

Approved 8/24/2021



## TOWN OF WILMINGTON

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**Minutes**  
**Bylaw Review Committee**  
**Tuesday, August 10, 2021 - 4:30 p.m.**  
**Wilmington Town Hall**  
**121 Glen Road, Wilmington, MA – Auditorium**

### 1. Call Meeting to Order

The meeting was called to order at 4:34 p.m. Present were committee members Chair Robert Peterson, Jr., John Romano, Gary DePalma, Daniel Ardito, Christine Touma-Conway, and Michael McCoy arrived at 4:46 p.m., in time for the discussion and vote on Question 115-002, below.

### 2. Approve Minutes to July 27, 2021 meeting

Upon motion by Mr. DePalma, seconded by Mr. Ardito, with Mr. Peterson recusing himself because he was not present at the meeting and Mr. McCoy not yet present, the remaining members voted unanimously to approve the minutes as presented.

### 3. Review available responses to questions raised in prior meetings, revisit applicable unanswered questions

QUESTION #:	115-001
	Ms. Touma-Conway presented the recommendation of the Health Director regarding the wording of this provision.
READER:	Upon motion by Mr. DePalma, seconded by Mr. Romano, the below wording was adopted.
PROPOSED RESPONSE:	To change the beginning of the first sentence of provision to read: It shall be the duty of the Board of Health to adhere to the rules and regulations...
DECISION:	Unanimously agreed

As this decision was reached, Mr. Peterson stated that the decision to change the bylaw to state that it is in agreement with State Law on the matter of Air Pollution Control makes him think again of the Noise Bylaw that the Bylaw Review Committee proposed in the past, and that the committee should re-visit the issue and not tailor it to construction. Mr. Romano stated that currently there is a house being built across the street from him and the builders are adhering to reasonable hours of work, and Mr. Peterson stated that is because

the allowable hours are written into the building permit. Mr. Peterson stated that part of the problem the recommended bylaw was voted down in the past has to do with the belief that it was aimed at any resident trying to do work on their property on weekends, when perhaps that would be the only time they could do it, and people believed it was unfair to prevent that. The committee agreed that was not the intent of the original recommended bylaw, but that was not known by the voters at the time. He recommended that the committee re-visit the idea of a noise bylaw once this current review is completed, and the committee agreed this would be a good idea.

QUESTION #: 115-002  
Ms. Touma-Conway presented the recommendation of the Health Director regarding the wording of this provision.  
READER: Upon motion by Mr. Romano, seconded by Mr. DePalma, the below wording was adopted.  
PROPOSED RESPONSE: ...as established by the Commonwealth, Department of Public Health, Department of Environmental Protection, and/or federal...  
DECISION: Unanimously agreed

QUESTION #: 119-002  
Ms. Touma-Conway presented the recommendation of the Fire Chief to update the fine for the fourth and subsequent false alarm within a calendar year from \$25 to \$100.  
READER: Upon motion by Mr. DePalma, seconded by Mr. Ardito, the change was approved.  
PROPOSED RESPONSE: Increase fine amount to \$100  
DECISION: Unanimously agreed

QUESTION #: 119-003  
Ms. Touma-Conway presented the recommendation of the Fire Chief to change the fines for intentionally causing a false alarm to a noncriminal graduated fine schedule.  
READER: Upon motion by Mr. DePalma, seconded by Mr. Ardito, the following change was adopted:  
PROPOSED RESPONSE: Any person who performs or causes to be performed any of the following acts shall be subject to a fine of \$100 for the first offense; \$500 for the second offense: and \$1,000 for the third and each subsequent offense:  
A. Intentional causing of a false alarm.  
B. Failure to register an alarm device or give notice of changes in registration information as required by this by-law.  
C. Use of automatic dial alarm or an exterior audible alarm device in violation of the provisions of this by-law.  
DECISION: Unanimously agreed

**4. Continue Review of Editorial and Legal Analysis – all questions are referenced to the General Code Editorial and Legal Analysis (applicable questions attached), starting with Question 242-001**

QUESTION #: 242-001 to 242-003  
READER: Mr. Peterson  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Police Chief for input

QUESTION #: 259-001  
READER: Mr. DePalma  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Town Counsel for input

QUESTION #: 259-002  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 264-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Remove Chapter  
DECISION: Committee in agreement

QUESTION #: 270-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Change to “fined \$300 for each violation.”  
DECISION: Committee in agreement

QUESTION #: 270-002  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise to: “Names of the manufacturer, the source of the merchandise and the proposed method of delivery.”  
DECISION: Committee in agreement

QUESTION #: 270-003  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 270-004  
READER: Mr. DePalma  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to defer to Chief Desmond

