duties of the Board of Selectmen regarding the settlement of claims and appointment of Town Counsel, and the duties of Town Counsel. This chapter was adopted in 1955 and has not been amended since 1994; it should be reviewed carefully to ensure that its provisions continue to meet the needs of the Town. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-08 08:23:00 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 45-002

Code Content:

§ 45-4 *Duties of Town counsel.*

Code / Part I: Administrative Legislation / Legal Affairs

It shall be the duty of the Town counsel to conduct the prosecution, defense or compromise claims, actions or proceedings to which the Town is a party, and the prosecution of actions or proceedings by or on behalf of any Town officer, board or committee as such when the selectmen, having determined that any right or interests of the Town are or may be involved therein shall so request; to conduct proceedings brought by or against the Assessors before the Appellate Tax Board; to assist in the prosecution of complaints for violation of any bylaw of the Town, when requested so to do by the Board or officer enforcing the same, to examine and report upon titles to all land to be acquired by the Town; to prepare or approve contracts, bonds, deeds and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his services may be required; and generally to advise and act for the Town officers, boards, and committees upon and in legal matters touching the duties of their respective offices.

In § 45-4, we recommend the following minor revision: "It shall be the duty of the Town counsel to conduct the prosecution, defense or compromise of claims, actions or proceedings to which the Town is a party ..."

Options:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Revise as follows:

Question History:

2023-02-06 14:15:39 - Ernie Fancy - Selectman selected option: "Revise as suggested."

2023-01-18 16:56:00 - Ernie Fancy - Selectman selected option: "Revise as follows:".

Question 58-001

Code Content:

§ 58-4 Highway surveyor.

Code / Part I: Administrative Legislation / Officers and Employees

The position of Highway Surveyor will be placed on the ballot as an elected position for a one-year term commencing with the Annual Election of 1971.

Section 58-4 provides that the Highway Surveyor is an elected position for a one-year term. Original Chapter 2, Section 2.5, includes the following note after this section: "*Amended to a three year term May 27, 2003." Should § 58-4 be revised to include this language?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as indicated: "The position of Highway Surveyor will be placed on the ballot as an elected position for a ~~one-year~~ three-year term commencing with the Annual Election of ~~1971~~ 2003."

Question History:

2023-01-18 16:57:42 - Ernie Fancy - Selectman selected option: "Revise as indicated: "The position of Highway Surveyor will be placed on the ballot as an elected position for a one-year three-year term commencing with the Annual Election of 1971 2003.""

Question 66-001

Code Content:

§ 66-1 Custody of records.

Code / Part I: Administrative Legislation / Records and Reports

All officers, boards and committees of the Town, shall cause records of their said doings and accounts to be kept in suitable books Said books shall be kept in their respective places in the Town offices, and shall not be removed therefrom Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under the supervision of the officer, board or committee having custody thereof.

Section 66-1 provides that Town records and reports shall be open to public inspection but remain under the supervision of the officer, board, or committee that has custody of said reports. Chapter 121 of the Acts of 2016 made substantial revisions to Chapter 66, Public Records, of the General Laws. New Section 6A requires each municipality to designate one or more employees as records access officers and establish guidelines for access to records; see Subsection (a):

Each agency and municipality shall designate 1 or more employees as records access officers. In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers.

Is any revision to § 66-1 desired in light of the 2016 revisions to the statute?

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:13:19 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 66-002

Code Content:

§ 66-3 *Publication of miscellaneous material.*

Code / Part I: Administrative Legislation / Records and Reports

The Town may direct that the bylaws and standing votes of the Town, and the rules and regulations adopted by any officer, board or committee be printed either separately or as part of the annual report.

Section 66-3 provides that the bylaws and standing votes of the Town may be printed separately or as part of the annual report. MGL c. 40, § 49, was amended in 2015 to remove the "print" wording from an annual report and replace it with a requirement that the Clerk "make available" the annual report. We recommend the following revision to ensure compliance with statute:

The Town may direct that the bylaws and standing votes of the Town, and the rules and regulations adopted by any officer, board or committee be ~~printed~~ made available either separately or as part of the annual report.

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:14:34 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 79-001

Code Content:

§ 79-1C

Code / Part I: Administrative Legislation / Town Meetings and Elections / Dates of meetings.

The polls shall be opened at 10:00 a.m. and shall remain open until 8:00 in the evening.

§ 79-4A

Code / Part I: Administrative Legislation / Town Meetings and Elections / Nominations.

Caucus, a Town caucus for the nomination of candidates for Town officers shall be held on the sixth Tuesday preceding the annual Town meeting at 7:00 in the evening. Such caucus shall be called by the selectmen and conducted in accordance with G.L. c. 53, § 121.

Sections 79-1C and 79-4 provides times of day written as "8:00 in the evening" and "7:00 in the evening," respectively. It is General Code's usual practice to standardize certain numbers, including times of day: 6:00 a.m., 12:00 noon, 3:30 p.m., etc. We would like to revise "8:00 in the evening" and "7:00 in the evening" to follow this style.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Change "8:00 in the evening" to "8:00 p.m." in § 79-1C, and change "7:00 in the evening" to "7:00 p.m." in § 79-4A.

Question History:

2023-01-19 14:16:29 - Ernie Fancy - Selectman selected option: "Change "8:00 in the evening" to "8:00 p.m." in § 79-1C, and change "7:00 in the evening" to "7:00 p.m." in § 79-4A.".

Question 79-002

Code Content:

§ 79-2A

Code / Part I: Administrative Legislation / Town Meetings and Elections / Notice of meetings.

Notice of every Town meeting shall be given by posting attested copies of the warrant thereof in at least five public places in the Town, not less than seven days before the day fixed for such meeting. Copies of said warrant shall be sent to all officers, boards or committees concerned therein.

Section 79-2A provides that notice of every Town Meeting shall be posted not less than seven days before such meeting. The provisions of MGL c. 39, § 10, require notice to be given at least seven days before the Annual Town Meeting and at least 14 days before a Special Town Meeting:

Every town meeting or town election, except as hereinafter provided, shall be called in pursuance of a warrant, under the hands of the selectmen, notice of which shall be given at least seven days before the annual meeting or an annual or special election and at least fourteen days before any special town meeting.

If the Town holds Special Town Meetings, the following revision could be made:

Notice of every Town Meeting shall be given by posting attested copies of the warrant thereof in at least five public places in the Town not less than seven days before the day fixed for ~~such meeting~~ the Annual Town Meeting and not less than 14 days before the day fixed for a Special Town Meeting.

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:18:41 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 103-001

Code Content:

§ 103-2 False alarm service fee.

Code / Part II: General Legislation / Alarm Systems

A service fee may be assessed to the owner or tenant of a property for more than two false alarms annually that result in an emergency service response Said service fee for each occurrence to be set at \$25 for a police response and \$50 for a fire department response.

Section 103-2 provides that a service fee may be assessed for more than two false alarms per year. It appears that the Town may be using the term "service fee" to describe a fine. Because fines and fees are two different things, we recommend that the Town review this section carefully to determine the nature of this charge.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Change "service fee" to "penalty" in § 103-2.

Question History:

2023-01-19 14:22:07 - Ernie Fancy - Selectman selected option: "Change "service fee" to "penalty" in § 103-2.".

Question 103-002

Code Content:

§ 103-2 *False alarm service fee.*

Code / Part II: General Legislation / Alarm Systems

A service fee may be assessed to the owner or tenant of a property for more than two false alarms annually that result in an emergency service response Said service fee for each occurrence to be set at \$25 for a police response and \$50 for a fire department response.

Section 103-2 provides that for emergency services responses to fire alarms in excess of two per property per year, \$25 for a police response and \$50 for a Fire Department response may be charged. Are these amounts still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:22:47 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 107-001

Code Content:

§ 107-1 Public consumption.

Code / Part II: General Legislation / Alcoholic Beverages

No person shall drink from or possess an open container of any alcoholic beverage as defined in Mass General Law Chapter 138, Section 1 and Chapter 90, Section 24(1) of the Massachusetts General Laws while on or in a public way, sidewalk, lake, public park, playground or any public or private land or place without the consent of the owner or person in control of such public or private land or place. All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person(s) arrested or summoned before the Palmer District Court. As prescribed by law, alcoholic beverages seized by the arresting authority or authority initiating prosecution in the event the person(s) are to be summoned, seized alcoholic beverages are to be submitted to a certified state food and drug facility for testing and certification of the contents. Upon final adjudication of the charge against the person(s) arrested or summoned and upon direction of the adjudicating authority only such alcoholic beverages not marked by the state food and drug facility as containing a poisonous substance shall be returned to the person(s) entitled to lawful possession. Such alcoholic beverages must be claimed by said person within seven days of such adjudication or such alcoholic beverages shall be destroyed by the seizing authority. Violation of this by-law is punishable by a fine of not less than \$50 for the first offense and by a fine of not less than \$100 for a second or subsequent offenses.

The third sentence of § 107-1 reads: "As prescribed by law, alcoholic beverages seized by the arresting authority or authority initiating prosecution in the event the person(s) are to be summoned, seized alcoholic beverages are to be submitted," which does not make sense and appears to be missing wording. Based on our review of similar legislation in Massachusetts, we recommend the following revision:

As prescribed by law, alcoholic beverages may be seized by the arresting authority or authority initiating prosecution in the event the person(s) are to be summoned; seized alcoholic beverages are to be submitted to a certified state food and drug facility for testing and certification of the contents.

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:24:02 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 107-002

Code Content:

§ 107-1 Public consumption.

Code / Part II: General Legislation / Alcoholic Beverages

No person shall drink from or possess an open container of any alcoholic beverage as defined in Mass General Law Chapter 138, Section 1 and Chapter 90, Section 24(1) of the Massachusetts General Laws while on or in a public way, sidewalk, lake, public park, playground or any public or private land or place without the consent of the owner or person in control of such public or private land or place. All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person(s) arrested or summoned before the Palmer District Court. As prescribed by law, alcoholic beverages seized by the arresting authority or authority initiating prosecution in the event the person(s) are to be summoned, seized alcoholic beverages are to be submitted to a certified state food and drug facility for testing and certification of the contents. Upon final adjudication of the charge against the person(s) arrested or summoned and upon direction of the adjudicating authority only such alcoholic beverages not marked by the state food and drug facility as containing a poisonous substance shall be returned to the person(s) entitled to lawful possession. Such alcoholic beverages must be claimed by said person within seven days of such adjudication or such alcoholic beverages shall be destroyed by the seizing authority. Violation of this by-law is punishable by a fine of not less than \$50 for the first offense and by a fine of not less than \$100 for a second or subsequent offenses.

Section 107-1 also imposes a penalty of not less than \$50 for a first offense and not less than \$100 for subsequent offenses. Is this penalty still satisfactory? Pursuant to MGL c. 40, § 21, a fine of up to \$300 may be imposed. Note that if noncriminal disposition is to be used, an exact amount must be set, pursuant to MGL c. 40, § 21D.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:25:10 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 112-001

Code Content:

§ 112-1C

Code / Part II: General Legislation / Animal Control / General guidelines.

Enforcement of violations of the regulations contained here-in shall be issued by the Animal Control Officer(s) or any Police Officer, by way of issuing a warning, a monetary fine, or by filing a criminal complaint at the District Court when applicable. (M.G.L. c. 40 s. 21D).

Section 112-1C addresses general enforcement regarding Chapter 112, Animal Control, including filing a criminal complaint, and cites MGL c. 40, § 21D, at the end of the subsection. Violation of dog control bylaws and noncriminal disposition therefor are addressed in MGL c. 140, § 173A, which was revised in 2018 (St. 2018, c. 219) and now provides as follows:

Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of section one hundred and seventy-three, the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice the fine provided herein. The fine for the first offense committed by a person shall be \$50. The fine for a second offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent offense, the fine shall be \$500 and the municipality may order the animal spayed or neutered. Payment shall be made only by money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that the fines shall not be lower than those stated in this section. Notwithstanding this section, a municipality may seek a remedy under section 157 for a nuisance dog.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Note that MGL c. 140, § 157, provides in Subsection (a) that: "Any person may file a complaint in writing to the hearing authority that a dog owned or kept in the city or town is a nuisance dog or a dangerous dog."

The Town might wish to delete the criminal complaint language from this section in light of MGL c. 140, §§ 157 and 173A.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as indicated: "Enforcement of violations of the regulations contained herein shall be issued by the Animal Control Officer(s) or any police officer, by way of issuing a warning, a

monetary fine, or by filing a ~~criminal complaint at the District Court~~ complaint, in writing, to the hearing authority, when applicable."

Question History:

2023-01-19 14:27:38 - Ernie Fancy - Selectman selected option: "Revise as indicated: "Enforcement of violations of the regulations contained herein shall be issued by the Animal Control Officer(s) or any police officer, by way of issuing a warning, a monetary fine, or by filing a criminal complaint at the District Court complaint, in writing, to the hearing authority, when applicable.""

Question 112-002

Code Content:

112-2{3} DANGEROUS DOG

Code / Part II: General Legislation / Animal Control / Definitions.

A dog that either (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person or a domestic or owned animal. (M.G.L. c. 140 s 136A).

The definition of "dangerous dog" in § 112-2 is based on the definition in MGL c. 140, § 136A, but is missing wording. We recommend the following correction to this definition in order to match the statute:

DANGEROUS DOG – A dog that either (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person ~~or~~ would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:29:40 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 112-003

Code Content:

112-2{11} PERSONAL KENNEL

Code / Part II: General Legislation / Animal Control / Definitions.

A pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit. (M.G.L. c. 140 s 136A) XXI.

The definition of "personal kennel" in § 112-2 includes "XXI" at the end of this definition, following the statutory citation in parentheses. It is not clear to what "XXI" refers.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Delete "XXI."

Question History:

2023-01-19 14:30:26 - Ernie Fancy - Selectman selected option: "Delete "XXI."".

Question 112-004

Code Content:

§ 112-3C

Code / Part II: General Legislation / Animal Control / Requirements/prohibitions;

The licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated, certification that such dog is exempt from the vaccination, or a notarized letter from the veterinarian that either of these certifications was issued relative to such dog. (M.G.L. c. 140 s 137)

Section 112-3C requires proof of vaccination or exemption from vaccination as a condition for issuance of a dog license. This provision is based on MGL c. 140, § 137(b), which reads (emphasis added):

*A licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated **in accordance with section 145B**, certification that such dog is exempt from the vaccination requirement under said **section 145B** or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.*

MGL c. 140, § 145B, addresses rabies vaccination specifically. To provide clarity in this provision and compliance with statute, the Town could make the following revision:

The licensing authority shall not grant a license for a dog unless the owner of the dog provides the licensing authority with a veterinarian's certification that the dog has been vaccinated against rabies, certification that such dog is exempt from ~~the said~~ vaccination, or a notarized letter from the veterinarian that either of these certifications was issued relative to such dog.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:33:29 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 112-005

Code Content:

§ 112-3D

Code / Part II: General Legislation / Animal Control / Requirements/prohibitions;

The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material, to which the dog license tag issued by the Clerk shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or Town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined, and the fee for the substitute shall, if received by the Town Clerk, be retained by the Clerk unless otherwise provided by law. This subsection shall not apply to a person to whom a valid kennel license has been issued. (M.G.L. c. 140, § 137).

Section 112-3D provides that if a dog license tag is lost, a replacement tag shall be issued "at a cost to be determined." This language is copied from MGL c. 14, § 137, which provides:

If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town ...

There is currently no provision in this bylaw that addresses the cost to replace a lost license tag. If the Town would like to add such a provision, the following revisions could be made:

1. A sentence could be added to the end of § 112-5A to read: "The fee for a substitute tag shall be \$ _____." (Town to provide this amount)
2. The wording "at a cost to be determined" in § 112-3D could be revised to "at a cost as set forth in § 112-5A."

Options:

Revise as suggested; use the following fee amount for a substitute tag: \$ _____.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:35:08 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 112-006

Code Content:

§ 112-3I

Code / Part II: General Legislation / Animal Control / Requirements/prohibitions;

A person maintaining a kennel shall obtain a kennel license. An owner or keeper of less than four dogs, three months older or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this sections 137B and 137C and so much of section 141 as it relates to violations of this subsection to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an Animal Control Officer. Such license shall be processed in the Office of The Town Clerk and shall contain an effective license period from July 1st - June 30th (M.G.L. c. 140 s 137A).

Section 112-3I is based on MGL c. 140, § 137A. The following minor revisions are recommended for clarity and specific applicability to the Town:

An owner or keeper of less than four dogs, three months older or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under ~~section 137~~ MGL c. 140, § 137, and shall be subject to ~~this sections 137B and 137C~~ MGL c. 140, §§ 137B and 137C, and so much of ~~section 141~~ MGL c. 140, § 141, as it relates to violations of this subsection to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of an applicant for license renewal, a the licensing authority shall not issue a kennel license until a kennel has passed inspection by ~~an~~ the Animal Control Officer.

