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BELMONT, MA

Minutes of the **By-Law Review Committee** meeting held

September 25, 2012

7:30 PM

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Board of Registrars Conference Room, Town Hall, 455 Concord Avenue

Attendees: Charles Hamann, Chair, Mark Thurber, Raymond Miyares, ,
Ellen O'Brien Cushman

Absent: Bob Gallant

Agenda:

Ellen reviewed the comments that she had received from other Town boards, departments, committees and commissions on the proposed structure of the General By-Laws.

There were few specific comments, most expressing they were fine with the organization. In addition, she had transmitted the General Code analysis of the Zoning By-Laws to the Chair of the Planning Board, Sami Baghdady and Jeffrey Wheeler. She reported that she has been informed by Mr. Wheeler and Mr. Baghdady that the Planning Board will not be participate in the re-codification project for the Zoning By-Laws.

The Committee reviewed the proposed organization of the General By-Laws, mapping from our current By-Laws and approved unanimously the structural organization. The organization will be passed to General Code by Ellen – document is attached.

The Committee reviewed the Editorial Analysis of the General By-Laws as provided by General Code. The document with the Committee's response is attached. Ellen will transmit it to General Code.

Since the Committee meets infrequently, the Committee unanimously authorized Ellen and Ray to work with General Code to communicate to represent the interests of the Committee to advance the work between meetings. At the next meeting will be a review of the By-Laws to consideration of the analysis that General Code will be performing.

Minutes of April 18, 2012 were approved unanimously

Meeting adjourned at 9:15 PM.

Respectfully submitted,

Ellen O'Brien Cushman

**Proposed Table of Contents – Option 2
Code of the Town of Belmont**

Part I: General Bylaws

Division 1: Administration

Chapter 1, General Provisions (Art. 1)

Chapter 7, Elected Officials

Article I, Moderator (new)

Article II, Town Clerk (Art. 5)

Article III, Town Treasurer (Art. 6)

Chapter 14, Town Meetings (Art. 2)

Chapter 20, Boards, Commissions and Committees

Article I, Provisions Applicable to All Boards

1-6 §§ 1 through 6 (Art. 3)

7 → 10 Reserved.

Article II, Elected Boards and Committees

11-16 § 7. Board of Selectmen (Art. 4)

§ 8. School Committee (new)

§ 9. Board of Health (Art. 8)

§ 10. Trustees of the Public Library (Art. 9)

§ 11. Board of Cemetery Commissioners (Art. 10)

§ 12. Board of Assessors (new)

17-20 Reserved.

Article III, Boards and Commissions Appointed by Selectmen

21 § 13. Planning Board (Art. 17)

§ 14. Historic District Commission (Art. 15)

§ 15. Conservation Commission (Art. 29)

§ 16. Recreation Commission (Art. 18)

§ 17. Council on Aging (Art. 14)

§ 18. Disability Access Commission (Art. 31)

27 § 19. Water Advisory Board (Art. 7)

28-30 Reserved.

Article IV, Other Appointed Committees

31 § 20. Warrant Committee (Art. 19)

§ 21. Capital Budget Committee (Art. 13)

§ 22. Community Preservation Committee (Art. 33)

§ 23. Permanent Audit Committee (Art. 16)

§ 24. Permanent Building Advisory Committee (Art. 12)

36 § 25. Bylaw Review Committee (Art. 25)

37-40 Reserved.

Chapter 26, Position Classification and Compensation Plan (Art. 11)

Division 2: Public Health, Safety, Welfare and Environmental Protection

Chapter 35, Alcohol, Tobacco and Firearms

Article I, Alcoholic Beverages (§§ 20.9, 20.10 and 20.15)

Article II, Tobacco Products (§§ 20.14 and 20.15)

Article III, Discharge of Firearms (§ 20.8)

Chapter 41, Animals

Article I, Pets and Other Animals (§ 20.11)

Article II, Kennels (Art. 28)

Chapter 58, Buildings and Construction

Article I, Emergency Personnel Communication Facilitation (§§ 20.13 and 20.15)

Article II, Alarms (Art. 24)

Article III, Stretch Energy Code (Art. 32)

Article IV, Trench Safety (§§ 20.7 and 20.15)

Chapter 70, Door-to-Door Solicitation and Canvassing (Art. 30)

Chapter 89, Flammable Fluids, Solids and Gases (Art. 22)

Chapter 120, Noise (Art. 23)

Chapter 145, Recycling Program (Art. 26)

Chapter 162, Streets and Sidewalks

Article I, Public Ways, Sidewalks and Rights-of-Way (§§ 20.1 to 20.6, 20.12 and 20.15)