QUESTION #: 270-005  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 270-006  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 276-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 276-002  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 276-003  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 280-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 280-002  
READER: Mr. Ardito  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 285-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as: "Director of Public Works"  
DECISION: Committee in agreement

QUESTION #: 285-002  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 285-003  
READER: Mr. DePalma  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Town Counsel

QUESTION #: 285-004  
READER: Mr. Romano  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 285-005  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 285-006  
READER: Mr. McCoy  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Building Inspector

QUESTION #: 297-001  
READER: Mr. Peterson  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 297-002  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 308-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Town Counsel

QUESTION #: 308-002 and 308-003  
READER: Mr. Ardito  
PROPOSED RESPONSE: Deferred pending response to 308-001; if overall bylaw is valid, do not revise  
DECISION: Committee in agreement

QUESTION #: 315-001  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 315-002  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 315-003  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-002  
READER: Mr. Ardito  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-003  
READER: Mr. McCoy  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-004  
READER: Mr. Peterson  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-005  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 322-006  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 322-007  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 322-008  
READER: Mr. McCoy  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 322-009  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 322-010  
READER: Mr. DePalma  
PROPOSED RESPONSE: Do not revise  
DECISION: Committee in agreement

QUESTION #: 326-001  
READER: Mr. Romano  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 326-002  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise all references to Water and Sewer Commissioners  
DECISION: Committee in agreement

QUESTION #: 326-003  
READER: Mr. McCoy  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to DPW

QUESTION #: 326-004  
READER: Mr. Peterson  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 326-005  
READER: Mr. DePalma  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 326-006  
READER: Mr. Romano  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to DPW to ensure fine amounts are still acceptable

QUESTION #: 330-001  
READER: Mr. Ardito  
PROPOSED RESPONSE: Revise as suggested  
DECISION: Committee in agreement

QUESTION #: 330-002  
READER: Mr. McCoy  
PROPOSED RESPONSE: Deferred  
DECISION: Ms. Touma-Conway directed to refer to Director of Planning and Conservation to ensure fine amounts are still acceptable

**5. Schedule next meeting**

Mr. Peterson suggested that any departmental responses received in response to the Committee's request that the departments review the bylaws that are within their purview and provide any recommended changes to the committee be sent out to the Committee members on Friday, August 20, 2021, and these would be reviewed at the next meeting.

The next meeting was scheduled for Tuesday, August 24, 2021 at 4:30 p.m. in Room 9.

**6. Adjourn**

Mr. DePalma made a motion to adjourn, seconded by Mr. Ardito.

The meeting adjourned at 6:13 p.m.

**Respectfully submitted,**

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



Question 115-001

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

**Code Content:**

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

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

**Pick one option from list below**

☐ This bylaw is obsolete; remove.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 115-002

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

**Code Content:**

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

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

**Pick one option from list below**

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

Question 119-001

Chapter 119 Alarm Systems  
§ 119-1 Definitions.

**Code Content:**

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

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

**Pick one option from list below**

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



Question 119-002

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

**Code Content:**

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

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

**Pick one option from list below**

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

Question 119-003

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

**Code Content:**

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

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

**Pick one option from list below**

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



Question 238-008

Chapter 238 Pawnbrokers

§ 238-4 Fees; revocation of license; violations; rules and regulations.

**Code Content:**

*[§ 238-4C] Penalty for violations. The penalty for violations of this by-law shall be enforced in accordance with the provisions of the By-Laws of the Inhabitants of the Town of Wilmington, Revised as well as Massachusetts General Laws, Chapter 40, Section 21D. The penalty for a first violation of this By-Law shall be \$100, and for any second or subsequent offense violation shall be \$200. For any second or subsequent violation, the penalty shall apply to each individual item of property or incident that was not properly documented or permitted.*

Section 238-4C sets the penalty for violation of Chapter 238, Pawnbrokers, at a fine of \$100 for a first violation and \$200 for a subsequent violation and authorizes use of the noncriminal disposition procedure. The Town might want to review MGL c. 140, § 175, which authorizes a fine of not more than \$50 for carrying on the business of a pawnbroker without a license: "Whoever, not being licensed, carries on such business or is concerned therein within such town, or, being licensed, carries on such business or is concerned therein in any other place or manner than that designated in his license or after notice to him that his license has been revoked shall be punished by a fine of not more than fifty dollars."

**Pick one option from list below**

☐ Change the fine to \$50 for all violations.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 242-001

Chapter 242 Peace and Good Order

Chapter 242 contains bylaws relating to public bathing, solicitation of rides, defacing public property and peeping or spying. Are these provisions still in use and enforced in the Town?

