

RECEIVED**By Kelly A. McElreath at 11:26 am, Apr 20, 2021**

Summary of General By-law Amendments
General Revisions:

References to the Massachusetts General Laws are standardized to the following format: MGL c. ___, § ____.

Throughout the General Bylaws, the term “Fire Chief” is amended to read “Fire/EMS Chief”; the terms “Building Inspector” and “Inspector of Buildings” are amended to read “Building Commissioner”; and the terms “Treasurer,” “Tax Collector,” “Collector of Taxes,” and “Treasurer-Collector” are amended to read “Treasurer/Collector.”

The following existing chapters of the General Bylaws are repealed: Title 4, Chapter 3, Cutting or Removal of Firewood, and Title 4, Chapter 7, Cigarette Rolling Paper.

Specific Revisions:

Ch. 1. General Provisions.

Section 1-3 is amended to change the fine amount from \$15 to \$300.

Section 1-5 is amended to change the fine amount from \$150 to \$300.

Ch. 5. Affordable Housing Trust.

Original Title 2, Ch. 23, Section B, Purpose, of the General Bylaws is repealed.

Section 5-4 is amended to update the Open Meeting Law reference from Chapter 39, Sections 23A, 23B and 23C, to MGL c. 30A, §§ 18 to 25.

Section 5-7 is amended to change “nine eligible voters” to read “seven eligible voters” in the second-last sentence.

Ch. 18. Community Preservation Committee.

Section 18-2A is amended to change “Recreation Council” to read “Recreation Commission.”

Section 18-7 is amended to change “improved by the city or town” to read “improved by the Town.”

Ch. 30. Emergency Management.

Section 30-2A is amended as indicated:

The Department shall be under the direction of a Director of Civil Defense (hereinafter called the “Director”), who shall be appointed by the Selectmen Town Manager. The Director shall have direct responsibility for the administration of the Department, subject to the direction and control of the

Selectmen. The Director may, within the limits of the amount appropriated therefor, ~~and subject to the approval of the Selectmen~~, appoint such experts, clerks and other assistants as the work of the Department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purpose of Chapter 639 of the Acts of 1950.

Original Title 2, Ch. 15, Sec. 3, Civil Defense Advisory Council, of the General Bylaws is repealed.

Ch. 36. Finance.

Art. I. General Procedures.

Section 36-3 is amended as indicated:

All bills incurred during the year shall be submitted to the ~~Selectmen on or before the last day of each year~~ Finance Director/Town Accountant on a weekly basis in order to create a warrant for payment of approved bills.

Art. II. Finance Committee.

Section 36-5 is amended to change “Clerk of the Finance Committee” to read “Chair of the Finance Committee,” and as indicated:

To this Committee shall be referred all articles ~~calling for an appropriation of money~~ in any warrant for a Town Meeting.

Section 36-8A is amended as indicated:

Following the effective date of the bylaw amendments approved under Article 12 of the May 8, 2014, Town Meeting the amendments shall be implemented, by attrition, as follows:

Art. V, Revolving Funds.

Section 36-14.

The first column of the table is amended in the following two entries as indicated:

Council on Aging Programming Fund to pay for programming for the elderly of Upton as administered through the Senior Center and the Council on Aging

Recreation Commission Fund to pay for various recreation programs administered by the Recreation Commission

The first column of the table is amended in the following entry as indicated:

Land Stewardship Committee "Community Garden Fund" to pay costs associated with maintenance, upgrades, further expansion and related operating expenses for the Upton Community Garden Fund

The table is amended in the third column of the entries for Conservation Commission “Wetlands Revolving Fund” and Conservation Commission “Stormwater Bylaw Fund” to change “said board” to read “said Commission”

Section 36-20 is amended as indicated:

The Annual Report shall list for each revolving fund authorized hereunder the revenue, expenditures, and ending balance, as well as whether the spending limit set was increased per § 36-17 and whether the spending limit was exceeded for the fiscal year ending June 30 of that year.

Ch. 40. Fire and Emergency Medical Services Department.

Art. I. Advisory Committee.

Sections 40-2 and 40-3 are amended to change “FD/EMS” to read “Fire and EMS.”

Ch. 72. Officers and Employees.

Art. I. General Powers and Duties.

Section 72-5A is amended to change “Workmen’s Compensation Laws” to read “Workers’ Compensation Law.”