Article II, Vehicles and Parking (Art. 21)

Article III, Newsracks (Art. 27)

Part II: Zoning Bylaw

Part III: Rules and Regulations (Reserved)

Appendix

Representative Town Meeting Act

Legislative Acts Accepted by Town

Belmont's
Response

Editorial Analysis

Return to General Code by September 7, 2012

Town of Belmont, Massachusetts

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INTRODUCTION; PROJECT STEPS

Editorial Analysis

The purpose of the Editorial Analysis is to give Town officials an overview of the codification project and to guide them in making decisions as to what legislation is or is not to be included in the Code and with what, if any, revisions. This Editorial Analysis has been prepared through a review of the Town's existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town's law.

Legal Advice

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

Manuscript

The General Bylaws, Representative Town Meeting Act, List of Legislative Acts Applicable to the Town, and Zoning Bylaw have been downloaded from the Town's website. These materials will form the basis of the new Town Code. Copies of these materials (collectively the "Manuscript") are included for reference purposes in the binder following the Editorial Analysis.

Time Frame

The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The Town has 120 business days (by September 7) to return this completed Editorial Analysis and submit any other desired revisions to the bylaws. If you find that more time is needed please notify the project editor.

Review by Town

This Editorial Analysis is set up as a workbook. We encourage the Town officials to review all of the bylaws, using this Editorial Analysis as a guide, paying particular attention to the following:

- ♦ Are certain provisions no longer enforced?

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- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another bylaw or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town's cost in administering the legislation?

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

Drafts

Once the Town has completed its review of the Editorial Analysis we will incorporate any requested changes to the bylaws and submit a Draft for the Town's review. On completion of the Town's review of this Draft we will incorporate any desired revisions and submit a Final Draft and the necessary warrant articles to provide for the acceptance of the Code by the Town Meeting.

Adoption of Code

Any renumbering or substantive changes to the bylaws which the Town chooses to make as part of this project will need to be formally adopted by the Town Meeting. The standard procedure is for the final Draft of the Town Code to be submitted to the Town Meeting along with all necessary warrant articles, which we will provide. Following adoption by the Town Meeting and approval of the Attorney General we then proceed with final publication of the new Town Code. If there are any questions in this regard or if the Town wishes to follow a different procedure please contact the project editor.

Final Publication

Following adoption by the Town Meeting and approval by the Attorney General we will proceed with final publication of the new Code, which includes creation of the Code Index and the electronic version of the Code. Deliverables under the terms of the contract are 10 hard copies of the Code and eCode360® (the Town's Code on the Internet).

GENERAL INFORMATION

Statutory References

As part of our review of the bylaws, all references to the Massachusetts General Laws (MGL) and Code of Massachusetts Regulations (CMR) have been checked for accuracy. Any instances where a reference is no longer correct are noted below in the specific comments on the bylaws.

Penalties

This project provides the Town with an opportunity to review the penalties imposed for violations of Town bylaws. Pursuant to MGL c. 40, § 21, the Town can impose a fine of up to \$300 for bylaw violations. If the noncriminal disposition procedure is utilized, a fine in a specific amount must be established.

All penalty sections in the bylaws are noted in the specific comments below for the Town's review.

We strongly recommend that penalty provisions be retained within the bylaws to which they apply. Moving penalties to a separate chapter disrupts the integrity of the original bylaw as adopted and makes it harder and more time-consuming for a Code user to find all of the provisions of that bylaw. If you need more information in this regard please contact the project editor.

Fees

This project also provides the Town with an opportunity to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. Fees should be reviewed to ensure that they adequately reflect the current administrative costs of the Town. All specific fees prescribed in the bylaws are noted in the comments below for the Town's review.

Standard Revisions

Once the Town completes its review of the Editorial Analysis we will proceed with the next phase of the project, the preparation of the preliminary draft of the new Town Code. As part of the preparation of the draft, it is our standard practice to edit the text of the bylaws to correct errors in spelling, grammar and punctuation and to impose a consistent style throughout the Code, including the following:

- Section titles. A title for each section will be added which concisely reflects the content of that section. A scheme (table of contents) will be included at the beginning of each chapter

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which shows the sections (by section number and title) included in that chapter. The addition of section titles is also necessary in order to facilitate preparation of the Index for the Code.