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 242-002

Chapter 242 Peace and Good Order

§ 242-2 Solicitation of rides.

***Code Content:***

*[§ 242-2] It shall be unlawful for any person to stand in a public roadway for the purpose of soliciting a ride from the operator of any private vehicle. Penalty: a fine of not more than \$5 for each offense.*

Section 242-2, Solicitation of rides, includes a penalty of not more than \$5 for each offense. The other three sections in this chapter do not include penalties. The Town might want to consider removing the penalty from § 242-2 and adding a separate penalty section to apply to any violation of the sections in Chapter 242. If the Town wants to use the noncriminal disposition procedure to enforce these sections, the fine must be set at a specific amount.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 242-003

Chapter 242 Peace and Good Order  
§ 242-4 Peeping or spying.

**Code Content:**

*[§ 242-4] No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another with the intention of peeping into the windows of a house or spying upon any manner any person or persons therein. Anyone found violating this by-law may be arrested without a warrant.*

In § 242-4 should the wording "spying upon any manner any person or persons therein" read "spying in any manner upon any person or persons therein"?

**Pick one option from list below**

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

Question 259-001

Chapter 259 Signs

Chapter 259 prohibits the placement of signs and posters on public property and utility poles and restrict the placement of temporary political signs. These provisions should be reviewed to ensure they are consistent with the Town Zoning Bylaw and current practice.

**Pick one option from list below**

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

Question 259-002

Chapter 259 Signs

Chapter 259, Signs, does not include a penalty, so the fine of \$300 prescribed by Chapter 1, § 1-5, would apply. Is this acceptable, or should a different penalty be included in this chapter?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 264-001

Chapter 264 Smoking

Chapter 264, adopted in 2000, prohibits smoking in restaurants and food establishments, subject to a fine of \$50. Is this bylaw still in use? State law in MGL c. 270, § 22, prohibits smoking not just in restaurants but in most other public places and provides for enforcement of the state law by the local board of health and for a civil penalty of \$100.

**Pick one option from list below**

☐ Smoking bylaw is no longer in use; remove Chapter 264.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 270-001

Chapter 270 Solicitors and Canvassers  
§ 270-1 License required.

**Code Content:**

*[§ 270-1] It shall be unlawful for any solicitor or canvasser, as defined in § 270-2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the Town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to \$300 for each violation.*

Section 270-1 sets the penalty for soliciting without a license at up to \$300. If the Town wants to use the noncriminal disposition procedure to enforce this bylaw the fine needs to be changed to a specific amount.

**Pick one option from list below**

- ☐ Change "fined up to \$300 for each violation" to "fined \$300 for each violation."
- ☐ Revise as follows:

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

Question 270-002

Chapter 270 Solicitors and Canvassers  
§ 270-3 Application for license.

**Code Content:**

*[§ 270-3A(6)] Names of manufacturer, of source of merchandise, proposed method of delivery;*

Section 270-3A(6) is awkward and unclear. We question whether this subsection should read: "Names of the manufacturer and the source of the merchandise and proposed method of delivery."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 270-003

Chapter 270 Solicitors and Canvassers  
§ 270-3 Application for license.

**Code Content:**

*[§ 270-3A(9)] A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.*

In § 270-3A(9) the wording "penalty assessed therefore" should read "penalty assessed therefor."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 270-004

Chapter 270 Solicitors and Canvassers  
§ 270-3 Application for license.

**Code Content:**

*[§ 270-3B] At the time of filing the application, a fee of \$25 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing nonprofit organizations.*

Section 270-3B sets a fee of \$25 to be paid with the application for a solicitor's license. Is any update needed?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 270-005

Chapter 270 Solicitors and Canvassers  
§ 270-4 Investigation and issuance.

**Code Content:**

*[§ 270-4C] If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a solicitation identification card.*

The following corrections are needed in § 270-4C: "If after investigation[,] the character and business responsibility of the applicant ~~has~~ have been found to be satisfactory the application shall be approved."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 270-006

Chapter 270 Solicitors and Canvassers  
§ 270-8 Trespassing after notice.

**Code Content:**

*[§ 270-8] Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of "No Trespassing." Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.*

Section 270-8 contains a grammatical error that should be corrected as follows: "Punishment for violations of this section ~~are~~ is controlled by MGL c. 266, § 120."

**Pick one option from list below**

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

Question 276-001

Chapter 276 Storm Drain System  
Article I Illicit Discharges  
§ 276-3 Definitions.