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:36:25 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 112-007

Code Content:

§ 112-5A

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

The fee for a dog license as outlined in § 112-3B of this Bylaw shall be \$10 for each dog which is spayed or neutered and \$20 for each dog which is not spayed or neutered, with the exception of a license issued for a service animal as defined by the Americans with Disabilities Act or regulations promulgated there-under, or for a dog owned by a person aged 70 years or over, in which no fee shall be charged. (M.G.L. c. 140, s. 139).

Section 112-5A sets a dog license fee of \$10 for spayed or neutered dogs and \$20 for other dogs. Are these amounts still current?

Options:

Revise as follows:

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-19 14:37:05 - Ernie Fancy - Selectman selected option: "Do not revise."

Question 112-008

Code Content:

§ 112-5A

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

The fee for a dog license as outlined in § 112-3B of this Bylaw shall be \$10 for each dog which is spayed or neutered and \$20 for each dog which is not spayed or neutered, with the exception of a license issued for a service animal as defined by the Americans with Disabilities Act or regulations promulgated there-under, or for a dog owned by a person aged 70 years or over, in which no fee shall be charged. (M.G.L. c. 140, s. 139).

§ 112-5B

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

The fee for a kennel license as outlined in § 112-3I of this Bylaw shall be not less than \$40, with the exception of a license issued to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering, in which no fee shall be charged. (M.G.L. c. 40, s 137A)

In §§ 112-5A and B, should the wording "in which no fee shall be charged" be revised to "in which case, no fee shall be charged"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:38:04 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 112-009

Code Content:

§ 112-5B

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

The fee for a kennel license as outlined in § 112-3I of this Bylaw shall be not less than \$40, with the exception of a license issued to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering, in which no fee shall be charged. (M.G.L. c. 40, s 137A)

Section 112-5B sets a kennel license fee of not less than \$40. Is this amount still satisfactory, and is the wording "not less than \$40" correct? Fees are typically set in exact amounts rather than maximum amounts.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:48:08 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 112-010

Code Content:

§ 112-5C

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

Violators of M.G.L. c. 140 s 137, 137A, 137B and 138 shall be assessed a penalty of \$50. (M.G.L. c. 140 s. 141)

Section 112-5C imposes a penalty of \$50 upon anyone who violates the provisions of MGL c. 140, §§ 137, 137A, 137B and 138, regarding licensing of dogs and kennels, pursuant to MGL c. 140, § 141. The provisions of MGL c. 140, §§ 137, 137A, and 141 were amended by St. 2018, c. 219. The provisions of MGL c. 140, § 141, apply a penalty of not less than \$50 only to violations of MGL c. 140, §§ 137, 137B, and 138. Regarding kennel licenses, MGL c. 140, § 137A, now provides: "A person who violates this section shall be assessed a fine of \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense."

To comply with statute, the following revision could be made to § 112-5C:

Violators of MGL c. 140, §§ 137, ~~137A~~, 137B and 138 shall be assessed a penalty of \$50.

Violators of MGL c. 140, § 137A, shall be assessed a penalty of \$500 for a first offense and not more than \$1,000 for a second or subsequent offense.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:50:08 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 112-011

Code Content:

§ 112-5D

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

Violators of M.G.L. c. 140, s. 145B shall be assessed a penalty of up to \$100.

Section 112-5D imposes a penalty of up to \$100 upon violations of MGL c. 140, § 145B, regarding rabies vaccination. This amount is the maximum penalty permitted by statute. Is this penalty satisfactory?

Options:

Revise as follows:

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-19 14:50:31 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 112-012

Code Content:

§ 112-5E

Code / Part II: General Legislation / Animal Control / Fees; violations and penalties.

In addition to fees charged for medical or other care costs for properly licenses dogs of any other domestic animals that are confined, there shall be an impound fee of \$25, plus an additional boarding fee of \$25 for each day the animal is confined. The owner/keeper of any dog which is unlicensed at time of impound shall be charged an impound fee of \$35, plus an additional boarding fee of \$35 for each day that the animal is confined.

Section 112-5E sets an impound fee of \$25, plus an additional \$25 per day, for licensed dogs and an impound fee of \$35, plus an additional \$35 per day, for unlicensed dogs. Are these fees up-to-date?

Options:

Revise as follows:

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-19 14:52:26 - Ernie Fancy - Selectman selected option: "Do not revise."

Question 118-001

Code Content:

Ch 118 Art I General Permit Requirements

Code / Part II: General Legislation / Buildings and Building Construction

Chapter 118, Article I, General Permit Requirements, provides requirements for building permits. This article does not include a penalty. If it is the Town's intent to apply the penalty in [§ 1-4](#) to violations of this article, a penalty section could be added to read: "Violations of this article shall be subject to a penalty as provided in Chapter 1, § 1-4."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 14:53:10 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 118-002

Code Content:

§ 118-4 Numbering required.

Code / Part II: General Legislation / Buildings and Building Construction / Numbering of Buildings

In accordance with Chapter 291 of the laws of Massachusetts, the Town of Holland, in conjunction with Statewide Emergency Telecommunication Board, has joined the Enhanced 9-1-1 service. For matters of personal and public safety, in order to assure the fastest response by emergency service personnel without undue delay, residents of the Town of Holland are required to post house numbers of sufficient height so they are visible and clearly readable from the street. For purpose of this by-law, sufficient height will be four inches.

Section 118-4 provides that the Town has joined the state E-911 service pursuant to "Chapter 291 of the laws of Massachusetts." This appears to be a reference to Chapter 291 of the Acts of 1990, regarding enhanced 911 service. We will correct "Chapter 291 of the laws of Massachusetts" to "Chapter 291 of the Acts of 1990."

Options:

Acknowledged

Question History:

2023-01-19 14:54:11 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 118-003

Code Content:

§ 118-4 Numbering required.

Code / Part II: General Legislation / Buildings and Building Construction / Numbering of Buildings

In accordance with Chapter 291 of the laws of Massachusetts, the Town of Holland, in conjunction with Statewide Emergency Telecommunication Board, has joined the Enhanced 9-1-1 service. For matters of personal and public safety, in order to assure the fastest response by emergency service personnel without undue delay, residents of the Town of Holland are required to post house numbers of sufficient height so they are visible and clearly readable from the street. For purpose of this by-law, sufficient height will be four inches.

Section 118-4 also includes requirements for building numbers to assure premises identification by emergency services. The provisions of 527 CMR, which adopts the NFPA 1 Fire Code - 2015 Edition, includes additional provisions regarding numbering of buildings. See 10.11.1, Premises Identification:

10.11.1.2 Address numbers shall contrast with their background.

10.11.1.3 Address numbers shall be Arabic numerals or alphabet letters.

Is any revision desired?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add a sentence to the end of § 118-4 to read: "House numbers shall contrast with their background and shall be Arabic numerals or alphabet letters."

Question History:

2023-01-19 14:56:35 - Ernie Fancy - Selectman selected option: "Add a sentence to the end of § 118-4 to read: "House numbers shall contrast with their background and shall be Arabic numerals or alphabet letters.""

Question 118-004

Code Content:

§ 118-6 Violations and penalties.

Code / Part II: General Legislation / Buildings and Building Construction / Numbering of Buildings

Any property owner who continues to violate the provision of this by-law after 30 days following receipt by the property owner of joint, written notice of such violation from the Board of Selectmen and Chief of Police, shall be liable to a penalty not exceeding \$25 for -each offense Each day that the said violation is allowed to continue after said thirty-day period, shall constitute a separate offense.

Section 118-6 imposes a fine of not more than \$25 for violations of Chapter 118, Article II. This penalty has not been amended since 1996. Is the fine amount still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:57:15 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 118-005

Code Content:

§ 118-8 Civil violaton.

Code / Part II: General Legislation / Buildings and Building Construction / Numbering of Buildings

Any violation of the provisions of this chapter may be disposed of by the Police Department as a civil violation pursuant to the terms of Section 21D of Chapter 40 of the General Laws with a civil assessment of \$25.

Section 118-8 provides that noncriminal disposition may be used for violations of Chapter 118, Article II, the amount of \$25. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 14:58:13 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 118-006

Code Content:

118-9{1} INTERNATIONAL ENERGY CONSERVATION CODE (IECC) 2009

Code / Part II: General Legislation / Buildings and Building Construction / Stretch Energy Code / Definitions.

The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency.

Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Section 118-9 includes a definition of "International Energy Conservation Code (IECC) 2009," which definition provides that on July 1, 2010, "the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments." The current MA State Building Code was effective in 2017 and consists of a number of 2015 ICC codes, such as the International Building Code, International Residential Code, and International Energy Conservation Code. Based on our review of how other towns in Massachusetts have updated this term and its definition to apply to the current edition, we recommend the following revision:

INTERNATIONAL ENERGY CONSERVATION CODE (IECC) – A building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:00:49 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 118-007

Code Content:

118-9{2} STRETCH ENERGY CODE

Code / Part II: General Legislation / Buildings and Building Construction / Stretch Energy Code / Definitions.

Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained therein.

The definition of "Stretch Energy Code" in § 118-9 also refers to the 2009 IECC and provides that the Stretch Energy Code is the 2009 IECC with amendments. This definition could be updated to refer to the current composition of the State Building Code, as follows:

Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts State Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:01:27 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 118-008

Code Content:

§ 118-11 Applicability.

Code / Part II: General Legislation / Buildings and Building Construction / Stretch Energy Code

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, N11, or Appendix AJ, as applicable.

Section 118-11 includes the following: "Buildings not included in this scope shall comply with 780 CMR 13, 34, N11, or Appendix AJ, as applicable." 780 CMR Ch. 13 pertains to commercial energy efficiency, and 780 CMR Ch. 34 is the existing building code. We are not able to determine the citations of 780 CMR N11 and 780 CMR AJ, although they may be in reference to 780 CMR N1100 (Energy Efficiency - Amendments) and 780 CMR Ch. 51, Appendixes A through J, respectively. The Town should consult the Building Inspector to determine whether any updates are needed to these references.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise "780 CMR 13, 34, N11, or Appendix AJ" to "780 CMR Ch. 13, 780 CMR Ch. 34, 780 CMR N1100, or 780 CMR Ch. 51, Appendixes A through J."

Question History:

2023-01-19 15:02:14 - Ernie Fancy - Selectman selected option: "Revise "780 CMR 13, 34, N11, or Appendix AJ" to "780 CMR Ch. 13, 780 CMR Ch. 34, 780 CMR N1100, or 780 CMR Ch. 51, Appendixes A through J.""

Question 118-009

Code Content:

§ 118-13A

Code / Part II: General Legislation / Buildings and Building Construction / Stretch Energy Code / Incorporation by reference; enforcement..

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Holland General Bylaws, Chapter 118, Article III.

In § 118-13A and B, "Stretch Code" could be revised to "Stretch Energy Code" for compliance with the defined term in § 118-9.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:02:50 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-001

Code Content:

§ 136-5A

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Certificate of registration.

All persons engaging in hawking, peddling, vending, solicitation or canvassing pursuant to this chapters shall be confined to conduct their business during the hours of 9:00 a.m. until 8:00 p.m., unless otherwise indicated on the certificate of registration. No person having received a certificate of registration shall represent to the public that the same constitutes an endorsement or approval by the Town of Holland or its officials.

§ 136-5C

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Certificate of registration.

Each certificate for hawking, peddling, vending and solicitation shall contain;

Section 136-5A includes provisions regarding hours of business and certificates of registration for persons engaging in hawking, peddling, vending, solicitation or canvassing, while § 136-5C sets requirements for certificates of registration for hawking, peddling, vending and solicitation, with no mention of canvassing. Should § 136-5C be revised to "hawking, peddling, vending, solicitation and canvassing" to match § 136-5A?

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 15:04:02 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 136-002

Code Content:

§ 136-5I

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Certificate of registration.

The licensing authority may decline to issue a certificate of registration for any application which is determined to be incomplete, contains fraudulent statements or for any organization which has been charged with fraud, deceptive or misleading advertising, or is under investigation by the Attorney General's Consumer Fraud Prevention Division, until such charge or investigation is disposed of and the organization found not culpable.

Section 136-5I includes a reference to the Attorney General's Consumer Fraud Prevention Division. We are not able to verify this Division. The Office of the Attorney General has a Public Protection and Advocacy Bureau that handles consumer complaints. Additionally, the Executive Office of Housing and Community Development's Office of Consumer Affairs and Business Regulation is the state regulatory authority for hawkers, peddlers, solicitors, and canvassers under MGL c. 101. How should this reference be updated?

Options:

Revise to Executive Office of Housing and Community Development's Office of Consumer Affairs and Business Regulation.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise to Attorney General's Public Protection and Advocacy Bureau.

Question History:

2023-01-19 15:05:27 - Ernie Fancy - Selectman selected option: "Revise to Attorney General's Public Protection and Advocacy Bureau."

Question 136-003

Code Content:

§ 136-6A

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

As authorized by M.G.L. c. 6, s 172 B 1/2, the police department shall conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following license:

Section 136-6A uses the term "license" with regard to the individuals who are subject to fingerprint-based criminal history checks by the Town's Police Department. Regarding hawkers and peddlers, this chapter requires a certificate of registration; a local license is not provided for in this chapter. We also note that ice cream truck vendors are required to obtain a permit from a municipal permitting authority; see MGL c. 270, § 25. The following revision could be made to address this issue:

As authorized by MGL c. 6, § 172 B 1/2, the Police Department shall conduct state and federal fingerprint-based criminal history checks for individuals applying for the following license, registration or permit:

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:06:45 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-004

Code Content:

§ 136-6C

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

Upon receipt of the fingerprints and the appropriate fee, the police department shall transmit the fingerprints it has obtained pursuant to this section to the Identification Section of Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint based state and national criminal records background checks of license applicants specified in this section.

In § 136-6C, we will correct the reference to the Identification Section of the Massachusetts State Police to "State Identification Section."

Options:

Acknowledged

Question History:

2023-01-19 15:07:47 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 136-005

Code Content:

§ 136-6C

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

Upon receipt of the fingerprints and the appropriate fee, the police department shall transmit the fingerprints it has obtained pursuant to this section to the Identification Section of Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint based state and national criminal records background checks of license applicants specified in this section.

§ 136-6F

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

The police department shall not utilize and/or transmit the results of the fingerprint based criminal record background check to any licensing authority pursuant to this section until it has taken the steps detailed in this section.

References to "license" and "licensing authority" are found throughout § 136-6 and in § 136-7E. Because the individuals subject to the provisions of this section can be applicants for licenses, registration, and permits, we recommend revising "license" to "license, registration or permit" and "licensing authority" to "licensing, registration or permitting authority" for consistency and clarity.

Options:

Revise "license" as suggested, and add a definition for "licensing authority" to § 136-2 to read: "The Police Department or Board of Selectmen of the Town, authorized to issue licenses, certificates of registration, and permits, as applicable, for any person subject to the provisions of this chapter."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:09:04 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-006

Code Content:

§ 136-6I

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

Licensing authorities of the Town shall utilize the results of fingerprint based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this chapter. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, including renewals transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this chapter.

Section 136-6I includes the word "for" twice to address the same subject of the last sentence. The following revision is recommended:

The Town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application, ~~for~~, including renewals transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this chapter.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:14:27 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-007

Code Content:

§ 136-6J

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Authorization to conduct criminal history checks.

The fee charged by the police department for the purpose of conducting fingerprint based criminal record background checks shall be \$100. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees. A portion of the fee, as specified in M.G.L. c. 6, 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee maybe retained by the Town to be expended by the police department to help offset costs associated with administration of the fingerprinting system.

Section 136-6J sets a fee of \$100 to conduct fingerprint-based criminal record background checks. Is this fee still current?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 15:16:56 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 136-008

Code Content:

§ 136-7D

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Exemptions.

The requirement of registration and certification outlined in this chapter shall not apply to those persons who provide the services of snow plowing, snow removal or the treatment or removal of ice or other debris when the activity is conducted in preparation of an impending severe weather event, during a severe weather event or as a result of a severe weather event; however, the provisions of this chapter related to requirements and prohibitions are not exempt.

In § 136-7D, the wording "however, the provisions of this chapter related to requirements and prohibitions are not exempt" does not make sense as it appears to prohibit exemption of the chapter's own provisions. The following revision is recommended:

The requirement of registration and certification outlined in this chapter shall not apply to those persons who provide the services of snow plowing, snow removal or the treatment or removal of ice or other debris when the activity is conducted in preparation of an impending severe weather event, during a severe weather event or as a result of a severe weather event; however, the provisions of this chapter related to requirements and prohibitions are ~~not exempt~~ applicable to such persons.