- Histories. Historical information will be presented boldfaced and in brackets following the section title or in the affected subsection, as appropriate.
- Presentation of numbers. Numbers from zero through nine will be written out; numbers from 10 up will be in numerical form only; and fractions, decimals, percentages and monetary amounts will be included in numerical form only. Example: "The applicant shall submit five copies of the application. Notice of the hearing shall be published at least 10 days prior to the hearing date. Approval requires the affirmative vote of 2/3 of the members of the Board. The application fee is \$15."
- Capitalization. The capitalization of terms will be made consistent throughout the Code, including capitalizing "Town" when referring to the Town of Belmont.
- Statutory references. References to the Massachusetts General Laws will be standardized to the following format: MGL c. __, § __. (Example: MGL c. 40, § 21D.)
- Definitions. Defined terms will be listed in alphabetical order and will not be numbered (§ 1.4 of the Zoning Bylaw already uses this style; see that section for an example).
- Spelling. The term "bylaw" is correctly spelled as one word; we will change any instance of "by-law" to "bylaw."

The revisions listed above will be applied to the General Bylaws and Zoning Bylaw unless we are specifically instructed otherwise by the Town. The intent is simply to ensure that the material included in the new Town Code is consistent and correct as to spelling, grammar and punctuation.

For an example of a bylaw that has been through the editing process described above, see the sample chapter, Chapter 20, Public Safety and Property, which is included immediately following this Editorial Analysis.

ORGANIZATION OF GENERAL BYLAWS

Background; Options

General Code's standard organizational system for the chapters within the Code is alphabetical by title. A proposed reorganization of the General Bylaws into this system was submitted at the beginning of this project but rejected by the Town. The Town provided a document with suggestions and questions regarding an alternate organization. The Town has two options with regard to the inclusion of the General Bylaws in the new Code:

- Option 1. The existing organization and numbering of the General Bylaws can be retained.
- Option 2. The General Bylaws can be reorganized based on the alternate organization submitted by the Town.

Additional information regarding each of these options is set forth below. Please review this information first and then indicate the Town's decision here:

Decision:

- ☐ Option 1 (retain existing organization)
- ☒ Option 2 (reorganize as set forth on Proposed Table of Contents)
- ☐ Other:

Option 1: Existing Organization Retained

If this option is chosen, the existing numbers (1 through 33) and titles of the General Bylaws will be retained. The designation "Article" will be changed to "Chapter," e.g., Chapter 2, Town Meetings.

The section numbers within each bylaw will also be retained (§ 2.1; 2.2, etc.). However, the subsection numbering throughout the General Bylaws is inconsistent and needs to be standardized. In some sections the subsections are numbered; see for example § 4.14, which contains Subsections 1 through 12. In some sections the subsections are lettered; see for example § 15.4, which contains Subsections (a) through (g). Some sections continue the decimal system for subsections; see for example § 2.7, which contains Subsections 2.7.1 through 2.7.9. Still other sections contain subsections that are not numbered at all; see for example § 20.15.

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Our production platform is designed to impose a standard numbering system for subsections of alternating letters and numbers; it does not allow unnumbered paragraphs. The subsections in the General Bylaws will be renumbered into our standard system.

To provide the Town with an example of what the bylaws will look like if Option 1 is chosen, we have created a sample chapter using Article 20, Public Safety and Property, of the bylaws. This sample chapter is included immediately following the Editorial Analysis.

Option 2: Reorganization

A Proposed Table of Contents based on the revisions submitted by the Town is included as the end of the Editorial Analysis, following the sample chapter. If this option is chosen, the section and subsection numbering within each chapter will be in accordance with General Code's standard numbering system. See the "Sample Code page" document in the front pocket of the binder. With respect to Option 2 and the suggestions/questions submitted by the Town, please note the following:

- The revisions provided by the Town did not account for Article 3, Boards, Committees and Commissions. We have inserted this item as the first article under the new chapter "Boards, Committees and Commissions" on the Table of Contents.
- The Town asked whether General Code could provide a suggestion for the order of the items under "Elected Boards and Committees," "Boards and Commissions Appointed by Selectmen" and "Other Appointed Committees." It is our standard practice when more than one piece of legislation is included within a single chapter to include those items in chronological order by date of adoption, starting with the oldest and ending with the most recent. This system is used so that after the Code is published, if a new item is adopted and needs to be added to that chapter, it can simply be added at the end of the chapter; the rest of the chapter is not disrupted and the entire chapter does not need to be republished. If the Town does not want to use a chronological system because certain boards must appear first then it is really up to the Town to determine the order.
- We can add a cross-reference under "Buildings and Construction" to the Noise Bylaw.
- We strongly recommend that penalty provisions be retained within the bylaws to which they apply; they should not be removed and included in a separate chapter. Accordingly, we have not included an "Enforcement" chapter on the Table of Contents. Because the Town has requested that Article 20 be split up, § 20.15, which applies to §§ 20.1, 20.2, 20.4.1, 20.5.1, 20.7, 20.9, 20.12, 20.13 and 20.14, will be copied and included with each of these sections as indicated on the Table of Contents.