**Code Content:**

*[TOXIC OR HAZARDOUS MATERIAL OR WASTE] Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.00 and 310 CMR 40.00.*

The following corrections should be made in the definition of "toxic or hazardous material or waste in § 276-3: "Any material[,], which, because of its quantity, concentration, or chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, or welfare[,], or to the environment."

**Pick one option from list below**

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

Question 276-002

Chapter 276 Storm Drain System

Article I Illicit Discharges

§ 276-8 Prohibited activities.

**Code Content:**

*[§ 276-8E(5)] Private drainage systems. It is prohibited for anyone with a private drainage system from tying into the public stormwater disposal system without a permit from the Department of Public Works. The maintenance of any and all private drainage systems shall be the responsibility of the owners.*

The following correction should be made in § 276-8E(5): "It is prohibited for anyone with a private drainage system ~~from tying to tie~~ into the public stormwater disposal system without a permit from the Department of Public Works."

**Pick one option from list below**

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

Question 276-003

Chapter 276 Storm Drain System

Article I Illicit Discharges

§ 276-14 Enforcement.

**Code Content:**

*[§ 276-14C] Non-criminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, § 21D and in which case the Health Director and DPW Director of the Town shall be the enforcing person. The penalty for the first and all subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.*

Section 276-14C and D provide penalties for violations of Article I, Illicit Discharges, with the fine set at \$300 (the maximum authorized by MGL c. 40, § 21) for both criminal and noncriminal disposition. No changes are recommended.

**Pick one option from list below**

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

Question 280-001

Chapter 280 Stormwater Management

Article III Administration

§ 280-13 Appeals of actions.

**Code Content:**

*[§ 280-13] A decision of the Planning Board shall be final. Further relief of a decision by the Planning Board made under this bylaw shall be reviewable in the Superior Court in and action filed within 60 days thereof, in accordance with M.G.L. Ch 249 § 4.*

It appears the following corrections should be made in § 280-13: "Further relief ~~of~~ from a decision by the Planning Board made under this bylaw shall be reviewable in the Superior Court in ~~and~~ an action filed within 60 days thereof, in accordance with MGL c. 249, § 4."

**Pick one option from list below**

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

Question 280-002

Chapter 280 Stormwater Management

Article IV Enforcement

§ 280-15 Violations and penalties.

**Code Content:**

*[§ 280-15] Any person who violates any provision of this by-law shall be punished by a fine of \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.*

Section 280-15 sets the penalty for violations of Chapter 280, Stormwater Management, at a fine of \$300, consistent with the maximum authorized by MGL c. 40, § 21. Noncriminal disposition is provided for in § 280-17, also with a fine of \$300. No changes are recommended.

**Pick one option from list below**

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



Question 285-001

Chapter 285 Streets and Sidewalks

§ 285-2 Permit required to excavate, occupy or obstruct street.

**Code Content:**

*[§ 285-2A(6)] The permit shall require that the restored opening or excavation shall be repaved with a pavement of the same specifications as the original pavement by a contractor or paver approved by the granting authority, and that the work of repaving shall be done in a thoroughly workmanlike manner and shall be subject to the approval of the Superintendent of Streets;*

Section 285-2A(6) and (7) refer to the Superintendent of Streets. There are references elsewhere in the bylaws to the "Department of Public Works Superintendent" and "Director of the Department of Public Works." What is the correct title?

**Pick one option from list below**

- ☐ Change "Superintendent of Streets" and "Department of Public Works Superintendent" to "Director of the Department of Public Works."
- ☐ Revise as follows:

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

Question 285-002

Chapter 285 Streets and Sidewalks

§ 285-2 Permit required to excavate, occupy or obstruct street.

**Code Content:**

*[§ 285-2A(7)] The recipient of the permit shall pay to the Town Treasurer whatever sum the Superintendent of Streets shall expend for labor, materials, equipment, time and other contractual services to restore the street to good and safe condition and full and unobstructed use to the satisfaction of said Superintendent, if the recipient fails to complete said restoration to the satisfaction of said Superintendent within the time specified therefore in said permit.*

In § 285-2A(7) the wording "the time specified therefore" should read "the time specified therefor."

**Pick one option from list below**

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

Question 285-003

Chapter 285 Streets and Sidewalks  
§ 285-4 Snow and ice.