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:17:55 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-009

Code Content:

§ 136-8A

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Fees; violations and penalties.

A registration for certification application shall be filed by utilizing the appropriate form provided by the municipality, form (8.31), and shall be submitted with a nonrefundable application fee of \$20 by way of check or money order made out to the Town of Holland.

Section 136-8A sets a fee of \$20 for a certificate of registration. Is this fee up-to-date?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 15:19:35 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 136-010

Code Content:

§ 136-8A

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Fees; violations and penalties.

A registration for certification application shall be filed by utilizing the appropriate form provided by the municipality, form (8.31), and shall be submitted with a nonrefundable application fee of \$20 by way of check or money order made out to the Town of Holland.

Also in § 136-8A, should "registration for certification application" be changed to "application for certificate of registration"?

Options:

Revise as follows:

Revise as suggested.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 15:21:25 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 136-011

Code Content:

§ 136-8B

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Fees; violations and penalties.

Violation by a solicitor or canvasser of any provision of this chapter shall be punishable by a fine of \$100 for each and every violation; however, violation of M G L c 101, s 34, shall be punishable by a fine of not more than 500 or imprisonment of not more than six months, as provided therein.

Section 136-8B imposes a fine of \$100 for violations of Chapter 136 by solicitors or canvassers. We note that MGL c. 101, § 9, provides that transient vendors who operate without a state or local license shall be punished by a fine of not more than \$50 or imprisonment for not more than two months, or both. Is any revision desired to this penalty?

Options:

Revise as follows:

Defer decision until after Code publication

Do not revise.

Question History:

2023-01-19 15:22:28 - Ernie Fancy - Selectman selected option: "Do not revise."

Question 136-012

Code Content:

§ 136-8B

Code / Part II: General Legislation / Hawkers, Peddlers and Vendors / Fees; violations and penalties.

Violation by a solicitor or canvasser of any provision of this chapter shall be punishable by a fine of \$100 for each and every violation; however, violation of M G L c 101, s 34, shall be punishable by a fine of not more than 500 or imprisonment of not more than six months, as provided therein.

Section 136-8B also imposes a penalty of \$500 or imprisonment for not more than six months for violations of MGL c. 101, § 34. This penalty matches the fine in the statute regarding persons who provide false information on applications or conduct the business of hawking, peddling, or soliciting without registering or after such registration has expired or been revoked; it should not be changed. However, the Town could eliminate the need to update the penalty should the statutory amounts change by amending this section as indicated:

Violation by a solicitor or canvasser of any provision of this chapter shall be punishable by a fine of \$100 for each and every violation; however, violation of MGL c. 101, § 34, shall be punishable ~~by a fine of not more than 500 or imprisonment of not more than six months,~~ as provided therein.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:23:35 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 142-001

Code Content:

§ 142-2 Authority.

Code / Part II: General Legislation / Inland Waters

In addition to the ordinances contained within this document, regulations are established and enforced pursuant the General Laws [G.L.], Code of Massachusetts Regulations [CMR], Federal Navigation Rules for Inland Waters [CFR], and Title 36 of U.S. Army Corps of Engineers Rules and Regulations.

Section 142-2 includes the wording "the ordinances contained within this document." Chapter 142 appears to have been adopted as a single piece of legislation, and the Town does not adopt ordinances. Should "ordinances" be changed to "provisions"?

Options:

Revise as follows:

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:24:38 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 142-002

Code Content:

§ 142-5B

Code / Part II: General Legislation / Inland Waters / Regulations.

All power-driven vessels shall yield right-of-way and allow proceeding with precedence, all swimmers and non power-driven vessels.

For clarity, the following minor revision is recommended in § 142-5B: "All power-driven vessels shall yield right-of-way to and allow proceeding with precedence for all swimmers and non-power-driven vessels."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:25:52 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 142-003

Code Content:

§ 142-6F

Code / Part II: General Legislation / Inland Waters / Restrictions.

No person shall carry or transport on any vessel, any open container as defined in G.L. c. 90 § 24, which contains an alcoholic beverage.

In § 142-6F, we will correct G.L. c. 90 § 24 to MGL c. 90, § 24I, which statute defines "open container."

Options:

Acknowledged

Question History:

2023-01-19 15:26:32 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 142-004

Code Content:

§ 142-7B

Code / Part II: General Legislation / Inland Waters / Exemptions.

The Board of Selectmen shall be empowered to amend the provisions outlined in this document for the purpose of allowing authorized clubs to participate in and to practice for water ski shows.

Section 142-7B provides that the Board of Selectmen "shall be empowered to amend the provisions outlined in this document" to allow water ski practice and shows for authorized clubs. Should the word "amend" be changed to "suspend" in this section? The inland waters provisions were submitted as Chapter 12 of the bylaws, which can only be amended by Town Meeting.

If the inland waters provisions are in fact adopted by the Board of Selectmen, please so indicate. We will then place this chapter in a separate regulations division in the Code under the Board of Selectmen.

Options:

Chapter 142, Inland Waters, was adopted by the Board of Selectmen. Placement of this chapter under Board of Selectmen Rules and Regulations is authorized.

Revise as follows:

Defer decision until after Code publication

Change "amend" to "suspend."

Question History:

2023-03-08 08:10:07 - Ernie Fancy - Selectman selected option: "Change "amend" to "suspend."".

Question 142-005

Code Content:

§ 142-7C

Code / Part II: General Legislation / Inland Waters / Exemptions.

The Board of Selectmen shall be authorized to place or cause to be placed signs, signals, devices and markings in the waters of and upon the lands surrounding the Hamilton Reservoir for the purpose of displaying ordinances pertaining to the utilization of such waterway.

In § 142-7C, should "ordinances" be changed to "bylaws" or to "rules and regulations"?

Options:

Change to "bylaws."

Revise as follows:

Defer decision until after Code publication

Change to "rules and regulations."

Question History:

2023-01-19 15:30:01 - Ernie Fancy - Selectman selected option: "Change to "rules and regulations.""

Question 142-006

Code Content:

§ 142-8B

Code / Part II: General Legislation / Inland Waters / Enforcement; violations and penalties.

Police employees shall be authorized to issue a non-criminal citation pursuant to G.L. c. 40 § 21D in the amount of [\$25], to those who violate the regulations outlined in § 142-5A through F and H, and the restrictions outlined in § 142-6C through I.

Section 142-8B sets a noncriminal disposition penalty of \$25 for violation of certain provisions of Chapter 142, Inland Waters. Is this penalty still satisfactory? Pursuant to MGL c. 40, § 21D, a fine of up to \$300 may be imposed and must be an exact amount.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 15:31:10 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 142-007

Code Content:

§ 142-8B

Code / Part II: General Legislation / Inland Waters / Enforcement; violations and penalties.

Police employees shall be authorized to issue a non-criminal citation pursuant to G.L. c. 40 § 21D in the amount of [\$25], to those who violate the regulations outlined in § 142-5A through F and H, and the restrictions outlined in § 142-6C through I.

The noncriminal disposition penalty in § 142-8B applies to §§ 142-5 and 142-6C through I. No penalty is provided for violation of § 142-6A, regarding racing by power-driven vessels, or B, regarding towing by personal watercraft. Is any revision desired?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add § 142-8E to read: "Violations of § 142-6A and B are punishable as provided in Chapter 1, § 1-4."

Question History:

2023-01-19 15:55:42 - Ernie Fancy - Selectman selected option: "Add § 142-8E to read: "Violations of § 142-6A and B are punishable as provided in Chapter 1, § 1-4.""

Question 151-001

Code Content:

§ 151-1 Tax Collector annual list.

Code / Part II: General Legislation / Licenses and Permits / Denial or Revocation for Failure to Pay Taxes, Fees and Charges

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereafter referred to as the Tax Collector, shall annually 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 petition before the appellate tax board or an application for abatement of such tax.

The provisions of § 151-1 are copied from MGL 40, § 57(a). This statute has been amended through 2016 and now reads as follows:

The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as 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, 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.

Section 151-1 could be revised as indicated to match the statute:

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereafter referred to as 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 petition before the appellate tax board or an pending application for abatement of such tax.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 15:57:31 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 151-002

Code Content:

§ 151-2 Authority to deny, revoke or suspend licenses and permits.

Code / Part II: General Legislation / Licenses and Permits / Denial or Revocation for Failure to Pay Taxes, Fees and Charges

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, 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 Said list shall be "prima facie" evidence for denial, revocation or suspension of said license or permit to any party The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension Any license denied, suspended, or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

Section 151-2 is copied from MGL c. 40, § 57(b), which has been amended through 2016 to add the following (emphasis added):

*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 ...*

The Town could revise § 151-2 to add the language in bold above to match the statute.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:02:14 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 151-003

Code Content:

§ 151-5 Exemptions.

Code / Part II: General Legislation / Licenses and Permits / Denial or Revocation for Failure to Pay Taxes, Fees and Charges

This article shall not apply to the following licenses and permits; open burning section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; associations dispensing food or beverage licenses, section 21E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping licenses, section twelve of chapter one hundred thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven, and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

Section 151-5 includes licenses and permits exempted from the provisions of Chapter 151. Regarding bicycle permits, MGL c. 85, § 11A, was repealed in 2008; we recommend deleting this language.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Delete "bicycle permits, section eleven A of chapter eighty-five."

Question History:

2023-01-19 16:03:45 - Ernie Fancy - Selectman selected option: "Delete "bicycle permits, section eleven A of chapter eighty-five."".

Question 151-004

Code Content:

§ 151-5 Exemptions.

Code / Part II: General Legislation / Licenses and Permits / Denial or Revocation for Failure to Pay Taxes, Fees and Charges

This article shall not apply to the following licenses and permits; open burning section thirteen of chapter forty-eight; bicycle permits, section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; associations dispensing food or beverage licenses, section 21E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping licenses, section twelve of chapter one hundred thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven, and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

In § 151-5, the word "clubs" could be added, as indicated, to match the wording in MGL c. 40, § 57: "clubs, associations dispensing food or beverage licenses, section 21E of chapter one hundred and forty."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:07:43 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 157-001

Code Content:

Ch 157 Mobile Homes and House Trailers

Code / Part II: General Legislation

Chapter 157, Mobile Homes and House Trailers, does not include a penalty. The Town might wish to add a section to read: "Violations of this chapter shall be punishable as provided in Chapter 1, § 1-4."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:08:39 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 157-002

Code Content:

§ 157-1 Limitations on trailers and mobile homes.

Code / Part II: General Legislation / Mobile Homes and House Trailers

Not more than one house trailer, mobile home or trailer which contains sleeping and eating accommodations may be kept on any parcel of land No house trailer, mobile home or trailer which contains sleeping and eating accommodations may be used as living quarters while so located Space shall not be leased for trailers, provided, however, that the foregoing shall not prohibit the establishment of a trailer camp under the provisions of Chapter 140 of the General Laws.

Section 157-1 provides that house trailers and mobile homes with sleeping and eating accommodations may not be used as living quarters while kept on a parcel of land. See MGL c. 40A, § 3, which provides:

No zoning ordinance or by-law shall prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a manufactured home on the site of such residence and residing in such home for a period not to exceed twelve months while the residence is being rebuilt.

Although the wording in § 157-1 is not from a zoning bylaw, it restricts the use of a mobile or manufactured home in a manner that could be construed as conflicting with the statute. The Town might want to add an exception, pursuant to MGL c. 40A, to this section, as indicated:

No house trailer, mobile home or trailer which contains sleeping and eating accommodations may be used as living quarters while so located, except that the owner or occupier of a residence which has been destroyed by fire or other natural holocaust may place a manufactured home on the site of such residence and reside therein for a period not to exceed 12 months while the residence is being rebuilt.

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-08 08:14:23 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 165-001

Code Content:

§ 165-1 Violations and penalties.

Code / Part II: General Legislation / Open Burning

Any person who violates the provisions of 30 1 CMR 7 07, Section 142H or MGL Chapter 48, Section 13 regarding the open burning of brush and unlawful materials at unlawful times or in unlawful places will be fined \$50 for the first offense and \$100 for each subsequent offense within a twelve-month period

Section 165-1 includes a reference to the provisions of 301 CMR 7.07, Section 142H. We will correct this to 310 CMR 7.07, Open Burning (these regulations do not have a Section 142H).

Options:

Acknowledged

Question History:

2023-01-19 16:11:08 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 165-002

Code Content:

§ 165-1 Violations and penalties.

Code / Part II: General Legislation / Open Burning

Any person who violates the provisions of 30 1 CMR 7 07, Section 142H or MGL Chapter 48, Section 13 regarding the open burning of brush and unlawful materials at unlawful times or in unlawful places will be fined \$50 for the first offense and \$100 for each subsequent offense within a twelve-month period

Section 165-1 imposes a fine of \$50 for a first offense and \$100 for subsequent offenses against the open burning provisions in Chapter 165. Are these penalties still satisfactory?

Options:

Defer decision until after Code publication

Revise as follows:

Do not revise.

Question History:

2023-03-20 08:31:03 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 165-003

Code Content:

§ 165-2 Noncriminal disposition.

Code / Part II: General Legislation / Open Burning

The Fire and Police Departments are authorized to enforce the provisions of the foregoing section by non-criminal complaint pursuant to the provisions of Chapter 40, Section 21 D and/or Chapter 90 of the General Laws, or any other provision of the General Laws authorizing such non-criminal complaint and shall impose a civil penalty of \$50 for each such violation.

Section 165-2 provides that noncriminal disposition may be used to enforce the provisions of Chapter 165, Open Burning, with a penalty of \$50 for each violation. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:12:12 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 170-001

Code Content:

Ch 170 Property Maintenance

Code / Part II: General Legislation

Chapter 170, Property Maintenance, restricts the placement, storage, and accumulation of rubbish, salvage or discarded materials, and more than one unregistered vehicle on property. This chapter does not include a penalty. The Town could add a section to read: "Violations of this chapter shall be punishable as provided in Chapter 1, § 1-4."

Options:

Revise as follows:

Do not revise.

Revise as suggested.

Defer decision until after Code publication

Question History:

2023-01-19 16:13:03 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question MLT-001

Code Content:

§ 170-1 Storage of rubbish, salvage and discarded materials, and unregistered vehicles; enforcement.

Code / Part II: General Legislation / Property Maintenance

No person, property owner or tenant shall place, store, or allow any accumulation of rubbish, refuse, salvage materials or discarded household furniture or more than one unregistered motor vehicle or trailer within plain view of an abutter's property or within plain view from a public way or private way This chapter to be enforced by the Zoning Enforcement Officer.

§ 199-1 Restrictions.

Code / Part II: General Legislation / Vehicles, Junk or Abandoned

No person shall accumulate, keep, store, park, place, deposit or permit to remain on premises owned by him or under his control, any dismantled, unserviceable, Junked or abandoned motor vehicle unless he has a license to do so under the General Laws or the vehicle or vehicles are appropriately screened from view from neighboring, lands, ways, or public highways Whoever violates or continues to violate this By Law after having been notified by registered mail of such violation shall be punished by a fine not in excess of \$20. Each week during which such violation is permitted to continue shall be deemed to be a separate offense.

Section 170-1 prohibits more than one unregistered motor vehicle or trailer within view of abutting property or from a public or private way. The provisions of § 199-1 prohibit a person from keeping "any dismantled, unserviceable, junked or abandoned motor vehicle unless he has a license to do so under the General Laws or the vehicle or vehicles are appropriately screened from view from neighboring, lands, ways, or public highways." If any junked or abandoned motor vehicle is also not registered, a conflict will be created between §§ 170-1 and 199-1, where § 170-1 allows one such vehicle to be kept in plain view of abutting property or ways but § 199-1 prohibits all such vehicles unless they are out of view or the owner has obtained a license therefor. The appropriate Town officials should be consulted to determine whether the provisions of § 199-1, adopted in 1970, are still enforced by the Town or have been superseded by those of § 199-1, adopted in 1999.

Options:

Revise as follows:

Defer decision until after Code publication

Question History:

2023-01-19 16:15:12 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 183-001

Code Content:

§ 183-2A

Code / Part II: General Legislation / Streets, Sidewalks and Driveways / Driveways and access roads.

No one shall construct a driveway or access road so as to drain surface water from said driveway or access road onto the surface of any Town road or way dedicated to public use. In the event the owner of land does so construct a driveway or access road, or cause any other construction to be made, which has the effect of causing surface water to drain onto Town roads or ways dedicated to a public use, the Town Highway Superintendent shall have the right to change the Town road, or way dedicated to a public use, so as to prevent such drainage or surface water from going upon said roads, or ways dedicated to public use.

Section 183-2A and B refer to the Town Highway Superintendent. These are the only two occurrences of this term in the bylaws; otherwise, the term "Highway Surveyor" is used. Should "Highway Superintendent" be changed to "Highway Surveyor"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:16:10 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 183-002

Code Content:

§ 183-2E

Code / Part II: General Legislation / Streets, Sidewalks and Driveways / Driveways and access roads.