Section 72-8 is amended to change “a vote of Town Meeting vote” to read “a vote of Town Meeting.”

Art. III. Treasurer-Collector.

Section 72-14 is amended as indicated:

The Town Treasurer Tax Collector shall also be the Tax Town Collector for any and all accounts due the Town in accordance with General Laws, Chapter 41, Section 1 MGL c. 41, § 38A.

Art. V. Gas Inspector.

Section 72-17 is amended to read as follows: *The Gas Inspector shall have the duties prescribed by MGL c. 143, § 30.*

Ch. 78. Personnel.

Section 78-4C is amended as indicated:

The Personnel Board shall also evaluate classification of positions, including requests for reclassification, regardless of funding source, and conduct a review of all positions in the classification plan at appropriate intervals in accordance with proper personnel practices.

Section 78-6A is amended as indicated:

Any member of the Board of Selectmen, Personnel Board, or an elected board or the Town Manager, or elected board may suggest policies for consideration. The Town Manager shall refer such suggested policies to the Personnel Board, which the Personnel Board need not consider any proposal already considered in the preceding 12 months. Any member of the Board of Selectmen, Personnel Board, or an elected board or the Town Manager, or elected board proposing a new or amended policy shall provide the substance and the reason for the proposed policy in writing.

Ch. 94. Selectmen.

Original Title 2, Ch. 4, Sec. 1, Town Counsel, of the General Bylaws is repealed.

Ch. 118. Alcoholic Beverages.

Art. I. Public Consumption.

Sections 118-1 and 118-2 are amended to change “a fine not exceeding \$50” to read “a fine of \$50.”

Section 118-4 is amended to add the following sentence to the beginning of the section:

Any person found to be in possession of any open container containing an intoxicating beverage in or on the properties described in §§ 118-1 and 118-2 shall be deemed to be in violation of this bylaw.

Ch. 122. Animals.

Art. I. Dog Control.

Section 122-4A is amended to add the following after the first sentence:

The provisions of this subsection shall not apply to a disabled person who is using a service animal and who is physically unable to comply.

Section 122-10A(2) is amended as indicated:

- (a) *First offense: ~~warning fine of \$50.~~*
- (b) *Second offense: \$50 fine of \$100.*
- (c) *Third and subsequent offense: \$100 fine of \$300.*
- (d) *Fourth and subsequent offense: fine of \$500.*

Section 122-10B(3) is amended to change “vicious dog” to read “dangerous dog.”

Ch. 130. Buildings and Building Construction.

Art. II. Stretch Energy Code.

Section 130-13 is amended to change “Stretch Code” to read “Stretch Energy Code.”

Ch. 147. Earth Removal.

Section 147-10 is added to read as follows:

The penalty for violation of this bylaw shall be as follows: for the first offense, \$50; for the second offense, \$100; and for each subsequent offense, \$200.

Ch. 153. Entertainment.

Art. I. Prohibited Acts on Licensed Premises.

Section 153-6 is amended to change the penalty amount from “not less than \$500 and not more than \$1,000” to read “not more than \$300.”

Ch. 156. Environmental Hazards.

Art. II. Styrofoam.

The definition of “food establishment” in § 156-9 is amended to update the reference to 105 CMR 590.002 to read “105 CMR 590.001.”

Ch. 185. Licenses and Permits.

Art. I. Delinquent Payments.

Section 185-2 is amended as indicated:

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

Original Title 2, Ch. 24, Subsection B of Exemptions, regarding bicycle permits, is repealed.

Ch. 189. Loitering.

Section 189-1 is amended to change the fine amount from \$25 to \$300.

Ch. 201. Nuisances.

Section 201-3B(9) is amended to change "Building Official" to read "Building Commissioner."

Section 201-6B(1) is amended as indicated:

- (a) *First offense: \$25~~100~~*
- (b) *Second offense: \$50~~200~~*
- (c) *Third and subsequent offenses: \$100~~300~~*
- (d) *Fourth and further offenses: \$300*

Ch. 223. Sewers.

Art. I. Sewer Connection Fees.

Section 223-2B is amended as indicated:

In the case of a newly constructed ~~such~~ house, building, or other structure...

Section 223-3 is amended to delete the phrase "(as set forth in Section 3 (a)(2) and (4), and 3(b)(2)(ii), INFRA.)"