**Code Content:**

*[§ 285-4B] The owner or occupant of any place of business shall keep the sidewalk adjoining his premises clear of snow and protected when icy conditions prevail. Whoever fails to comply with this subsection within 24 hours following a snow or ice storm shall forfeit and pay for each offense a fine not exceeding \$50.*

Section 285-4B requires businesses to keep adjoining sidewalks clear of snow and ice, subject to a fine "not exceeding \$50." This fine is higher than the fine of \$10 authorized by MGL c. 85, § 5, which provides as follows:

*Cities by ordinance and towns by by-laws may provide for the removal of snow and ice from sidewalks within such portions of the city or town as they consider expedient by the owner or occupant of land abutting upon such sidewalks. Such ordinances and by-laws shall determine the time and manner of removal and shall affix penalties, not exceeding fifty dollars in the case of a city or ten dollars in the case of a town, for each violation thereof.*

**Pick one option from list below**

☐ Change "a fine not exceeding \$50" to "a fine of \$10."

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 285-004

Chapter 285 Streets and Sidewalks  
§ 285-4 Snow and ice.

**Code Content:**

*[§ 285-4B] The owner or occupant of any place of business shall keep the sidewalk adjoining his premises clear of snow and protected when icy conditions prevail. Whoever fails to comply with this subsection within 24 hours following a snow or ice storm shall forfeit and pay for each offense a fine not exceeding \$50.*

Section 285-4B is the only section in Chapter 285 that includes a penalty. Should a penalty be added for any of the other sections, or perhaps a single penalty for all other violations of this chapter except § 285-4B? Where no penalty is stated the fine of \$300 prescribed in Chapter 1, § 1-5, applies.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 285-005

Chapter 285 Streets and Sidewalks  
§ 285-5 Water discharge.

**Code Content:**

*[§ 285-5] No owner of a building abutting upon or adjacent to the line of any street shall cause, permit or suffer the water from such building to discharge of forcibly discharge upon or flow across the surface of the sidewalk or street adjacent to such building, or abutting properties.*

In § 285-5 the wording "to discharge of forcibly discharge" apparently should read "to discharge or forcibly discharge."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Defer decision until after Code publication.

Question 285-006

Chapter 285 Streets and Sidewalks  
§ 285-6 Traffic visibility across corners.

**Code Content:**

*[§ 285-6] In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained at a height greater than 2 1/2 feet so as to interfere with traffic visibility across the corner within that part of the required front, side or rear yard which is within a triangle bounded by the street lot lines.*

We question whether § 285-6 is still in use in light of the following provision which is included in Section 5.3.1 of the Zoning Bylaw:

In the case of corner lots no building or structure including fences and walls shall be erected and no vegetation may be maintained between a plane one foot above curb level and a plane seven feet above curb level in the triangular area bounded by the sideline of the intersecting street rights of way and a straight line connecting points on sidelines 25 feet from the point of intersection of side street rights of way.

**Pick one option from list below**

- ☐ Delete § 285-6; covered by Zoning Bylaw.
- ☐ Revise as follows:

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

Question 297-001

Chapter 297 Trees and Shrubs

Article I Injury to Trees and Shrubs

§ 297-1 Prohibited acts; violations and penalties.

**Code Content:**

*[§ 297-1] No person without proper authority to do so, shall climb any trees or injure any tree or shrubbery standing in any public way or public place, and no person shall permit or suffer any animal under his care to in any way injure any such tree or shrubbery. Whoever violates any provisions of this section shall forfeit and pay for each offense a fine of \$300 plus the cost of the destruction to the property for each offense.*

Article I of Chapter 297 prohibits injuring trees or shrubbery, subject to a fine of \$300, which is the maximum fine authorized by MGL c. 40, § 21. This article appears satisfactory as written.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 297-002

Chapter 297 Trees and Shrubs

Article II Trimming and Removal Costs

Article II of Chapter 297 authorizes the Town to recover costs for trimming and removal of trees and bushes by imposing a lien on the property or adding the charges to the tax bill. Provided that it reflects current procedures, this article appears satisfactory as written.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 308-001

Chapter 308 Utility Poles

Chapter 308 authorizes the Selectmen to order the removal, relocation or alteration of utility poles. In *Boston Edison Co. v. Town of Bedford*, 444 Mass. 775 (2005), the Town of Bedford's bylaw imposing fines on the owner of an existing utility pole for failure to remove the pole was declared invalid. The Court found Chapter 164, Manufacture and Sale of Gas and Electricity, of the Massachusetts General Laws to be a comprehensive statutory scheme for the regulation of public utilities, preempting local regulation of subject matter falling within Chapter 164, including regulation of utility poles under MGL c. 164, § 34B. Town Counsel should be consulted as to whether this case has any bearing on the Town's bylaw. See <http://masscases.com/cases/sjc/444/444mass775.html>

**Pick one option from list below**

☐ Remove Chapter 308. (If Chapter 308 is to be removed then the remaining questions on this chapter can be skipped.)

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 308-002

Chapter 308 Utility Poles

§ 308-2 Order for removal, relocation or alteration of utility pole.