Any violation of this section shall be corrected by the Town of Holland Highway Department or its agents, all costs to be paid by that person or business that causes this violation to exist. Any such violation may be disposed of as a civil violation pursuant to Section 21D of Chapter 40 of the General Laws with a civil assessment of \$25.

Section 183-2E provides that a fine of \$25 shall be assessed as noncriminal disposition for violations of § 183-2, Driveways and access roads. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:17:22 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 183-003

Code Content:

§ 183-3 *Maintenance of private ways.*

Code / Part II: General Legislation / Streets, Sidewalks and Driveways

Section 183-3 provides for making temporary repairs on private ways in the Town, as follows:

- A. The Town may make temporary repairs on private ways which have been open to public use for six years or more.
- B. Such temporary repairs may include the regrading of gravel roads, the oiling of oiled roads, filling of potholes, depressions and ruts with suitable materials and replacement of damaged culverts, but not including original construction.
- C. No such repairs shall be made unless The Board of Selectmen determines that such repairs are necessary for public convenience and safety.
- D. No betterment charges shall be assessed and no cash deposit shall be required for such repairs.
- E. The Town shall not be liable for bodily injury, death or damage to property caused by any defect or want of repair in a private way.

These provisions comply with the requirements of MGL c. 40, § 6N, except that the statute also requires: "Such ordinance or by-law shall determine ... the number of percentage of abutters who must petition for such repairs." Section 183-3 does not appear to address petition by abutters as is required by statute for bylaws of this type. Is any revision desired?

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:22:50 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-001

Code Content:

§ 195-4A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / General guidelines.

The guidelines in this Bylaw shall be consistent with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways of Massachusetts, which have been correlated with and conforms, as closely as Massachusetts laws and conditions will allow, to the standards adopted by the Federal Highway Administrator as a national standard for application on all classes of highways Modifications that were deemed necessary to cover local requirements have been made and are presented as amendments and addenda in the manual as the official standards of Mass Highway (M.G.L c. 85, § 2 MUTCD 2003)

In § 195-4A, should "Mass Highway" be revised to "MassDOT, Highway Division"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:23:59 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 195-002

Code Content:

§ 195-4A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / General guidelines.

The guidelines in this Bylaw shall be consistent with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways of Massachusetts, which have been correlated with and conforms, as closely as Massachusetts laws and conditions will allow, to the standards adopted by the Federal Highway Administrator as a national standard for application on all classes of highways Modifications that were deemed necessary to cover local requirements have been made and are presented as amendments and addenda in the manual as the official standards of Mass Highway (M.G.L c. 85, § 2 MUTCD 2003)

§ 195-5A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Traffic signs and signals.

The Highway Surveyor is hereby authorized, and as to those signs and signals required, it shall be his/her duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Highway Department of the Commonwealth of Massachusetts (M.G.L. c. 85, § 2; MUTCD 2003 Article III Section 3-4)

Chapter 195, Vehicles and Traffic, includes a number of references to the MUTCD 2003 (for example, see § 195-4A) and to specific sections of the MUTCD 2003 (for example, see § 195-5A). The current Manual of Uniform Traffic Control Devices is the 2009 edition, with revisions incorporated in May 2012. This edition includes parts, but not articles. The Highway Surveyor should be consulted to determine the update references if the Town wishes to keep them. Alternatively, the Town could update all references to the 2003 MUTCD to read simply "MUTCD, current edition."

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Revise all references to the 2003 MUTCD to "MUTCD, current edition."

Question History:

2023-01-19 16:24:41 - Ernie Fancy - Selectman selected option: "Revise all references to the 2003 MUTCD to "MUTCD, current edition.""

Question 195-003

Code Content:

§ 195-5A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Traffic signs and signals.

The Highway Surveyor is hereby authorized, and as to those signs and signals required, it shall be his/her duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Highway Department of the Commonwealth of Massachusetts (M.G.L. c. 85, § 2; MUTCD 2003 Article III Section 3-4)

In § 195-5A, we will update "Highway Department of the Commonwealth of Massachusetts" to "Department of Transportation of the Commonwealth of Massachusetts."

Options:

Acknowledged

Question History:

2023-01-19 16:25:25 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 195-004

Code Content:

§ 195-6B

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Vehicles parked in violation; removal authority.

The Chief of Police, or other officers within the Police Department as he/she may from time to time designate, shall be authorized temporarily, without notice, any portion of any way, or any portion of any property under the control of the Town, and/or prohibit temporarily, without notice, the parking of any vehicle or trailer on any portion of any way, or on any portion of any property under the control of the Town, in preparation of an impending emergency, during an existing emergency, for lawful assemblage, demonstration or procession, or in the event of extraordinary circumstances, such as but not limited to, severe weather events, provided there is reasonable justification for such restriction. (MUTCD 2003 ARTICLE II Section 2-2: 2-3.

In § 195-6B, the wording "authorized temporarily, without notice, any portion of any way" does not make sense as it does not indicate what the officer is authorized to do. Based on our review of similar legislation, it appears that this section should be revised as indicated:

The Chief of Police or other officers within the Police Department as he/she may from time to time designate shall be authorized temporarily, without notice, to close any portion of any way or any portion of any property under the control of the Town, and/or prohibit temporarily, without notice, the parking of any vehicle or trailer on any portion of any way or on any portion of any property under the control of the Town in preparation ~~of~~ for an impending emergency, during an existing emergency, for lawful assemblage, demonstration or procession, or in the event of extraordinary circumstances, such as but not limited to severe weather events, provided there is reasonable justification for such restriction.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:27:44 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 195-005

Code Content:

§ 195-6E

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Vehicles parked in violation; removal authority.

Vehicles owned by the commonwealth (sic) or a political subdivision thereof or by the United States or any instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, shall not, however, be subject to such removal. (M.G.L. c 40, s 22D)

Section 195-6E is copied from MGL c. 40, § 22D, but includes the word "sic" in parentheses following "commonwealth." It is General Code's standard practice to include words like "state" and "commonwealth" as title case only when followed by the name of that political subdivision; e.g., "Commonwealth of Massachusetts," but "the commonwealth." For consistency with this style, we will delete "(sic)."

Options:

Acknowledged

Question History:

2023-01-19 16:28:36 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 195-006

Code Content:

§ 195-7H

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Restrictions.

With the exception of vehicles, trailers and vessels utilized by public safety personnel in the course of their duties, no vehicle trailer or vessel shall be parked in any area which violates the restriction of any sign, signal, or marking that has been officially posted at the Fisherman's Landing boat ramp, or in violation of the provisions outlined within the Codes of Massachusetts Regulations 320 CMR 2 00, as amended. The Police Department shall have the authority to enforce these regulations pursuant to the land management agreement entered on the (4th day of February 1994) between the Commonwealth of Massachusetts and the Town of Holland (M.G.L. 320 CMR 2 00)

Section 195-7H includes a parenthetical reference to MGL and to 320 CMR 2.00. No specific statute is provided for the General Laws reference. Is any revision desired?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Delete "MGL."

Question History:

2023-01-19 16:30:03 - Ernie Fancy - Selectman selected option: "Delete "MGL."".

Question 195-007

Code Content:

§ 195-9A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Compliance with traffic direction.

It shall be the duty of officers designated by the Chief of Police to enforce the provisions of these rules. Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provision of these rules provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians. Officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these rules (MUTCD 2003 article II Section 2-1).

The second sentence of § 195-9A reads: "Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provision of these rules provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians." The wording "provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians" does not make sense as it lacks a subject. Based on our review of similar legislation, the following revision is recommended (see [§ 172-2 of the Code of the Town of Southwick](#) for similar wording):

Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provision of these rules. ~~provided that~~ In the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may require, notwithstanding the provisions of these rules.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:34:33 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 195-008

Code Content:

§ 195-12 Violations and penalties.

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices

Section 195-12 includes penalties for violations of §§ 195-6, 195-7, and 195-8. There is no penalty provided for violations of § 195-5, Traffic signs and signals. Is any revision desired?

Options:

Add a penalty for violations of § 195-5 as Subsection C, to read as follows:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:35:19 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-009

Code Content:

§ 195-12A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Violations and penalties.

Provisions for the non-criminal disposition of violations of the regulations outlined in Article II of this Bylaw (G.L. c. 40, § 21D; MUTCD 2003 Article III Section 3-2; 3-5)

Section 195-12A provides a table noncriminal disposition penalties for violation of certain sections of Chapter 195, Article II, Parking Regulations and Regulations of Traffic Signs, Signals and Devices. The fine amounts imposed are \$20 for violations of §§ 195-6, 195-7, 195-7D, and 195-8. It is not clear why both § 195-7D specifically and § 195-7 (to include all subsections) are both included in this table when the same penalty amount is used. Are these penalty amounts satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:37:38 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-010

Code Content:

§ 195-12B

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Violations and penalties.

Provisions for the disposition of violations of the parking regulations outlined in this document.

Section 195-12B is comprised of a table of penalties for violation of different subsections of § 195-7. These penalties should be reviewed carefully to ensure that they still meet the needs of the Town. For example, MGL c. 89, § 7A, provides that a fine of up to \$100 may be imposed for parking in fire lanes; the Town's penalty regarding fire lanes, § 195-7E, is set at \$25. Is any revision desired?

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:37:59 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-011

Code Content:

§ 195-13A

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Disposition and adjudication of fines.

The Schedule of fines for the violation of parking regulations shall be uniform for the same offense committed in the same zone or district, if any, and shall not exceed \$25 if paid within 21 days, \$35 if paid thereafter but before the parking Clerk reports to the registrar as provided, and \$50 if paid thereafter, however, the penalty for the violation of parking a motor vehicle within a posted bus stop shall be \$100 (M.G.L. c 90, s. 20A)

Section 195-13A provides that parking violations shall be not more than \$25 if paid within 21 days of the notice of violation, \$35 if paid thereafter but before the parking clerk notifies the registrar, and \$50 if paid after notification. Are these penalties still satisfactory? We also note that this section provides that the penalty for parking in a bus stop is \$100, which matches the penalty in § 195-12B for bus stop zone restrictions.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:39:36 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-012

Code Content:

§ 195-13B

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Disposition and adjudication of fines.

The penalty for violation of a handicapped zone restriction shall contain a penalty of not less than \$100, or more than \$300. (M G L 320 CMR 2 00)

Section 195-13B provides that the penalty for violation of a handicapped zone restriction shall be not less than \$100 nor more than \$300. In the table in § 195-7, the penalty for violations of § 195-7F, handicapped zone restrictions, is set at \$300. Section 195-13 was amended in 2013, while § 195-12 was amended in 2017. What is the correct penalty for violations of this type?

Options:

Do not revise.

Defer decision until after Code publication

Revise as follows:

The penalty for violation of a handicapped zone restriction shall contain a penalty \$300. (M G L 320 CMR 2 00)

Question History:

2023-03-23 08:57:05 - Ernie Fancy - Selectman locked question.

2023-03-23 08:56:45 - Ernie Fancy - Selectman changed the text of option: "Revise as follows:".

2023-03-23 08:47:34 - Ernie Fancy - Selectman changed the text of option: "Revise as follows:".

2023-03-23 08:46:33 - Ernie Fancy - Selectman selected option: "Revise as follows:".

Question 195-013

Code Content:

§ 195-13C

Code / Part II: General Legislation / Vehicles and Traffic / Parking Regulations and Regulations of Traffic Signs, Signals and Devices / Disposition and adjudication of fines.

The penalty for the violation of the restrictions of Fisherman's Landing boat ramp shall be \$100 00 (M G L. 320 CMR 2.00).

Section 195-13C imposes a penalty of \$100 for violations of the restrictions of the Fisherman's Landing boat ramp. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:42:13 - Ernie Fancy - Selectman selected option: "Do not revise."

2023-01-19 16:41:29 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 195-014

Code Content:

Ch 195 Art III Operation on Ice

Code / Part II: General Legislation / Vehicles and Traffic

Chapter 195, Article III, Operation on Ice, prohibits vehicles from operating on Town waters where ice has formed. This article does not include a penalty. If the penalty provisions in [§ 1-4](#) are to be used, the Town could add a section to read: "Violations of this article shall be punishable as provided in Chapter 1, § 1-4."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:43:11 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 199-001

Code Content:

§ 199-1 Restrictions.

Code / Part II: General Legislation / Vehicles, Junk or Abandoned

No person shall accumulate, keep, store, park, place, deposit or permit to remain on premises owned by him or under his control, any dismantled, unserviceable, Junked or abandoned motor vehicle unless he has a license to do so under the General Laws or the vehicle or vehicles are appropriately screened from view from neighboring, lands, ways, or public highways Whoever violates or continues to violate this By Law after having been notified by registered mail of such violation shall be punished by a fine not in excess of \$20. Each week during which such violation is permitted to continue shall be deemed to be a separate offense.

Section 199-1 also provides that a fine of not more than \$20 shall be imposed for violations of Chapter 199. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:43:49 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 206-001

Code Content:

Ch 206 Waterfront Lots

Code / Part II: General Legislation

Chapter 206, Waterfront Lots, was adopted by the Town in 1995 as Chapter 11, Hamilton Reservoir Dock Regulations. This bylaw is different from the version that appears on the Town's website as Chapter 11, which was amended by Article 13 of the February 15, 2007, Special Town Meeting and approved by the Attorney General on June 6, 2007. We noted this discrepancy and requested clarification from the Town on September 28, 2021, and again on October 4, 2021, but did not receive a response to either query. It appears that the chapter as it has been included in the Manuscript is an older version that should be replaced with the 2007 amendments. Please indicate whether our assessment is correct.

Options:

Revise as follows:

See attached revisions.

Revise this chapter to include the amendments from the 2-15-2007 STM, Art. 13.

Question History:

2023-01-19 16:44:35 - Ernie Fancy - Selectman selected option: "Revise this chapter to include the amendments from the 2-15-2007 STM, Art. 13.".

Question 206-002

Code Content:

Ch 206 Waterfront Lots

Code / Part II: General Legislation

[HISTORY: Adopted by the Town Meeting of the Town of Holland 1-3-1995. Amendments noted where applicable.] As used in this chapter: DOCK A walkway extending from the high water line into the waterfront area suitable as a mooring place for boaters and

Section 206-2 provides that a noncriminal disposition penalty of \$50 for violations of § 206-2 may be imposed. Is this penalty still satisfactory?

Options:

Revise as follows:

Not applicable; 2007 revisions should be implemented.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:46:05 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 206-003

Code Content:

§ 206-5A

Code / Part II: General Legislation / Waterfront Lots / Enforcement.

The Police Department is authorized to notify the owner or occupant of any waterfront lot, or the owner of any watercraft or other moored object of any observed violation of the provisions of this chapter. If such violation is not removed within 14 days from the date of such notification, each day thereafter during which such violation continues shall constitute a separate violation. The Police Department may issue a noncriminal complaint pursuant to the provisions of Section 21D of Chapter 40 of the General Laws for each such violation with a noncriminal assessment of \$50 for each such violation.

Section 206-5A, last sentence, includes redundant wording: "... Section 21D of Chapter 40 of the General Laws **for each such violation** with a noncriminal assessment of \$50 **for each such violation**." The following revision could be made to eliminate this duplicate wording:

The Police Department may issue a noncriminal complaint pursuant to the provisions of Section 21D of Chapter 40 of the General Laws ~~for each such violation~~ with a noncriminal assessment of \$50 for each such violation.

Options:

See attached revisions.

Not applicable; 2007 revisions should be implemented.

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:47:10 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 206-004

Code Content:

§ 206-5A

Code / Part II: General Legislation / Waterfront Lots / Enforcement.

The Police Department is authorized to notify the owner or occupant of any waterfront lot, or the owner of any watercraft or other moored object of any observed violation of the provisions of this chapter. If such violation is not removed within 14 days from the date of such notification, each day thereafter during which such violation continues shall constitute a separate violation. The Police Department may issue a noncriminal complaint pursuant to the provisions of Section 21D of Chapter 40 of the General Laws for each such violation with a noncriminal assessment of \$50 for each such violation.

Section 206-5A also imposes a noncriminal disposition penalty, to be issued by the Police Department, of \$50 for violations of Chapter 206, Waterfront Lots. We note that a penalty already exists for violations of § 206-2: "The Police Department may issue a noncriminal complaint pursuant to Section 21D of Chapter 40 of the General Laws and shall impose a noncriminal assessment of \$50 for each violation of this section." Because the two penalties are in the same amounts and issued by the same authority, the penalty in § 206-2 could be deleted as covered by § 206-5A.

Options:

Revise as follows:

Not applicable; 2007 revisions should be implemented.

Do not revise.