Section 223-5 is amended as indicated:

Assessments as herein set forth shall be made by the Water/Sewer Commission Director of Public Works or his/her designee of the Town of Upton by filing with the Board of Assessors of the Town of Upton a certificate designating the public or private way on which the real property for which a connection or addition has been made as herein described abuts, and setting forth the name or names of the owner or owners of the real property for which such connection or addition has been made, and the amount of the assessment to be paid by such owner or owners. Said Assessors, upon receipt of such certification, shall forthwith commit such assessment with their warrant to the Collector of Taxes/Treasurer/Collector of the Town of Upton, who shall forthwith make a demand in writing for the payment of said assessment, and every owner of real property thus assessed shall, within three months after such demand is served upon him or upon the occupants of such real property, or is sent to said owner at his last known address, pay to said Collector the sum so assessed. A copy of this certification shall, within 30 days of the filing of the

same with said Assessors, be recorded by said Commission Director in the Worcester District Registry of Deeds, or in the case of registered land, to the Worcester County Registry District Registry of Deeds.

Ch. 235. Soliciting, Canvassing and Peddling.

The defined term “registered solicitor” in § 235-2 is amended to read “licensed solicitor”; the definition is amended to change “certificate of registration” to read “license.”

Section 235-5A(1) is amended to change “the organization applying for registration” to read “the organization applying for license.”

Section 235-5A(5) and B(5) is amended to change “certificate of registration” and “certificate” to read “license.”

Section 235-5B is amended to change “registration forms” to read “license forms” and to change “an organization registered” to read “an organization licensed.”

Section 235-5B(8) is amended to change “registration card” to read “identification card.”

Sections 235-8 and 235-9 are amended to change “registration” to read “license.”

Ch. 242. Stormwater Management.

Section 242-6D(4) is amended to update the reference to 304 CMR 11.00 to read “304 CMR 12.00.”

Section 242-7C(2) is amended to change “storage of excavate or fill” to read “storage of excavated soil or fill.”

Section 242-17 is amended as indicated:

The invalidity of any section, provision, paragraph, sentence, or clause of this bylaw shall not invalidate any other section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

Ch. 246. Streets and Sidewalks.

Article II. Public Way Access and Driveways.

Throughout this article, the term “Road Commissioner” is amended to read “Director of Public Works or his/her designee.”

Art. III. Snow Obstructing Public Ways.

Section 246-9 is amended to change the penalty amount from \$25 to \$50.

Ch. 255, Trees and Shrubs.

Art. I. Planting and Removal of Trees and Shrubs.

The definition of “public nuisance plant” in § 255-2 is amended to change “by reason of condition prohibits the use” to read “by reason of its condition prevents the use.”

The definition of “public way” in § 255-2 is amended to change “adverse use of the public as a matter of right” to read “open to the use of the public as a matter of right.”

Section 255-3 is amended to change “the Town Manager shall appoint a Tree Warden” to read “the Board of Selectmen shall appoint a Tree Warden.”

Section 255-8C is amended as indicated:

All request for healthy tree removal Removal of a healthy tree within the public way that does not pose an immediate threat to the public requires a permit as specified in § 255-5 of this bylaw.

Section 255-11 is amended to delete the phrase “and any regulations promulgated hereunder” from the first sentence.

Ch. 274. Water.

Art. IV. Water Use Restrictions.

Section 274-17 is amended to change “state of water conservation” to read “state of water supply conservation.”

Ch. 280. Wetlands Protection.

Section 280-2 is amended to change “inundation by groundwater or surface water; flooding” to read “inundation by groundwater, surface water, or storm flowage.”

Section 280-4E is amended as indicated:

If a municipal revolving fund has been established, pursuant to MGL c. 44, § 53E[] 1/2, or a special act, for deposit and Commission use of filing fees described above, then such filing and/or consultant fees shall be deposited therein, for uses set out in the vote establishing the fund. This account shall be kept separate from the account established for filing fees paid under the state Wetlands Protection Act.*

Section 280-11D is amended to change “Selectboard” to read “Board of Selectmen.”

Section 280-11F is amended to add the following to the end of the subsection:

The noncriminal penalty for violations shall be \$50 for the first violation, \$100 for the second violation, and \$300 for the third violation and each subsequent violation.