**Code Content:**

*[§ 308-2B] Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within 180 days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to \$300 per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.*

The following corrections should be made in § 308-2B: "In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action ~~it deems~~ they deem appropriate, including, without limitation[;], the imposition of a fine of up to \$300 per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary."

**Pick one option from list below**

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

Question 308-003

Chapter 308 Utility Poles

§ 308-2 Order for removal, relocation or alteration of utility pole.

**Code Content:**

*[§ 308-2B] Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within 180 days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to \$300 per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.*

Section 308-2B provides for a fine of up to \$300. If the Town wants to enforce this bylaw using the noncriminal disposition procedure the fine would need to be changed to a specific amount.

**Pick one option from list below**

- ☐ Change "a fine of up to \$300" to "a fine of \$300."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 315-001

Chapter 315 Vehicles and Traffic

Article I Vehicles Obstructing Snow and Ice Removal; Winter Parking Ban

§ 315-2 Violations and penalties.

**Code Content:**

*[§ 315-2] Whoever violates any provision of this article shall forfeit and pay for each offense a fine not exceeding \$50. Each day shall be considered a separate offense.*

Section 315-2 sets a fine "not exceeding \$50" for violations relating to the parking of vehicles overnight during the winter or so as to obstruct snow removal operations. Is this amount still satisfactory? If the Town wants to enforce this bylaw using the noncriminal disposition procedure the fine would need to be changed to a specific amount.

**Pick one option from list below**

- ☐ Change "a fine not exceeding \$50" to "a fine of \$50."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.



Question 315-002

Chapter 315 Vehicles and Traffic

Article II Unregistered Motor Vehicles

§ 315-4 Storage restrictions for unregistered and inoperative vehicles.

**Code Content:**

*[§ 315-4] No person shall, except as otherwise provided by law, store, park or place or cause to be stored, parked or placed, any unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative upon any land in the Town unless the same shall be within a building or in an area unexposed to the view of the public or abutters or upon premises maintained by license dealers. Whoever violates any provision of this section shall be fined \$300.*

In § 315-4 the wording "license dealers" apparently should read "licensed dealers."

**Pick one option from list below**

- ☐ Change to "licensed dealers."
- ☐ Revise as follows:
- ☐ Do not revise.
- ☐ Defer decision until after Code publication.

Question 315-003

Chapter 315 Vehicles and Traffic

Article II Unregistered Motor Vehicles

§ 315-4 Storage restrictions for unregistered and inoperative vehicles.

**Code Content:**

*[§ 315-4] No person shall, except as otherwise provided by law, store, park or place or cause to be stored, parked or placed, any unregistered motor vehicles which are unfit for use, permanently disabled or have been dismantled or are otherwise inoperative upon any land in the Town unless the same shall be within a building or in an area unexposed to the view of the public or abutters or upon premises maintained by license dealers. Whoever violates any provision of this section shall be fined \$300.*

Section 315-4 regarding the storage of unregistered and inoperable vehicles includes a fine of \$300, consistent with the maximum authorized by MGL c. 40, § 21. No changes would appear to be needed.

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-001

Chapter 322 Waste Management

Article I Waste Collection

§ 322-1 Rules and regulations.

**Code Content:**

*[§ 322-1] The Selectmen or the Board of Health may, after an appropriation is made, therefore make rules and regulations and establish regular periods for the collection of garbage, ashes, paper, refuse and waste from all dwellings and buildings in the Town free of charge to the owners or occupants thereof except that a charge established by the Selectmen per barrel or its equivalent may be made and established by the Selectmen or the Board of Health against the owner or occupant of any building used as a store, warehouse, restaurant, theatre, or as a factory or manufacturing establishment for the collection of any garbage, ashes, paper, refuse and waste from such premises or produce thereon.*

Section 322-1 should be reviewed as to whether it reflects the Town's current method of handling garbage collection and the charges therefor.

**Pick one option from list below**

☐ Revise as follows:

☐ Revise as follows: (revisions attached).

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-002

Chapter 322 Waste Management  
Article II Accumulations of Waste Matter

Article II of Chapter 322 provides: "No person shall place or suffer to accumulate on his premises any refuse, animal or vegetable matter, rubbish or filth, whereby any offensive or noxious stench or effluvia shall be created so as to endanger the health or comfort of the neighborhood." No penalty is included for violations of this bylaw, so the fine of \$300 prescribed by Chapter 1, § 1-5, would apply. Is any revision desired?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-003

Chapter 322 Waste Management  
Article III Littering  
§ 322-4 Removal of trash or litter.