Defer decision until after Code publication

Delete "The Police Department may issue a noncriminal complaint pursuant to Section 21D of Chapter 40 of the General Laws and shall impose a noncriminal assessment of \$50 for each violation of this section" from § 206-2.

Question History:

2023-01-19 16:47:58 - Ernie Fancy - Selectman selected option: "Delete "The Police Department may issue a noncriminal complaint pursuant to Section 21D of Chapter 40 of the General Laws and shall impose a noncriminal assessment of \$50 for each violation of this section" from § 206-2.".

Question 206-005

Code Content:

§ 206-5B

Code / Part II: General Legislation / Waterfront Lots / Enforcement.

The Conservation Commission is authorized to notify the owner or occupant of any waterfront lot of any observed violation of § 206-4. If such violation is not removed within 14 days from the date of such notification, each day thereafter during which such violation continues shall constitute a separate violation of this bylaw. The Conservation Commission may issue a noncriminal complaint pursuant to the provisions of Section 21D of Chapter 40 of the General Laws and shall impose a noncriminal assessment of \$50 for each such violation.

Section 206-5B provides that the Conservation Commission may impose a noncriminal disposition penalty of \$50 for violations of § 206-4, Construction on waterfront area. Is this penalty still satisfactory?

Options:

Revise as follows:

Not applicable; 2007 revisions should be implemented.

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:49:06 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 211-001

Code Content:

§ 211-1 *Permit required for well digging.*

Code / Part II: General Legislation / Wells

Before any well is dug or drilled, a permit must be obtained upon application to the Board of Health of the Town at an appropriate fee, and a member of the Board of Health will inspect the progress of the digging or drilling to insure compliance with Article 11 of the state sanitary code. Compliance with this section shall be a prerequisite to the issuance of a certificate of occupancy.

Section 211-1 includes a reference to "Article 11 of the state sanitary code." The current State Sanitary Code is found at 105 CMR 400.000. How should the reference to Article 11 be updated?

Options:

Change "Article 11 of the state sanitary code" to "105 CMR 400.000, the State Sanitary Code."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-29 08:33:41 - Ernie Fancy - Selectman selected option: "Change "Article 11 of the state sanitary code" to "105 CMR 400.000, the State Sanitary Code.""

Question 211-002

Code Content:

§ 211-1 Permit required for well digging.

Code / Part II: General Legislation / Wells

Before any well is dug or drilled, a permit must be obtained upon application to the Board of Health of the Town at an appropriate fee, and a member of the Board of Health will inspect the progress of the digging or drilling to insure compliance with Article 11 of the state sanitary code Compliance with this section shall be a prerequisite to the issuance of a certificate of occupancy.

Section 211-1 provides that a permit must be obtained from the Board of Health before a well is dug or drilled. Does the Town wish to add a penalty for violation of this provision?

Options:

Add a sentence to the end of § 211-1 to read: "Violations of this section shall be punishable as provided in Chapter 1, § 1-4."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:50:59 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 215-001

Code Content:

§ 215-7C

Code / Part II: General Legislation / Wetlands Protection / Violations and enforcement.

Any person who, after being issued an enforcement order, continues to violate this chapter regulations thereunder or permit issued thereunder, shall be subject to a fine of \$100. Each day such violation continues after notice to the party concerned shall constitute a separate violation subject to a fine of \$100 per day.

Section 215-7C provides that a penalty of \$100 and a further \$100 per day of continued violation shall be imposed for violations of Chapter 215, Wetlands Protection, after an enforcement order has been issued. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 16:52:11 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 215-002

Code Content:

§ 215-7E

Code / Part II: General Legislation / Wetlands Protection / Violations and enforcement.

The penalty associated with applications filed after work has been started or completed, or as the result of a violation and/or enforcement action, shall be \$200 in addition to all the normally incurred fees.

Section 215-7E imposes a penalty of \$200 upon applications filed after work has been started or completed or as the result of a violation or enforcement action, "in addition to all the normally incurred fees." Based on the wording in this subsection, it appears that the Town may be using "penalty" to describe a late fee, and not a fine. Should "penalty" be revised to "late fee" for clarity?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:53:15 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-001

Code Content:

Ch 240 Zoning

Code / Part II: General Legislation

The Zoning Bylaw provided by the Town included numerous margin notes, some of which appear to be organizational, others which suggest substantive changes to the text. See, for example, Table I, Holland Schedule of Principal Uses, which includes comments determining that temporary use of a trailer or mobile home should be listed in the table and noting that the Floodplain District is not included among the zoning districts listed in the table. Would the Town like to incorporate the suggested changes into the Zoning Bylaw?

Options:

Revise as follows:

See attached revisions.

Call to discuss.

Defer decision until after Code publication

Do not revise.

Question History:

2023-04-04 09:21:09 - Ernie Fancy - Selectman selected option: "Do not revise.".

Question 240-002

Code Content:

240-2.0B{7} ADULT USE

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

For the purposes of this by-law, Adult Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, and Live Nudity Establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws. For the purposes of this definition an adult use is any use or combination of uses which either have greater than 25% of the subject establishment's inventory stock; or 25% of the subject premise's gross floor area, or 200 square feet, whichever is greater devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws.

In the definition of "adult use" in § 240-2, should "live nudity establishment" be changed to "adult live nudity establishment" to match the defined term in this section?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:55:01 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-003

Code Content:

240-2.0B{7} ADULT USE

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

For the purposes of this by-law, Adult Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, and Live Nudity Establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws. For the purposes of this definition an adult use is any use or combination of uses which either have greater than 25% of the subject establishment's inventory stock; or 25% of the subject premise's gross floor area, or 200 square feet, whichever is greater devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272 of the Massachusetts General Laws.

Section 240-2.0 includes a definition for "adult use." This term is used several times in the Zoning Bylaw, but it is not used in § 240-6.6, Adult entertainment business; other terms used are "adult entertainment," "adult entertainment business," and "adult entertainment establishment." The Town could take this opportunity to standardize this term to improve consistency and searchability. The term used most often in the bylaw is "adult entertainment establishment." Is any revision desired?

Options:

Revise "adult entertainment," "adult entertainment business," and "adult entertainment establishment" to read "adult use" throughout the Zoning Bylaw.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise the defined term and all references in the Zoning Bylaw to adult uses to "adult entertainment establishment."

Question History:

2023-02-23 19:40:37 - ALL MEMBERS - Member selected option: "Revise the defined term and all references in the Zoning Bylaw to adult uses to "adult entertainment establishment."".

Question 240-004

Code Content:

240-2.0B{9} AGRICULTURE

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats of any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

The definition of "agriculture" in § 240-2.0 includes the term "fur animals." Typically, we see this term written as "fur-bearing animals" in zoning bylaws.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Change "fur animals" to "fur-bearing animals."

Question History:

2023-01-19 16:56:53 - Ernie Fancy - Selectman selected option: "Change "fur animals" to "fur-bearing animals.""

Question 240-005

Code Content:

240-2.0B{23} FAMILY DAY CARE HOME

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under 16 years of age if such children have special needs; provided, however, that in either case the total number of children shall not exceed state standards, including participation children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives or the occasional care of children with or without compensation therefor.

In the definition of "family day care home" in § 240-2.0, should "participation children" be revised to "participating children"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-01-19 16:57:34 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-006

Code Content:

240-2.0B{42} *MOBILE HOME*

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

A residential living unit, built on a chassis, and containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or permanent foundation for permanent living.

Section 240-2.0 includes a definition for "mobile home." However, the term "mobile home" is not used anywhere else in this chapter. Should this definition be deleted?

Options:

Delete the definition of "mobile home."

Revise as follows:

Maintain definition of Mobile Home and add definition for Trailer = RV TRAILER

Do not revise.

Defer decision until after Code publication

Question History:

2023-04-11 19:25:55 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-04-11 19:25:05 - ALL MEMBERS - Member selected option: "Revise as follows:".

2023-04-11 19:20:21 - ALL MEMBERS - Member selected option: "Delete the definition of "mobile home."".

Question 240-007

Code Content:

240-2.0B{46} OPEN SPACE COMMUNITY

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

A residential subdivision in which individual lots smaller and having less frontage than required by Article V of this bylaw may be permitted on condition that the provisions of Chapter 40A, Section 9 of the Massachusetts General Laws relating to cluster housing and the Rules and Regulations pertaining to subdivisions promulgated by the Holland Planning Board are complied with.

The definition of "open space community" in § 240-2.0 includes the following: "...on condition that the provisions of Chapter 40A, Section 9 of the Massachusetts General Laws relating to cluster housing..." The provisions of MLG c. 40A, § 9, were amended in 2020 (Ch. 358, Acts 2020) to change "cluster development" to "open space residential development." Reference to cluster development in the Zoning Bylaw also occurs in § § 240-6.02B and E and 240-6.4G(2). Should these references be updated to "open space residential development" to match the wording in the statute?

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-02-23 20:11:04 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-008

Code Content:

240-2.0B{66} SPECIAL PERMIT GRANTING AUTHORITY

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

The Zoning Board of Appeals or the Planning Board as specified in Article VIII thereof.

In the definition of "special permit granting authority" in § 240-2.0, we will change "Article VIII thereof" to "Article VIII hereof," as this reference is to Article VIII of this bylaw.

Options:

Acknowledged

Question History:

2023-01-19 17:00:32 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 240-009

Code Content:

240-2.0B{78} YARD, SIDE

Code / Part II: General Legislation / Zoning / Definitions / Definitions. / Definitions.

The required unoccupied space or area within the lot between the side lot line and the side setback line.

Following the definition of "yard, side" in § 240-2.0, the Zoning Bylaw included the following text: "Insert Diagram 2.1 Here." There are a number of definitions in this section that refer to Diagram 2.1. This diagram was not included with the materials for codification. For now, we have added Editor's notes to the pertinent definitions to indicate that Diagram 2.1 is on file in the Town office. If this diagram should be included in the Zoning Bylaw immediately after the definitions, please provide a clear copy.

Options:

Defer decision until after Code publication

Do not include Diagram 2.1 at this time.

Clear image of Diagram 2.1 is attached.

Question History:

2023-02-23 20:18:29 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

2023-02-23 20:18:27 - ALL MEMBERS - Member selected option: "Clear image of Diagram 2.1 is attached.".

2023-02-23 20:18:26 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

2023-02-23 20:18:25 - ALL MEMBERS - Member selected option: "Do not include Diagram 2.1 at this time.".

2023-02-23 20:18:00 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-010

Code Content:

§ 240-4.0B

Code / Part II: General Legislation / Zoning / Use Regulations / Permitted uses.

The following abbreviations are used in Table 1:

Table 1, Holland Schedule of Principal Uses, in § 240-4.0B requires a special permit in the AR District for the following agricultural uses:

- Riding stables on less than five acres
- Raising of swine and fur-bearing animals on less than five acres and on five acres or more
- Farms on less than five acres
- Commercial greenhouses on less than five acres

Pursuant to MGL c. 40A, § 3, all agricultural uses must be allowed as of right on land zoned for agriculture and on land that is greater than five acres in size, and the Town cannot prohibit, unreasonably regulate, or require a special permit for agricultural activities on land less than five acres zoned for agriculture:

No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products ... except that all such activities may be limited to parcels of 5 acres or more.

See also the definition of "agriculture" in MGL c. 128, § 1A, which includes raising of livestock (including horses), the keeping of horses as a commercial enterprise and the keeping of poultry, swine, bees and fur-bearing animals.

Should the "SP" in the AR column for agricultural uses be changed to "Y"?

Options:

Revise as follows:

Change all to "Y" , change "Raising of swine and fur-bearing animals on less than five acres and on five acres or more," to, "Raising of swine and fur-bearing animals on less than five acres."

Revise as suggested.

Do not revise.

Defer decision until after Code publication

Question History:

2023-02-20 17:11:37 - ALL MEMBERS - Member locked question.

2023-02-20 16:10:07 - ALL MEMBERS - Member unassigned question from null.

2023-02-20 16:08:26 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 16:05:19 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-011

Code Content:

§ 240-4.0B

Code / Part II: General Legislation / Zoning / Use Regulations / Permitted uses.

The following abbreviations are used in Table 1:

Table 1, Holland Schedule of Principal Uses, in § 240-4.0B does not include a schedule for the Town's overlay districts, the Floodplain District and the Wireless Communications Facilities Overlay District. Should these districts be added to the table?

Options:

Revise as follows:

Add, "Floodplain District and the Wireless Communications Facilities Overlay District."

Do not revise.

Defer decision until after Code publication

See attached revisions.

Question History:

2023-04-12 07:26:16 - Ernie Fancy - Selectman changed the text of option: "Revise as follows:".

2023-04-12 07:26:16 - Ernie Fancy - Selectman selected option: "Revise as follows:".

2023-04-12 07:25:33 - Ernie Fancy - Selectman unlocked question

2023-02-20 17:11:29 - ALL MEMBERS - Member locked question.

2023-02-20 16:11:56 - ALL MEMBERS - Member selected option: "See attached revisions.".

2023-02-20 16:11:47 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 16:11:00 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-012

Code Content:

§ 240-4.0B

Code / Part II: General Legislation / Zoning / Use Regulations / Permitted uses.

The following abbreviations are used in Table 1:

In § 240-4.0B, Table 1, Holland Schedule of Principal Uses, entry 43 under the "Land Classification" column reads: "Fences located in the side yard of rear yard portion of (?)." Under the next column, "Standards and Conditions," this entry reads: "See § 240-7.2A for specific standards and requirements for any lot which do not exceed six feet in height (?)" It appears that the text from the Land Classification column has been carried to the Standards and Conditions column. We will make the following typographical corrections:

- Entry 43, Land Classification: "Fences located in the side yard of rear yard portion of any lot which do not exceed 6 feet in height"
- Entry 43, Standards and Conditions: "See § 240-7.2A for specific standards and requirements"

Options:

Acknowledged

Question History:

2023-02-20 17:11:24 - ALL MEMBERS - Member locked question.

2023-02-20 16:15:07 - ALL MEMBERS - Member selected option: "Acknowledged".

Question 240-013

Code Content:

§ 240-5.0 *Table of dimensional requirements.*

Code / Part II: General Legislation / Zoning / Dimensional Requirements

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. Except in Garden Apartments and Special Conservancy Districts, no more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 2 below.

Section 240-5.0 includes the Table of Dimensional Requirements, arranged by district name. There are two entries in this table for districts that do not appear on the district list in § 240-3.0, Types of districts: the Assisted Living District and the Open Space Community District. Are these actual districts in the Town, or are they simply kinds of development to which dimensional requirements apply? If they are developments, we recommend that the column head in Table 2 be changed from "District" to "District or Type of Development," for clarity.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-02-20 17:11:18 - ALL MEMBERS - Member locked question.

2023-02-20 16:16:45 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-014

Code Content:

§ 240-5.0 *Table of dimensional requirements.*

Code / Part II: General Legislation / Zoning / Dimensional Requirements

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. Except in Garden Apartments and Special Conservancy Districts, no more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 2 below.

In Table 2 of § 240-5.0, the "Area in Square Feet" column includes area measurements in acres as well as square feet. We recommend changing the heading of this column to read "Area" and adding "square feet" to follow those entries that are not in acres.

Options:

Revise as follows:

change to "Minimum Area Dimension" and adding "square feet" to follow those entries that are not in acres.

Revise as suggested.

Do not revise.

Defer decision until after Code publication

Question History:

2023-02-20 17:10:57 - ALL MEMBERS - Member locked question.

2023-02-20 16:41:56 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 16:40:06 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-015

Code Content:

§ 240-5.0 *Table of dimensional requirements.*

Code / Part II: General Legislation / Zoning / Dimensional Requirements

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. Except in Garden Apartments and Special Conservancy Districts, no more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 2 below.

The Table of Dimensional Requirements in § 240-5.0 is followed by a list of footnotes, including note (c), which reads: "To be measured from the right-of-way line where a plan of the way is on file with Registry of Deeds, or, in the absence of such plan, from a line 25 feet from and parallel with the center line of the traveled way." None of the dimensions in the table are footnoted by (c). To which entries does this footnote refer?

Options:

Revise as follows:

Delete note (c) and re-designate (d) as (c), (e) as (d), (f) as (e), and (g) as (f) in both the table and the list of footnotes. In addition to the forgoing change, the following change needs to be made: Change (b), from "Required frontage shall be measured on an accepted public way currently maintained as such, or on a private way which, as determined by a decision of the Planning Board, is in reasonably close conformity with the standards for roads contained in the Rules and Regulations of the Holland Planning Board." TO: "Required frontage shall be measured on an accepted public way currently maintained as such, or on a private way which, as determined by a decision of the Planning Board, is in reasonably close conformity with the requirements for roads according to G.L., chapter 41, section 81L." Note: There are no "Rules and Regulations of the Holland Planning Board," on "standards for roads" in the Zoning Bylaws of the Town.