GENERAL BYLAWS

Article 1, General Provisions

1981 Bylaws

Section 1.5 sets the fine for violations of the General Bylaws, where no other fine is provided, at not exceeding \$100. We typically see this amount set at \$300 pursuant to MGL c. 40, § 21, which authorizes a fine of not exceeding \$300 for bylaw violations.

Decision:

- ✓
10-120
- ☐ Change \$100 to \$300
 - ☒ Revise as follows: "shall be subject to a fine of \$100⁰⁰"
 - ☐ Make no change

Article 2, Town Meetings

1981 Bylaws

Section 2.3 includes the following provision: "Any incumbent Town Meeting member may become a candidate for reelection by giving written notice thereof to the Town Clerk not later than 35 days prior to the last day and hour for filing nomination papers." In MGL c. 53, § 10, this time frame is 21 days. Section 10 provides that:

Any incumbent town meeting member may become a candidate for election by giving written notice thereof to the town clerk not later than twenty-one days prior to the last day and hour for filing nomination papers notwithstanding any contrary provision in any special law.

Decision:

- ✓
- ☐ Change 35 days to 21 days
 - ☐ Revise as follows:
 - ☒ Make no change

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Article 3, Boards, Committees and Commissions

1981 Bylaws

The Town might want to take this opportunity to update the term "Chairman" where it appears in the bylaws, such as §§ 3.4 and 3.5 in this article, to "Chair" or "Chairperson."

Decision:

- ☒ Change to Chair
☐ Change to Chairperson
☐ Make no change

Article 4, Board of Selectmen

1981 Bylaws

- A. In § 4.9.2 is the wording "job and express wagons" correct?

Decision:

- ☐ Revise as follows:
☒ Make no change

- B. Section 4.9.6.2 establishes a maximum fine of \$200 for violation of § 4.9.6 or any regulation adopted under that subsection. Is any revision desired to this amount?

Decision:

- ☒ Revise as follows: "punished by a fine of \$200"
☐ Make no change

✓
40-200 (6)(b)

C. Section 4.14 establishes the schedule of fees to be charged by the Sealer.

- (1) It has now been almost nine years since this section was added to the bylaws (November 2003 Special Town Meeting). Are the fees prescribed still adequate?

Decision:

☒ See revisions on enclosed copy

☐ Make no change

Delete section 4.14 in its entirety

- (2) We note that MGL c. 98, § 56, contains four types of fees that are not included in this section:

(k) Milk bottle or jars, four dollars per gross.

(n) Each automated electronic retail checkout system with fewer than four cash registers or computer terminals, not more than \$75.

(o) Each automated electronic retail checkout system with no less than four and no more than 11 cash registers or computer terminals, not more than \$150.

(p) Each automated electronic retail checkout system with greater than 11 cash registers or computer terminals, not more than \$250.

Decision:

- Deletion of 4.14 makes this question irrelevant.

☐ Add these subsections with revisions indicated above

☐ Do not add these subsections

Article 5, Town Clerk

1981 Bylaws

Section 5.6 refers to a "form of written notice." There is no indication as to what the notice is for. Perhaps the following revision could be made: "and shall make available to them a form of written

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notice of their intent to run for reelection pursuant to the provisions of MGL c. 53, § 10." See similar wording in § 2.3.

Decision:

- ✓
2-20-215
- ☒ Revise as indicated
 - ☐ Revise as follows:
 - ☐ Make no change

Article 6, Town Treasurer*1981 Bylaws*

Sections 6.6.1 to 6.6.5, added in 1994, are based on MGL c. 40, § 57. We note the following:

- ✓
3-20-305 B
- ✓
3-20-305 E
- A. Section 6.6.2 contains two typographical errors. The wording "Said list shall be prima facie evidence of denial, renovation or suspension of said license or permit to any party" should read "Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party." We will make these corrections.
 - B. Section 6.6.5 refers to bicycle permits issued pursuant to MGL c. 85, § 11A. That section was repealed in 2008.

Decision:

- ☒ Delete "bicycle permits (Chapter 85, Section 11A)"
- ☐ Revise as follows:
- ☐ Make no change

Article 7, Water Advisory Board*1981 Bylaws*

We have no specific questions regarding this article.