***Code Content:***

*[§ 322-4] In addition to imposing such fines as may be permitted by law, the Town may through the Town Manager or his designee require persons in violation of § 322-3 to remove such trash or litter. Each day that the violation remains shall constitute a separate offense.*

Article III, Littering, of Chapter 322 does not include a specific penalty; § 322-4 refers to "such fines as may be permitted by law." The fine of \$300 prescribed by Chapter 1, § 1-5, would apply in the absence of another penalty. Is any revision desired?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-004

Chapter 322 Waste Management  
Article IV Transportation of Refuse  
§ 322-5 Vehicles to be covered.

***Code Content:***

*[§ 322-5] Every vehicle and/or receptacle used to transport solid waste disposal shall be securely covered.*

In § 322-5 should "transport solid waste disposal" read "transport solid waste for disposal"?

**Pick one option from list below**

- ☐ Revise to read "transport solid waste for disposal."
- ☐ Revise as follows:

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

Question 322-005

Chapter 322 Waste Management  
Article IV Transportation of Refuse  
§ 322-5 Vehicles to be covered.

**Code Content:**

[§ 322-5] Every vehicle and/or receptacle used to transport solid waste disposal shall be securely covered.

No penalty is included for violations of § 322-5, so the fine of \$300 prescribed by Chapter 1, § 1-5, would apply. Is any revision desired?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-006

Chapter 322 Waste Management

Article V Recycling

§ 322-6 Recycling required; regulations.

**Code Content:**

*[§ 322-6] In order to implement a program of recycling in conjunction with the regular solid waste collection, residents of every household are required to separate recyclable material from the solid waste stream and to deposit the material for collection as prescribed by rules and regulations as may be established by the Board of Selectmen. The Selectmen may establish regulations governing the location and method for collection of recycling material. Failure to separate recyclable material from the solid waste stream may result in failure of the solid waste collection contractor to collect solid waste from the residence which violates this by-law.*

In § 322-6 the reference to "recycling material" could be corrected to "recyclable material" for consistency with the rest of this section.

**Pick one option from list below**

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

Question 322-007

Chapter 322 Waste Management

Article VI Plastic Bags

§ 322-7 Ban on single-use plastic bags.

**Code Content:**

*[§ 322-7] This action shall ban Town stores from the use of disposable, single use plastic bags at retail establishment, food establishments, grocery stores, and other establishments at which goods are purchased. This excludes paper bags and bags intended for produce/meat, newspaper, and laundry/dry cleaning articles. Residents will be encouraged to bring their own reusable shopping bags. If shoppers would like to use a paper bag, stores can determine a fee to offset the cost.*

We recommend the following revisions in § 322-7: "This action shall ban Town stores from the use of disposable, single-use plastic bags at retail establishments, food establishments, grocery stores, and other establishments at which goods are purchased." Note that for all references to "single-use plastic bags" in this bylaw a hyphen should be included in "single-use."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 322-008

Chapter 322 Waste Management

Article VI Plastic Bags

§ 322-9 Definitions.

**Code Content:**

*[DISPOSABLE, SINGLE USE, PLASTIC BAGS] Any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. Typically with plastic handles, these are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products. This includes bags that are not commercially compostable. The term "disposable, single-use, plastic shopping bag" shall not include:*

We recommend changing the defined term in § 322-9 to read "disposable, single-use plastic bag" and, for consistency, revising "disposable, single-use, plastic shopping bag" in the last sentence to "disposable, single-use plastic bag."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 322-009

Chapter 322 Waste Management

Article VI Plastic Bags

§ 322-9 Definitions.

***Code Content:***

[GROCERY STORE] Any establishment where more than 50% of the gross floor area is devoted to the sale of food products for home preparations and consumption, and home are and personal care products.

The following corrections should be made in the definition of "grocery store" in § 322-9: "Any establishment where more than 50% of the gross floor area is devoted to the sale of food products for home preparations and consumption, and home ~~are~~ care and personal care products."

**Pick one option from list below**

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

Question 322-010

Chapter 322 Waste Management

Article VI Plastic Bags

§ 322-10 Enforcement; violations and penalties; effective date.

***Code Content:***

[\$ 322-10A(2)] The following penalties shall apply:

Section 322-10 sets the penalties for violations of the plastic bag ban at a warning for a first offense, \$100 for a second offense and \$300 for a third or subsequent offense. Are these penalties still satisfactory?

**Pick one option from list below**

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

Question 326-001

Chapter 326 Water and Sewers

Article I Connections

§ 326-1 Sewer, drain and water connections.