Delete note (c) and redesignate (d) as (c), (e) as (d), (f) as (e), and (g) as (f) in both the table and the list of footnotes.

Do not revise.

Defer decision until after Code publication

Note: There are no "Rules and Regulations of the Holland Planning Board," on "standards for roads" in the Zoning Bylaws of the Town.

Question History:

2023-02-20 17:11:10 - ALL MEMBERS - Member locked question.

2023-02-20 17:10:28 - ALL MEMBERS - Member added question note.

2023-02-20 17:09:41 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 16:59:11 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 16:57:49 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-016

Code Content:

§ 240-5.0 *Table of dimensional requirements.*

Code / Part II: General Legislation / Zoning / Dimensional Requirements

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table 2 below. Except in Garden Apartments and Special Conservancy Districts, no more than one principal building shall be built upon any such lot. No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth in Table 2 below.

The Table of Dimensional Requirements in § 240-5.0 is followed by a single asterisk with the following note:

Maximum lot coverage shall be determined by dividing the total area enclosed by the outside perimeter of the foundation walls of all buildings and parking lots, by the total area. Recreational facilities such as tennis courts, pools, bicycle paths, running paths, volleyball courts, horseback riding trails, pedestrian foot paths and other recreational facilities and temporary enclosures therefore, shall not be included in the percentage lot coverage computation.

None of the entries and column heads in the table body are followed by an asterisk. Is any revision desired?

Options:

Add an asterisk to the column heading "Max % Coverage Lot – Including Accessory Buildings.

Delete the single asterisk and note that follow the table.

Do not revise.

Defer decision until after Code publication

Revise as follows:

Add an asterisk to the following lines: Business (residential uses) Rural-Business (residential uses)

Question History:

2023-02-20 17:25:50 - ALL MEMBERS - Member locked question.

2023-02-20 17:25:41 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-02-20 17:23:46 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-017

Code Content:

§ 240-6.01B

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Home occupations.

Applicability. Home occupations shall be permitted in Residential and Agricultural Residential districts by right only if the additional standards and conditions specified in Subsection D herein are met.

Section 240-6.01B provides that home occupations are permitted by right in the Residential and Agricultural Residential Districts, provided certain conditions apply. However, the entry in Table 1 in § 240-4.0B regarding home occupations that include employment of more than one nonresident, requires a special permit from the Planning Board in the Residential and Agricultural Residential Districts.

Which provision is correct?

Options:

Revise § 240-6.01B as indicated: "Home occupations shall be permitted in Residential and Agricultural Residential districts by right only if the additional standards and conditions specified in Subsection D herein are met and only if the home occupation employs not more than one nonresident."

Change "SP" to "Y" in the R and AR Districts for "Home occupations including employment of more than one nonresident" in Table 1.

Revise as follows:

Defer decision until after Code publication

Question History:

2023-02-20 17:27:51 - ALL MEMBERS - Member locked question.

2023-02-20 17:27:38 - ALL MEMBERS - Member selected option: "Revise § 240-6.01B as indicated: "Home occupations shall be permitted in Residential and Agricultural Residential districts by right only if the additional standards and conditions specified in Subsection D herein are met and only if the home occupation employs not more than one nonresident.""

Question 240-018

Code Content:

§ 240-6.02A

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Open space communities.

The Planning Board shall have authority to grant a special permit for the development of a major subdivision in a residential, special conservancy or agricultural residential district as an open space community, provided that no such permit shall be granted with respect to a plot containing less than no such permit shall be granted with respect to a plot containing less than 10 developable acres.

Section 240-6.02A includes duplicate wording: "no such permit shall be granted with respect to a plot containing less than no such permit shall be granted with respect to a plot containing less than." We will make the following revision:

The Planning Board shall have authority to grant a special permit for the development of a major subdivision in a residential, special conservancy or agricultural residential district as an open space community, provided that no such permit shall be granted with respect to a plot containing less than ~~no such permit shall be granted with respect to a plot containing less than~~ 10 developable acres.

Options:

Acknowledged

Question History:

2023-02-20 17:29:05 - ALL MEMBERS - Member locked question.

2023-02-20 17:28:57 - ALL MEMBERS - Member selected option: "Acknowledged".

Question 240-019

Code Content:

§ 240-6.1B(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District.

In any Garden Apartment District the major object will the erection of garden type apartment buildings, and no other building or structure shall be erected, altered or used therein for any purpose except for such apartment buildings or customary accessory uses, including private garages.

In § 240-6.1B(1), it appears that the wording "the major object will the" should read "the major objective will be the." We will make this correction.

Options:

Acknowledged

Question History:

2023-02-20 17:30:03 - ALL MEMBERS - Member locked question.

2023-02-20 17:29:52 - ALL MEMBERS - Member selected option: "Acknowledged".

Question 240-020

Code Content:

§ 240-6.1B(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District.

In any Garden Apartment District the major object will the erection of garden type apartment buildings, and no other building or structure shall be erected, altered or used therein for any purpose except for such apartment buildings or customary accessory uses, including private garages.

Section 240-6.1B(1) provides that the primary permitted use in the Garden Apartment District is garden-type apartment buildings and that all accessory uses shall pertain to the primary uses. We note that this use is not listed in the residential section of Table 1, Holland Schedule of Principal Uses, in § 240-4.0B. If the Town would like to add this use to Table 1, please indicate for each district whether such a use is permitted and the type of permit required, if any.

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Do not revise.

Question History:

2023-03-22 18:41:46 - ALL MEMBERS - Member selected option: "Do not revise."

Question 240-021

Code Content:

§ 240-6.1B(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District.

In any Garden Apartment District the major object will the erection of garden type apartment buildings, and no other building or structure shall be erected, altered or used therein for any purpose except for such apartment buildings or customary accessory uses, including private garages.

Section 240-6.1B(1) provides that in the Garden Apartment District, "no other building or structure shall be erected, altered or used therein for any purpose except for such apartment buildings or customary accessory uses." This provision appears to conflict with the uses allowed in the GA District pursuant to Table 1, Holland Schedule of Principal Uses. The table allows a number of uses as of right or by special permit that are not apartment buildings or customary accessory uses, such as commercial riding stables, raising of swine and fur-bearing animals, single-family and two-family dwellings, and religious and educational uses. In addition, Table 2, Dimensional Requirements, in § 240-5.0 includes an entry for single-family residential uses in the Garden Apartment District. Is any revision desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Revise § 240-6.1B(1) as indicated: "In ~~any~~ the Garden Apartment District, the major objective will be "project areas," defined as the erection of garden-type apartment buildings, and no other building or structure shall be erected, altered or used ~~therein~~ in these project areas for any purpose except for such apartment buildings or customary accessory uses, including private garages."

Question History:

2023-03-22 18:47:05 - ALL MEMBERS - Member selected option: "Revise § 240-6.1B(1) as indicated: "In any the Garden Apartment District, the major objective will be "project areas," defined as the erection of garden-type apartment buildings, and no other building or structure shall be erected, altered or used therein in these project areas for any purpose except for such apartment buildings or customary accessory uses, including private garages.""

Question 240-022

Code Content:

§ 240-6.1D(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District.

Residential buildings. Residential buildings in a project area shall not exceed two stories in height above grade. Basement apartments are not permitted.

§ 240-6.1D(2)(c)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District. / Garden Apartment District.

In no case shall the height of any accessory building exceed the height of residential building in any project area.

Section 240-6.1D(1) provides that residential buildings in the Garden Apartment District shall not exceed two stories in height, and Subsection D(2)(c) of this section provides that accessory buildings shall not exceed the height of residential buildings. Table 2, Dimensional Requirements, in § 240-5.0 provides that the maximum height of buildings in the Garden Apartment District is 2.5 stories or 35 feet. If the only types of buildings allowed in this district are garden apartment buildings and accessory uses thereto, as suggested by [§ 240-6.1B\(1\)](#), then there appears to be a conflict with the height requirements between this subsection and Table 2.

Options:

Change "two stories in height" to "two and a half stories in height" in § 240-6.1D(1).

Change the table entries to 2 stories and 30 feet.

Revise as follows:

The uses provided in Table 1, Holland Schedule of Principal Uses, are correct; do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 18:51:17 - ALL MEMBERS - Member selected option: "Change "two stories in height" to "two and a half stories in height" in § 240-6.1D(1)."

Question 240-023

Code Content:

§ 240-6.1E(1)(a)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Garden Apartment District. / Garden Apartment District. / Garden Apartment District.

No portion of any building shall be closer than 50 feet to any lot line or Town line, or 20 feet from any street or driveway shown on a plan approved by the Planning Board.

Section 240-6.1E(1)(a) provides that "no portion of any building shall be closer than 50 feet to any lot line or Town line" in the Garden Apartment District. The setback dimensions for buildings in this district in § 240-5.0, Table 2, are 25 feet for a front yard, 20 feet for a side yard, and 30 feet for a rear yard for single-family uses. Other requirements in § 240-6.1E may also conflict with the provisions in Table 2. If the dimensional requirements in § 240-6.1E are intended to apply to garden apartment buildings only, then the following revision could be made:

§ 240.6.1E. Setbacks and distance between buildings for garden apartment uses.

Options:

Revise as suggested.

Revise as follows:

Defer decision until after Code publication

Question History:

2023-03-22 18:59:29 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-024

Code Content:

§ 240-6.2A

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Special conservancy.

Purpose. To conserve the unique landscape, wetland and ecological features, and high quality groundwater associated with the land in this district by limiting multi unit development to low density institutional, educational and recreational uses.

Section 240-6.2A provides that in the Special Conservancy District, multiunit development is limited to low-density institutional, educational and recreational uses. We note that § 240-4.0B, Table 1, appears to permit all educational uses as of right in the Special Conservancy District. Is any revision desired?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 19:04:12 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-025

Code Content:

§ 240-6.3E(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Floodplain district. / Floodplain district.

All necessary permits shall be obtained from those Federal, State and local government agencies from which prior approval is required by Federal or State law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. 1334.

In § 240-6.3E(1), we will correct the reference to Section 404 of the Water Pollution Control Act from 33 U.S.C. § 1334 to 33 U.S.C. § 1344.

Options:

Acknowledged

Question History:

2023-03-22 19:08:26 - ALL MEMBERS - Member selected option: "Acknowledged".

2023-02-07 18:43:19 - ALL MEMBERS - Member assigned question to ALL MEMBERS - Member.

Question 240-026

Code Content:

§ 240-6.4G(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Assisted living. / Assisted living.

The Planning Board shall have authority to grant a special permit for the development of an assisted living development in an agricultural residential district as an assisted living community, provided that no such permit shall be granted with respect to a plot containing less than 10 developable acres.

Section 240-6.4G(1) provides that an assisted living community may be developed in the Agricultural Residential District by special permit from the Planning Board. In § 240-4.0B, Table 1, Holland Schedule of Principal Uses, provides that assisted living uses are permitted with special permit by the Planning Board in both the Agricultural Residential and Special Conservancy Districts. Is any revision desired?

Options:

In Table 1 of § 240-4.0B, change "SP" to "N" under the SC District column for entry 23, Assisted living.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise § 240-6.4G(1) as indicated: "The Planning Board shall have authority to grant a special permit for the development of an assisted living development in ~~an~~ the Agricultural Residential or Special Conservancy District as an assisted living community"

Question History:

2023-03-22 19:13:58 - ALL MEMBERS - Member selected option: "Revise § 240-6.4G(1) as indicated: "The Planning Board shall have authority to grant a special permit for the development of an assisted living development in an the Agricultural Residential or Special Conservancy District as an assisted living community"".

Question 240-027

Code Content:

240-6.5A{3} *MONOPOLE*

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Wireless communications facilities bylaw. / Wireless communications facilities bylaw.

The type of mount that is self-supporting with a single shall of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.

The definition of "monopole" in § 240-6.5 describes "a single shall of wood, steel, or concrete." Should "shall" be changed to "spire"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-22 19:15:33 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-028

Code Content:

§ 240-6.5B(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Wireless communications facilities bylaw. / Wireless communications facilities bylaw.

The purpose of the Wireless Communications Facilities Overlay district is to establish a district in which wireless communications facilities may be permitted with minimal impact upon the public health, safety and general welfare. This bylaw has been created to (a) protect the general public from hazards associated with wireless communications facilities (b) minimize visual impacts from wireless communication facilities (c) prevent an adverse impact on local property values or the rural and residential character or Holland and (d) promote shared use of existing facilities and structures to reduce the need for new facilities. This section does not apply to satellite dishes and antennas for residential use.

Section 240-6.5B(1) establishes the Wireless Communications Facilities Overlay District. We note that this district is not included in § 240-3.0, Types of districts, although other overlay districts such as the Floodplain District are included. If the Town would like to add this district to the list in § 240-3.0, please indicate the correct name and abbreviation.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add "Wireless Communications Facilities Overlay District" to § 240-3.0, abbreviated as follows:

WCF

Question History:

2023-03-22 19:21:20 - ALL MEMBERS - Member changed the text of option: "Add "Wireless Communications Facilities Overlay District" to § 240-3.0, abbreviated as follows:".

2023-03-22 19:21:14 - ALL MEMBERS - Member selected option: "Add "Wireless Communications Facilities Overlay District" to § 240-3.0, abbreviated as follows:".

Question 240-029

Code Content:

§ 240-6.5D(5)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Wireless communications facilities bylaw. / Wireless communications facilities bylaw.

The setback of a tower from the property line of the lot on which it is located shall be at least equal to the height of the pre-engineered fault measured at the finished grade of the tower base. No wireless communications facility shall be located within 300 feet of an existing residential building and 750 feet from any historic district.

§ 240-7.4E(1)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Parking standards; off-street parking regulations. / Parking standards; off-street parking regulations.

Screening from Residential and Agricultural/Residential Districts: Where a parking lot containing five or more spaces abuts a residential district, or is located across the road from a residential district, it shall be screened as follows: (i.) retention or planting of a sufficient area of natural vegetation to provide a dense screen; and/or (ii.) a dense hedge providing year round screening, and/or (iii.) where vegetative screening is not practical, a fence, with not more than 50% open space between the panels. Such screening shall be maintained in good condition at all times, and no advertising shall be placed upon the screening. In a Historic District, fences and hedges may be subject to other regulation.

Section 240-6.5D(5) requires wireless communications facilities to be located no less than 750 feet "from any historic district." There is only one other occurrence of "historic district" in the Zoning Bylaw, in § 240-7.4E(1), which provides that fences and hedges may be subject to other regulation in an historic district. Does the Town have an Historic District or historic districts to which these provisions apply?

Options:

Delete the last sentence of § 240-7.4E(1).

Revise as follows:

Defer decision until after Code publication

Do not revise.

Question History:

2023-03-22 19:24:51 - ALL MEMBERS - Member selected option: "Do not revise."

Question 240-030

Code Content:

§ 240-6.5E(8)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Wireless communications facilities bylaw. / Wireless communications facilities bylaw.

Within 30 days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the maximum height of the proposed installation on a weekend day between the hours of noon and 3:00 p.m. The balloon shall be of a size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for posting the date and location of the balloon as a legal advertisement at least 14 days but not more than 21 days before the flight in at least two different issues of a newspaper with a general circulation in the Town of Holland.

In § 240-6.5E(8), we would like to to change the time of day from "noon" to "12:00 noon," for consistency.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revision is acceptable.

Note: the question assigned to Bill R has been read and the suggestion is mutually accepted

Question History:

2023-02-23 17:44:34 - ALL MEMBERS - Member added question note.

2023-01-19 17:06:50 - Ernie Fancy - Selectman selected option: "Revision is acceptable."

Question 240-031

Code Content:

§ 240-6.6A

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business.

Intent. This Zoning Bylaw is enacted pursuant to Massachusetts General Law Chapter 40A Sec.9A Special permit for adult entertainment businesses. Its purpose is to prevent the secondary effects associated with these establishments, and to protect the health, safety and general welfare of the present and future inhabitants of the Town of Holland.

Section 240-6.6A states "This Zoning Bylaw is enacted pursuant to Massachusetts General Law Chapter 40A Sec.9A." We will change "Zoning Bylaw" to "section" because both § 240-6.6 and MGL c. 40A, § 9A, pertain specifically to special permits for adult entertainment uses.

This section also provides that this section is enacted pursuant to MGL c. 40A, § 9a, "Special permit for adult entertainment businesses." The title of that section of the statutes is "Special permits for adult bookstores, adult motion pictures theaters, adult paraphernalia stores, adult video stores or establishments which display live nudity."

Options:

Revise as indicated: "This ~~Zoning Bylaw~~ section is enacted pursuant to Massachusetts General Law Chapter 40A Sec.9A, regarding special permits for adult entertainment businesses."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise "Special permit for adult entertainment businesses" to "Special permits for adult bookstores, adult motion pictures theaters, adult paraphernalia stores, adult video stores or establishments which display live nudity."

Question History:

2023-02-23 17:51:34 - ALL MEMBERS - Member selected option: "Revise as indicated: "This Zoning Bylaw section is enacted pursuant to Massachusetts General Law Chapter 40A Sec.9A, regarding special permits for adult entertainment businesses.""

2023-02-23 17:51:30 - ALL MEMBERS - Member selected option: "Revise "Special permit for adult entertainment businesses" to "Special permits for adult bookstores, adult motion pictures theaters, adult paraphernalia stores, adult video stores or establishments which display live nudity.""

2023-02-23 17:50:17 - ALL MEMBERS - Member selected option: "Revise as indicated: "This Zoning Bylaw section is enacted pursuant to Massachusetts General Law Chapter 40A Sec.9A, regarding special permits for adult entertainment businesses.""

Question 240-032

Code Content:

§ 240-6.6D(2)(b)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business. / Adult entertainment business. / Adult entertainment business.

Names and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed in order that the Special Permit Granting Authority will know who are the persons who will actually own and control the establishment. The applicant and/or owner must disclose if they have been convicted of violating the provisions of Massachusetts General Laws chapter 119 sec 63 or chapter 272.

Section 240-6.6D(2)(b) provides that applicants for adult entertainment businesses must disclose if they have been convicted of violation MGL c. 119, § 63, or MGL c. 272. The provisions of MGL c. 40A, § 9a, state as follows (emphasis added):

*Such zoning ordinance or by-law shall prohibit the issuance of such special permits to any person convicted of violating the provisions of MGL c. 119, § 63, or **MGL c. 272, § 28.***

Should "chapter 272" be revised to "MGL c. 272, § 28" to match the statute?

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 15:04:11 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-033

Code Content:

§ 240-6.6D(4)(f)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business. / Adult entertainment business. / Adult entertainment business.

Requirement of off-street parking or other special features beyond the minimum required by this or other applicable ordinances.

In § 240-6.6D(4)(f), should "this or other applicable ordinances" be changed to "this or other applicable bylaws"?

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 15:06:59 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-034

Code Content:

§ 240-6.6E(1)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business. / Adult entertainment business.

Any special permit granted hereunder for an adult entertainment establishment shall lapse after one year, excluding such time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or if in the case of a permit for construction, if construction has not begun by such date except for good cause, excluding such time to pursue or await the determination of an appeal referred to in Massachusetts General Laws Chapter 40A, Section 17, from the grant thereof.

Section 240-6.6E(1) provides that a special permit for an adult entertainment establishment shall lapse after one year unless use or construction thereof has commenced by that date. Pursuant to MGL c. 40A, § 9a, this time frame is not more than two years:

*Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, **not more than two years**, and including such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.*

Is any revision desired?

Options:

Change "one year" to "two years."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 15:09:04 - ALL MEMBERS - Member selected option: "Change "one year" to "two years."".

Question 240-035

Code Content:

§ 240-6.6G

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business.

Prohibited use. Nothing in the Ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violated any Town Ordinance or Statute of the Commonwealth of Massachusetts regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter, or the exhibition or the public display thereof.

In § 240-6.6G, should the references to "ordinance" and "Town ordinance" be changed to "section" (in reference to § 240-6.6) and "Town bylaw," respectively?

Options:

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 15:10:53 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-036

Code Content:

§ 240-6.6H(3)

Code / Part II: General Legislation / Zoning / Regulations Applicable to Particular Districts / Adult entertainment business. / Adult entertainment business.

No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult cabaret, adult motion-picture theater, adult paraphernalia store or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment establishment.

Section 240-6.6H(3) refers to the definition of "adult cabaret." This term is neither defined nor used anywhere else in the Zoning Bylaw. The term "adult live nudity establishment" is defined. Should "adult cabaret" be changed to "adult live nudity establishment"?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-22 15:11:41 - ALL MEMBERS - Member selected option: "Revise as suggested".

Question 240-037

Code Content:

§ 240-7.1 Signs.

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts

§ 240-7.1B(6)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Signs. / Signs.

Political signs not exceeding 200 square feet in the aggregate.

The Town might want to consult Town Counsel regarding § 240-7.1, Signs, as to whether any revisions are needed to eliminate content-based regulations. For example, § 240-7.1B(6) imposes size limitations on signs dealing with political issues or candidates in the Town's business districts. Content-based restrictions on signs, where regulations are different depending on the message conveyed by the sign, have been challenged in court cases around the country, including the 2015 Supreme Court decision in *Reed v. Town of Gilbert* 135 S.Ct. 2887 (2015).

Options:

Defer decision until after Code publication

Revise as follows:

See attached revisions.

Do not revise.

Question History:

2023-03-22 15:13:57 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-038

Code Content:

§ 240-7.4D

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Parking standards; off-street parking regulations.

Landscape requirements for parking lots. In all Single Family Residential Districts, where a legal use or a combination of legal uses requires the provision of five or more parking spaces, the following requirements shall apply:

Section 240-7.4D refers to "Single Family Residential Districts." Should the name of this district be changed to "residential districts"? There is no other reference to a Single Family Residential District.

Options:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-22 15:14:40 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-039

Code Content:

§ 240-7.4E(2)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Parking standards; off-street parking regulations. / Parking standards; off-street parking regulations.
All landscaped areas shall be continuously maintained. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved Site Plan, except that the Building Inspector may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.

Section 240-7.4E(2) includes two uses of the term "occupancy certificate." The Zoning Bylaw also uses the terms "occupancy permit" and "certificate of occupancy"; "certificate of occupancy" is also used in Chapter 211, Wells. For consistency, term could be standardized throughout the bylaws. What is the preferred term used by the Town?

Options:

Revise all to "occupancy permit."

Revise all to "occupancy certificate."

Revise all to "certificate of occupancy."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 15:15:48 - ALL MEMBERS - Member selected option: "Revise all to "certificate of occupancy."."

Question 240-040

Code Content:

§ 240-7.4H

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Parking standards; off-street parking regulations.

Schedule of off-street parking requirements. The following standards represent the minimum parking requirements to be applied:

Section 240-7.H includes a schedule of off-street parking requirements in table form. We note that this table includes a number of terms that are not otherwise used or defined in the Zoning Bylaw; for example, bed-and-breakfasts and convenience stores. The Town might want to consult the Building Inspector and other relevant officials to determine whether these uses exist in the Town or should be added to the definitions in § 240-2.0.

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 19:31:56 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-041

Code Content:

§ 240-7.6F

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Supplemental water supply.

Prior to construction, the developer/builder will provide the Fire Department's water supply account with funds necessary to cover all costs of maintenance for five year after completion and acceptance. This amount will be determined by the Fire Chief. Should the full amount not be utilized, the remaining balance will be returned to the developer by the Town at the end of the five-year period (Prior Code 5161 3).

Section 240-7.6G includes a parenthetical reference to "Prior Code 5161 3." It is not clear whether this is a reference to a section of an older zoning bylaw or a previous statutory provision. As it does not appear to have any relevance to this subsection or the Zoning Bylaw, the Town might wish to remove it.

Options:

Delete "(Prior Code 5161 3)."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 16:07:55 - ALL MEMBERS - Member selected option: "Delete "(Prior Code 5161 3).".

Question 240-042

Code Content:

§ 240-7.6H(2)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Supplemental water supply. / Supplemental water supply.

A maximum six inch diameter drilled well with a minimum twenty five foot casing and drive shoe, equipped with a minimum 1/2 horsepower well pump to provide a 5 10 GPM constant —flow.

In § 240-7.6I(2), it is not clear whether "5 10 GPM constant – flow" is a reference to 510 gallons per minute or five to ten gallons per minute.

Options:

Revise to "510 gpm constant flow."

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise to "five gpm to 10 gpm constant flow."

Question History:

2023-03-22 16:08:45 - ALL MEMBERS - Member selected option: "Revise to "five gpm to 10 gpm constant flow.""

Question 240-043

Code Content:

§ 240-7.7B(2)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Site plan approval. / Site plan approval.

The Planning Board may waive the requirement for Site Plan Approval if the Board determines that the proposed construction or alteration will have minimal effect relative to the criteria set forth in Section.

Section 240-7.7B(2) provides that the site plan approval requirement may be waived if the Planning Board "determines that the proposed construction or alteration will have minimal effect relative to the criteria set forth in Section." It is not clear which section is meant; is wording missing, or is it the Town's intent to refer to "this section" (§ 240-7.7, Site plan approval)?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise "Section" to "this section."

Question History:

2023-03-22 19:42:35 - ALL MEMBERS - Member selected option: "Revise "Section" to "this section.""

Question 240-044

Code Content:

§ 240-7.7D(2)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Site plan approval. / Site plan approval.

All applications for Site Plan Approval shall be accompanied by cash or check payable to the Town of Holland in the amount of \$100 plus \$0.05/square foot of building. When the Site Plan Approval and the Special Permit hearing are held concurrently, the Site Plan Approval fee is waived and the fee will be addressed in Article VIII, § 240-8.2F.

Section 240-7.7D(2) sets a fee of \$100, plus \$.05 per square foot of building, for site plan approval applications. Is this fee up-to-date?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 19:43:28 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-045

Code Content:

§ 240-7.7D(6)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Site plan approval. / Site plan approval.

If the proposed development requires a Special Permit, then the requirements of M.G.L. Ch. 40A, Section 9 and Article VIII of the Town of Holland Zoning By-laws take precedence.

There are a number of references in Chapter 240, Zoning, to the Zoning By-laws. Because the Zoning Bylaw is a single piece of legislation, we would like to revise these references to "Zoning Bylaw."

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revision is acceptable.

Question History:

2023-03-22 19:44:37 - ALL MEMBERS - Member selected option: "Revision is acceptable."

Question 240-046

Code Content:

§ 240-7.8D

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Common driveways.

Scope. Common driveways may be allowed by Special Permit and Plan Approval by the Planning Board for residential and commercial uses. Where the proposed development constitutes a subdivision under the Subdivision Control Law, MGL, Chapter 41, s.81-k et seq, this Ordinance shall not apply. All lots associated with the use of a common driveway must provide off-street parking in accordance with Town of Holland criteria. A common driveway shall not become a public way. The Town of Holland shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pick-up or police patrols along a common driveway, unless by contract duly entered into by the Town and all landowners served by the common driveway.

§ 240-7.8E(3)(k)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Common driveways. / Common driveways. / Common driveways.

All lots to be served by a common driveway must meet the requirements of a lot as defined in the bylaws. All dimensional requirements, as defined in the Zoning Ordinance, for lots served by a common driveway, including but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.

§ 240-7.8E(3)(m)[4]

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Common driveways. / Common driveways. / Common driveways. / Common driveways.

A covenant shall be entered into between the owner or developer and the Town in a form acceptable to the Planning Board, which binds current and future owners of each lot served by the common driveway, prohibiting the sale of lots and erection of building except for lots approved and/or prior to the adoption of this ordinance, until such time as the common driveway has been constructed in accordance with the approved plan. A draft covenant shall be submitted for approval with the special permit application and shall include but not be limited to specific standards for maintenance and repair of the driveway and drainage system, provision for allocating financial responsibility, and a procedure for resolution of disagreements. If the special permit is granted, the covenant shall be recorded at the Registry of Deeds and shall be made part of every deed to every lot served by the common driveway.

In § 240-7.8, there are several references to "this ordinance" and "the Zoning Ordinance," which we will correct to "this bylaw" and "the Zoning Bylaw," as applicable.

Options:

Acknowledged

Question History:

2023-03-22 19:55:43 - ALL MEMBERS - Member selected option: "Acknowledged".

Question MLT-002

Code Content:

§ 240-7.8E(1)(c)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Common driveways. / Common driveways. / Common driveways.

The slope or grade of a common drive shall in no place exceed 8% if unpaved or 12% if paved.

§ 240-8.4B(1)(f)

Code / Part II: General Legislation / Zoning / Special Permits / Special permit review criteria. / Special permit review criteria. / Special permit review criteria.

The slope of a driveway shall not exceed 8%.

§ 325-14F

Code / Division 2: Regulations / Subdivision Regulations / Design Standards / Driveways.

A driveway which had a grade greater than 12 feet vertical to 100 feet horizontal must secure a Special Permit from the Planning Board

Section 240-7.8E(1)(c) provides that, with regard to common driveways, the slope shall not exceed 8% if unpaved or 12% if paved. Section 240-8.4B(1)(f) provides that driveway slopes shall not exceed 8%. In the Subdivision Regulations, § 325-14F provides that any driveway with a slope greater than 12% shall require a special permit. These provisions do not clarify whether common driveways have different standards from other driveways, and even if they do, the provisions of § 240-8.4B(1)(f) clearly conflict with § 325-14F. These three sections should be reviewed carefully by the Planning Board and any other relevant Town officials and revised to reflect the Town's current driveway construction standards.

Options:

■ **Revise as follows:**

■ revise and add the following to each sections: will not exceed 8% if unpaved or 12% if paved. Any amount greater will require a Special Permit from the Planning Board.

See attached revisions.

Question History:

2023-04-11 19:42:01 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-04-11 19:39:45 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-047

Code Content:

§ 240-7.9L

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Cutting, sawing, logging and marketing of lumber, pulp and firewood.

Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or of dampening the ground with water.

§ 240-7.11B(5)(d)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Development and performance standards. / Development and performance standards. / Development and performance standards.

Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

Sections 240-7.9L and 240-7.11B(5)(d) are identical. While § 240-7.9L pertains to timber harvesting operations and § 240-7.99B(5)(d) is a general development and performance standard, the same provision should not be included in two different sections of the bylaw; a conflict will be created if one section is amended but the other is not. The Town might want to revise § 240-7.9L to refer to the general standard as follows:

~~Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or of dampening the ground with water as provided in § 240-7.11.~~
Development and performance standards.

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-22 19:58:45 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-048

Code Content:

§ 240-7.11 *Development and performance standards.*

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts

Many of the provisions in § 240-7.11, Development and performance standards, are also included in [§ 240-8.4](#), Special permit review criteria. Some of the standards are identical, while others are in conflict with each other. For example, both §§ 240-7.11 and 240-8.4 include provisions for erosion control, but the provisions are different even though both apply to projects requiring special permits. More specific examples:

- Section [240-7.11B\(7\)\(b\)](#) exempts propane gas tanks in 250-pound cylinders or smaller from safety regulations regarding explosive materials. Explosive materials provisions in [§ 240-8.4B\(8\)\(b\)](#) exempt propane gas tanks in 200-pound cylinders or smaller.
- Section [240-7.11B\(8\)\(b\)](#) provides that no light post shall be taller than 16 feet, but [§ 240-8.4B\(4\)\(b\)](#) provides that no light fixture shall be taller than 15 feet.

The provisions of these two sections should be reviewed carefully by the relevant Town officials to determine whether one set of provisions supersedes the other, particularly with regard to traffic and parking, landscaping, stormwater runoff, erosion control, lighting, noise, air quality standards, and hazardous and explosive materials. Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Defer decision until after Code publication

Question History:

2023-03-22 20:01:47 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-049

Code Content:

§ 240-7.11B(9)(a)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Development and performance standards. / Development and performance standards. / Development and performance standards.

The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any use or activity shall not exceed the following limits at the property line of the sound source:

Section 240-7.11B(9)(a) includes a table that provides the maximum permissible sound pressure level in different areas of the Town at different times of day. This table includes entries for "General Business," "Industrial," and "Multi-Unit or Residential" districts. It is not clear whether these entries are intended to be district names or district types. This table should be reviewed carefully to determine which districts constitute "General Business," which are "Multi-Unit," and which, if any, are "Industrial." Are any revisions desired?

Options:

Revise as follows:

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-22 20:04:40 - ALL MEMBERS - Member selected option: "Defer decision until after Code publication".

Question 240-050

Code Content:

§ 240-7.11B(11)(c)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Development and performance standards. / Development and performance standards. / Development and performance standards.

Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and as measured at any property line of the lot shall not exceed the following intensity in relation to sound frequency. The Department of Environmental Protection's regulations on noise in 310 CMR 7.10 shall be enforced.

Section 240-7.11B(11)(c) provides that noise "shall not exceed the following intensity in relation to sound frequency." There are no noise intensity provisions following this subsection. We note that more specific provisions regarding noise already exist in [§ 240-7.11B\(9\)](#), including the enforcement of 310 CMR 7.10. The Town might want to move § 240-7.11B(11)(c) to a new subsection under § 240-B(9) with the following revisions:

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness, and as measured at any property line of the lot shall not exceed the ~~following~~ above intensity in relation to sound frequency. ~~The Department of Environmental Protection's regulations on noise in 310 CMR 7.10 shall be enforced.~~

Options:

Delete § 240-7.11B(11)(c) as covered by the more specific provisions of § 240-7.11B(9).