**Code Content:**

*[§ 326-1] Any person connecting a sewer, drain or water connection laid in any land or way, public or private, opened or proposed to be opened for public travel, with the prior approval of the Water and Sewer Commissioners or their delegated agent, acknowledges and assents that said connection to be a common sewer, main drain and/or common water connection and shall become a part of said system without further action or payment by the Town.*

Section 326-1 begins "Any person connecting a sewer, drain or water connection." Should this wording read "Any person making a connection to a sewer, drain or water main"?

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 326-002

Chapter 326 Water and Sewers

Article I Connections

§ 326-1 Sewer, drain and water connections.

**Code Content:**

*[§ 326-1] Any person connecting a sewer, drain or water connection laid in any land or way, public or private, opened or proposed to be opened for public travel, with the prior approval of the Water and Sewer Commissioners or their delegated agent, acknowledges and assents that said connection to be a common sewer, main drain and/or common water connection and shall become a part of said system without further action or payment by the Town.*

Is the reference to the Water and Sewer Commissioners in § 326-1 still correct? There is a reference to the Water Commissioners in Chapter 194, § 194-5C; § 326-5 refers to the "Board of Water and Sewer Commissioners"; and § 326-8 refers to the "Board of Water Commissioners." What is the correct title?

**Pick one option from list below**

- ☐ Correct title is "Board of Water and Sewer Commissioners."
- ☐ Revise as follows:

- ☐ Defer decision until after Code publication.

Question 326-003

Chapter 326 Water and Sewers

Article I Connections

§ 326-1 Sewer, drain and water connections.

**Code Content:**

*[§ 326-1] Any person connecting a sewer, drain or water connection laid in any land or way, public or private, opened or proposed to be opened for public travel, with the prior approval of the Water and Sewer Commissioners or their delegated agent, acknowledges and assents that said connection to be a common sewer, main drain and/or common water connection and shall become a part of said system without further action or payment by the Town.*

In § 326-1 the wording "said connection to be a common sewer, main drain and/or common water connection" is awkward and unclear. Perhaps the following revision could be made: "acknowledges and assents that said connection to be a common sewer, main drain and/or common water connection and main shall become a part of said system without further action or payment by the Town."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 326-004

Chapter 326 Water and Sewers

Article II Water Use Restrictions

§ 326-5 Declaration of state of water supply conservation.

**Code Content:**

*[§ 326-5] The Town, or its agent, through its Board of Water and Sewer Commissioners, may declare a state of water supply conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water conservation shall be given under § 326-6 of this by-law before it may be enforced.*

In the last sentence of § 326-5 "state of water conservation" should be changed to "state of water supply conservation" for consistency with the rest of this bylaw.

**Pick one option from list below**

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

Question 326-005

Chapter 326 Water and Sewers  
Article II Water Use Restrictions  
§ 326-9 State of water supply emergency.

**Code Content:**

*[§ 326-9] Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.*

We recommend the following revision in § 326-9: "no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department intended to bring about an end to the state of emergency."

**Pick one option from list below**

☐ Revise as suggested.

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.

Question 326-006

Chapter 326 Water and Sewers  
Article II Water Use Restrictions  
§ 326-10 Violations and penalties.

***Code Content:***

*[§ 326-10] Any person violating this by-law shall be liable to the Town in the amount of \$50 for the first violation and \$100 for each subsequent violation. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.*

Section 326-10 sets the penalty for violations of Article II, Water Use Restrictions, of Chapter 326 at a fine of \$50 for a first violation and \$100 for each subsequent violation. Are these fines still satisfactory?

**Pick one option from list below**

☐ Revise as follows:

☐ Do not revise.

☐ Defer decision until after Code publication.



Question 330-001

Chapter 330 Wetlands Protection  
§ 330-3 Prohibited acts; enforcement.

**Code Content:**

*[§ 330-3B] The Commission shall have authority to enforce the Wetlands Protection Act (M.G.L. Chapter 131 § 40), and permits and orders issued thereunder, by violation notices, non-criminal citations under M.G.L. Chapter 40 § 21D, and civil and criminal court actions. Any person who violates provisions of this by-law may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.*

There are multiple references in Chapter 330 to the "Commission." We recommend changing the first such reference, in § 330-3B, to "The Conservation Commission" to clarify which body is meant by these references.

**Pick one option from list below**

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

Question 330-002

Chapter 330 Wetlands Protection  
§ 330-4 Violations and penalties.

**Code Content:**

*[§ 330-4B] Fines may be assessed according to the schedule below. First offense fines may be waived at the discretion of the Commission or its agent, provided the offender presents the Commission or agent with an acceptable remediation plan and implementation timeline.*

The schedule of fines in § 330-4B should be reviewed to ensure the fines listed are still satisfactory.

**Pick one option from list below**

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