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-22 20:07:31 - ALL MEMBERS - Member selected option: "Revise as suggested."

Question 240-051

Code Content:

§ 240-7.11B(11)(e)

Code / Part II: General Legislation / Zoning / General Regulations Applicable to All Zoning Districts / Development and performance standards. / Development and performance standards. / Development and performance standards.

Storage. All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire Underwriters and shall be screened from view from public ways or abutting properties.

Section 240-7.11B(11)(e) refers to the fire prevention standards of the National Board of Fire Underwriters, which Board has been coopted by the American Insurance Association. Should this reference be changed to the National Fire Protection Association?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-24 09:40:17 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-052

Code Content:

§ 240-8.1D

Code / Part II: General Legislation / Zoning / Special Permits / Special permit requirement.

All special conservancy district projects except single family residential use.

Section 240-8.1D provides that a special permit is required for all projects in the Special Conservancy District except single-family residential uses. We note that Table 1, Holland Schedule of Principal Uses, in § 240-4.0B, provides that a number of uses are marked with a "Y" in the Special Conservancy District, indicating a use permitted by right, including:

- Commercial riding stable on parcels of 5 acres or more
- Farm, nursery on parcels of at least 5 acres
- Commercial greenhouse on parcels of at least 5 acres
- Religious and educational uses
- Hotels and motels

The entries for the Special Conservancy District in the Schedule should be reviewed carefully to determine whether the provisions of § 240-8.1D still apply.

Options:

Change all uses for the Special Conservancy District in § 240-4.0B, Table 1, to "SP."

■ **Revise as follows:**

■ Revise by deleting the entire SPECIAL CONSERVANCY DISTRICT

See attached revisions.

Question History:

2023-04-11 19:50:23 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-04-11 19:50:07 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 240-053

Code Content:

§ 240-8.3 *Procedures for site plan review.*

Code / Part II: General Legislation / Zoning / Special Permits

Section 240-8.3 provides site plan review procedures as follows:

- A. Copies of the site plan will be distributed by the Planning Board to the Building Inspector, the Conservation Commission, the Board of Health, the Economic Development Board and the Highway, Police and Fire Departments who shall review the application and submit recommendations to the Planning Board. Failure to make recommendations within 45 days of the referral shall be deemed to mean lack of opposition.
- B. The Planning Board shall hold a hearing pursuant to public notice as required by Section 9 of the Zoning Act, (M.L. Ch. 40A).
- C. After due consideration of the recommendations of other boards and departments the Planning Board shall take final action within 135 days from the filing of the application.

These provisions are identical to those of [§ 240-7.7D\(3\) through \(5\)](#). It is not clear why the Town has included this section in Article VIII, Special Permits. Section 240-8.3 should be deleted as covered in § 240-7.7.

Options:

Delete § 240-8.3 as suggested.

Revise as follows:

Defer decision until after Code publication

Question History:

2023-04-11 19:51:14 - ALL MEMBERS - Member selected option: "Delete § 240-8.3 as suggested."

Question 240-054

Code Content:

§ 240-8.4B(1)(c)

Code / Part II: General Legislation / Zoning / Special Permits / Special permit review criteria. / Special permit review criteria. / Special permit review criteria.

Curb cuts shall be limited to the minimum width for safe entering and exiting. Large traffic generators shall conform to the driveway standards defined in the Massachusetts Highway Department Manual for Driveways.

In § 240-8.4B(1)(c), should "Massachusetts Highway Department Manual for Driveways" be updated to "MassDOT Standard Specifications for Highways and Bridges," which includes construction standards for driveways?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-23 09:05:07 - Ernie Fancy - Selectman locked question.

2023-03-23 09:04:59 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-055

Code Content:

§ 240-8.4B(10)(e)

Code / Part II: General Legislation / Zoning / Special Permits / Special permit review criteria. / Special permit review criteria. / Special permit review criteria.

Permanent erosion control and vegetative measures shall be in accordance with erosion, sedimentation and vegetative practices recommended by the Soil Conservation Service, except that only plants native to New England shall be used for all areas except mown lawn.

In § 240-8.4B(10), we will update "Soil Conservation Service" to "Natural Resources Conservation Service."

Options:

Acknowledged

Question History:

2023-03-23 09:05:39 - Ernie Fancy - Selectman locked question.

2023-03-23 09:05:36 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 240-056

Code Content:

§ 240-9.0A

Code / Part II: General Legislation / Zoning / Administration and Enforcement / Enforcement; violations and penalties.

This bylaw shall be enforced by the Zoning Enforcement Officer. No building shall be built or altered and no use of land or a building shall be begun or changed without a permit having been issued by the Building Inspector. Any person violating this bylaw, the conditions of a permit granted under this bylaw, or any decision by the Zoning Board of Appeals or Planning Board under this bylaw, shall be liable to a fine of not more than \$300 for each violation.

Section 240-9.0A imposes a fine of not more than \$300 for violations of Chapter 240, Zoning. While this penalty is the maximum allowed by statute, we note that the provisions of § 240-7.5, Earth removal and extractive operations, may be subject to a different penalty pursuant to MGL c. 40, § 21(17), which reads as follows:

For prohibiting or regulating the removal of soil, loam, sand or gravel from land not in public use in the whole or in specified districts of the town, and for requiring the erection of a fence or barrier around such area and the finished grading of the same... The penalty for violation of any ordinance or by-law made hereunder shall be as follows:--for the first offence, fifty dollars; for the second offence, one hundred dollars; and for each subsequent offence, two hundred dollars. Any order or by-law prohibiting such removal hereunder shall not apply to any soil, loam, sand or gravel which is the subject of a permit or license issued under the authority of the town or by the appropriate licensing board of such town or by the board of appeal.

The Town's provisions for earth removal do not state that a permit or license is required, only that some of its requirements may be waived by the Planning Board, and may therefore be subject to the penalty above. Is any revision desired?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add § 240-9.0A to read: "Violations of this section shall be subject to a penalty of \$50 for the first offense, \$100 for the second offense, and \$200 for subsequent offenses." In addition, revise § 240-9.0 as indicated: "Except where otherwise provided, any person violating this bylaw, the conditions of a permit granted under this bylaw, or any decision by the Zoning Board of Appeals or Planning Board under this bylaw shall be liable to a fine of not more than \$300 for each violation."

Question History:

2023-03-23 09:06:47 - Ernie Fancy - Selectman locked question.

2023-03-23 09:06:42 - Ernie Fancy - Selectman selected option: "Add § 240-9.0A to read: "Violations of this section shall be subject to a penalty of \$50 for the first offense, \$100 for the second offense, and

\$200 for subsequent offenses." In addition, revise § 240-9.0 as indicated: "Except where otherwise provided, any person violating this bylaw, the conditions of a permit granted under this bylaw, or any decision by the Zoning Board of Appeals or Planning Board under this bylaw shall be liable to a fine of not more than \$300 for each violation.""

Question 240-057

Code Content:

§ 240-9.0B

Code / Part II: General Legislation / Zoning / Administration and Enforcement / Enforcement; violations and penalties.

Construction or operation under any building permit or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within six months after the issuance of the permit and, in cases of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. Said six-month period shall not include the time needed to pursue or await determination of an appeal of a Zoning Board of Appeals special permit decision.

Section 240-9.0B provides that construction or operation must comply with subsequent amendment of the Zoning Bylaw within six months after the issuance of a building or special permit. MGL c. 40A, § 6, was amended by St. 2016, c. 219, to change six months to 12 months in the following:

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.

Should "six months" and "six-month period" be changed to "12 months" and "twelve-month period" to comply with statute?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-23 09:07:07 - Ernie Fancy - Selectman locked question.

2023-03-23 09:06:59 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 240-058

Code Content:

§ 240-9.0C

Code / Part II: General Legislation / Zoning / Administration and Enforcement / Enforcement; violations and penalties.

In addition to the provisions for enforcement described above, the provisions of this bylaw, the conditions of a Zoning Board of Appeals or Planning Board or Zoning Enforcement Officer under this bylaw, may be enforced by non criminal complaint pursuant to the provisions of Chapter 40, Section 21 D of the General Laws, by the Zoning Enforcement Officer who shall impose a civil penalty of \$50 for each such violation.

Section 240-9.0C provides that the Town may enforce violations of the Zoning Bylaw through noncriminal disposition, with a penalty of \$50 for each violation. Is this penalty still satisfactory?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-23 09:07:41 - Ernie Fancy - Selectman locked question.

2023-03-23 09:07:37 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 325-001

Code Content:

Ch 325 Subdivision Regulations

Code / Division 2: Regulations

Chapter 325, Subdivision Regulations, does not include a penalty for violation of its provisions. Article II establishes the submission procedure for filing applications for subdivisions, and Article III addresses design standards. The Town could add Article IV, Enforcement, with a penalty section.

Options:

Add a penalty section to read: "Violation of any of the provisions of Articles II and III of these regulations shall be punishable by a fine not to exceed \$. ." (Insert fine amount)

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add a penalty section to read: "Violation of any of the provisions of Articles II and III of these regulations shall be punishable by a fine of \$. ." (Insert fine amount)

300

Question History:

2023-03-23 09:09:01 - Ernie Fancy - Selectman locked question.

2023-03-23 09:08:50 - Ernie Fancy - Selectman changed the text of option: "Add a penalty section to read: "Violation of any of the provisions of Articles II and III of these regulations shall be punishable by a fine of \$." (Insert fine amount)".

2023-03-23 09:08:31 - Ernie Fancy - Selectman selected option: "Add a penalty section to read: "Violation of any of the provisions of Articles II and III of these regulations shall be punishable by a fine of \$." (Insert fine amount)".

Question 325-002

Code Content:

§ 325-1 Purpose.

Code / Division 2: Regulations / Subdivision Regulations / General Provisions

"The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions, providing access to the public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a Planning Board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provisions for water, sewage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or Town in which it is located and with the ways in neighboring subdivisions. Such powers may also be exercised with due regard for the policy of the Commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the Planning Board shall receive the approval of such board if said plan conforms to the recommendations of the Board of Health and the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive as provided for in section 81R, such portions of the rules and regulations as is deemed advisable" (Section 81-M of Chapter 41, M G L).

Section 325-1 is comprised of quoted material from MGL c. 41, § 81M. This text does not exactly match the statute, which reads:

The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions. Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable.

Material in quotation marks should reflect the quoted material verbatim. Should this section be revised to the language from the statute?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Revise as suggested.

Question History:

2023-03-23 09:10:18 - Ernie Fancy - Selectman locked question.

2023-03-23 09:10:14 - Ernie Fancy - Selectman selected option: "Revise as suggested."

Question 325-003

Code Content:

§ 325-6B(1)(c)

Code / Division 2: Regulations / Subdivision Regulations / Submission Procedure / Subdivision requiring Planning Board approval. / Subdivision requiring Planning Board approval. / Subdivision requiring Planning Board approval.

The applicant or his/her representative may submit a Preliminary Plan to the Planning Board and to the Board of Health for discussion and approval, approval with modifications or disapproval by each board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. A properly executed application, Form B, shall be filed with the Preliminary Plan submitted to the Planning Board.

§ 325-6C(1)(b)[2]

Code / Division 2: Regulations / Subdivision Regulations / Submission Procedure / Subdivision requiring Planning Board approval. / Subdivision requiring Planning Board approval. / Subdivision requiring Planning Board approval. / Subdivision requiring Planning Board approval.

A properly executed application, Form C, and the applicable filing fee.

Section 325-6B(1)(c) refers to Form B, the preliminary plan application; § 325-6C(1)(b)[2] refers to Form C, the definitive plan application. Typically, we refer to these forms as being on file with the Town when they are not included as attachments to the regulations. Note that these references are in footnote form and are not considered substantive revisions. How should General Code reference the location of Form B and Form C?

Options:

Add footnote to indicate that these forms are on file with the Planning Board.

Revise as follows:

Do not revise.

Defer decision until after Code publication

Add footnotes to indicate that these forms are on file in the Town office.

Question History:

2023-03-23 09:11:46 - Ernie Fancy - Selectman locked question.

2023-03-23 09:11:43 - Ernie Fancy - Selectman selected option: "Add footnotes to indicate that these forms are on file in the Town office."

Question 325-004

Code Content:

§ 325-7E(1)

Code / Division 2: Regulations / Subdivision Regulations / Design Standards / Streets. / Streets.

Storm drains, culverts and related facilities shall be designed to permit the unimpeded flow of all natural watercourses, to ensure adequate drainage at all low points along streets, to control erosion and to intercept stormwater runoff at intervals reasonable related to the extent and grade of the area being drained and to the maximum extent dfeasible stormwater shall be re-charged to the ground rather than piped off the premises. Peak stream flows and runoff at the boundaries of the development on a twenty-five year frequency storm shall be no more than 5% higher following development than prior or the development.

Section 325-7E(1) provides that "peak stream flows and runoff at the boundaries of the development on a twenty-five year frequency storm shall be no more than 5% higher following development than prior or the development." In the Zoning Bylaw, [§ 240-7.11B\(4\)\(a\)](#) provides: "The rate of surface run off from a site shall not be increased after construction." The appropriate Town officials should be consulted to determine whether both of these provisions reflect the Town's current practice regarding pre- and post-construction stormwater runoff, as it appears that they may conflict with one another.

Options:

Revise as follows:

REVISE by changing 325-7E(1) to reflect "the rate of surface run off from a site shall not be increased after construction."

See attached revisions.

Do not revise.

Defer decision until after Code publication

Question History:

2023-04-11 19:56:50 - ALL MEMBERS - Member changed the text of option: "Revise as follows:".

2023-04-11 19:55:58 - ALL MEMBERS - Member selected option: "Revise as follows:".

Question 325-005

Code Content:

§ 325-13 *Roadway construction standards.*

Code / Division 2: Regulations / Subdivision Regulations / Design Standards

The following standards are meant to represent the general road construction standards in the Town of Holland. The Massachusetts Highway Department standard specifications for highways and bridges shall be used as a guide to resolve all disputes regarding construction practices and materials (See Attachment A).

In § 325-13, we will update "Massachusetts Highway Department" to "Massachusetts Department of Transportation," the current name of this Department.

Options:

Acknowledged

Question History:

2023-03-23 09:13:48 - Ernie Fancy - Selectman locked question.

2023-03-23 09:13:43 - Ernie Fancy - Selectman selected option: "Acknowledged".

Question 325-006

Code Content:

§ 325-15G

Code / Division 2: Regulations / Subdivision Regulations / Design Standards / Landscaping.

If the subdivider determines that the total number of trees shown on the landscape plan cannot be planted within the area or the subdivision due to site and/or development conditions, the subdivider may request a waiver from the tree planting regulations. The request shall be made to the Planning Board and the Planning Board shall approve or deny such request. For each tree waived by the Planning Board, the subdivider shall pay a fee of \$250.

Section 325-15G provides that subdividers may request a waiver from tree-planting requirements and shall pay a fee of \$250 for each tree waived by the Planning Board pursuant to such request. Is this fee up-to-date?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-03-23 09:14:12 - Ernie Fancy - Selectman locked question.

2023-03-23 09:14:08 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 375-001

Code Content:

§ 375-4 *Public hearing fee.*

Code / Division 2: Regulations / Zoning Board of Appeals Regulations

The petitioner shall deposit with the Town Clerk \$125 (non-refundable) to cover the costs incurred in advertising, mailings and conducting a public hearing.

Section 375-4 sets a fee of \$125 for the costs of advertising, mailing and conducting a public hearing by the Zoning Board of Appeals. Is this fee still current?

Options:

Revise as follows:

Do not revise.

Defer decision until after Code publication

Question History:

2023-01-19 17:14:11 - Ernie Fancy - Selectman selected option: "Defer decision until after Code publication".

Question 375-002

Code Content:

§ 375-5 *Dates and notice of hearings.*

Code / Division 2: Regulations / Zoning Board of Appeals Regulations

The Board's hearings will normally be conducted on the 2nd and 4th Tuesday of the month at the Town Hall. Notice of all hearings will be posted at the Town Hall and the Southbridge Evening News at least two weeks before the hearing date.

In § 375-5, it appears that the Southbridge Evening News is now the Southbridge News. Should this reference be updated?

Options:

Change "Southbridge Evening News" to "Southbridge News."

Do not revise.

Defer decision until after Code publication

■ *Revise as follows:*

■ Change to Stonebridge Press and meetings to Wednesday.

Question History:

2023-04-13 07:43:56 - Ernie Fancy - Selectman changed the text of option: "Revise as follows:".

2023-04-12 13:24:46 - Stacy Stout - Town Administrator changed the text of option: "Revise as follows:".

2023-04-03 10:38:19 - Ernie Fancy - Selectman changed the text of option: "Revise as follows:".

2023-04-03 10:37:00 - Ernie Fancy - Selectman selected option: "Revise as follows:".