Article 8, Board of Health

1981 Bylaws

Section 8.5 provides for noncriminal disposition of violations of rules and regulations of the Board of Health or bylaws under the jurisdiction of the Board of Health but does not indicate what the fine amount is. In order for the noncriminal disposition process to be used a specific penalty must be established. See MGL c. 40, § 21D. In a similar section of the General Bylaws, § 18.8, Subsection 18.8.1 provides as follows:

Violation of any rule or regulation adopted under § 18.8 shall be punished by a fine of \$100 and may also be enforced by noncriminal disposition as provided in MGL c. 40, § 21D. The penalty under said § 21D for such violation shall be \$50 for each offense.

Decision:

☐ Revise as follows:

☒ Make no change

Article 9, Trustees of the Public Library

1981 Bylaws

We have no specific questions regarding this article.

Article 10, Board of Cemetery Commissioners

1981 Bylaws

Section 10.1 provides for the election of the three members of this Board but also establishes a procedure for the conversion of this Board to an appointive body. If this procedure was followed and

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this Board is now appointed by the Selectmen rather than elected, should § 10.1 be revised to reflect that change?

Decision:

- ☒ This Board is still elected; make no change
- ☐ See revisions on enclosed copy
- ☐ Other:

Article 11, Position Classification and Compensation Plan

1981 Bylaws

We have no specific questions regarding this article.

Article 12, Permanent Building Advisory Committee

12-13-1999

Section 12.4 provided for the Committee to assume responsibility for projects in process when this article was adopted in 1999. As 12 years have now passed since this article was approved is § 12.4 still needed?

Decision:

- ☐ Delete § 12.4
- ☒ Retain § 12.4

Article 13, Capital Budget Committee

1981 Bylaws

We have no specific questions regarding this article.

Article 14, Council on Aging

1981 Bylaws

This article establishes the Council on Aging in accordance with MGL c. 40, § 8B. The following wording was added to MGL c. 40, § 8B, in 2002 and the Town might want to consider adding it to this chapter:

The names, addresses, telephone numbers, or other identifying information about elderly persons in the possession of the council shall not be public records, but the use of these records shall comply with sections 14 to 24, inclusive, of chapter 19A as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

Decision:

- ☐ Add this wording
- ☒ Do not add this wording

Article 15, Historic District Commission

1981 Bylaws

Section 15.7 requires the Commission to act on an application under Section 11 of the Historic Districts Act (MGL c. 40C) within 45 days. We note that said § 11 authorizes a time period of up to 60 days:

As soon as convenient after such public hearing but in any event within sixty days after the filing of the application, or such lesser period as the ordinance or by-law may provide, or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. If the commission shall fail to make a determination within such period of time the commission shall thereupon issue a certificate of hardship.

Decision:

- ☐ Change 45 days to 60 days
- ☐ Revise as follows:
- ☒ Make no change

Article 16, Permanent Audit Committee

1981 Bylaws

We have no specific questions regarding this article.

Article 17, Planning Board

1981 Bylaws

We have no specific questions regarding this article.

Article 18, Recreation Commission

1981 Bylaws

- A. Sections 18.3, 18.4 and 18.5 provide for the Recreation Commission to establish policies "for the use of all playgrounds and recreation facilities of the Town which are not under the control of the School Department" and for the operation of the Recreation Department, including establishing fees. Section 18.8, added in 2009, indicates that such rules and regulations are to be established jointly by the Recreation Commission and the Board of Selectmen. In light of the addition of § 18.8, should the wording in §§ 18.3, 18.4 and 18.5 be revised?

Decision:

- ☐ See revisions on enclosed copy
☒ Make no change

- B. In § 18.8 the wording "and Article 18 of the General Bylaws" could be revised to read simply "and this article."

Decision:

- ☒ Revise as indicated
☐ Make no change

Article: 18.8 Pursuant to G.L. Chapter 45, Sections 5 and 14, and this article of the General By-Laws. . . .

- C. Section 18.8.1 provides that violation of a rule or regulation promulgated under § 18.8 is subject to a fine of \$100, or \$50 if the noncriminal disposition process is used. Are these amounts still satisfactory?

Decision:

- ☐ Revise as follows:
☒ Make no change

- D. We question whether the following underlined wording should be added to § 18.8.2: "An enforcing person taking cognizance of a violation of any rule or regulation adopted under § 18.8." See similar wording in § 8.5.2.

Decision:

- ☒ Add "a violation of"
☐ Revise as follows:
☐ Make no change

40-325H2
✓

- E. Section 18.8.2 provides that "An enforcing person...shall give the offender a written notice to appear." Should "shall give" be changed to "may give"? Section 18.8.1 provides that violations "may also be enforced by noncriminal disposition." For your reference, the following is a list of all of the sections in the General Bylaws which contain this wording:

- (1) Sections 8.5.2 and 29.4.2. These sections use "may give."
- (2) Sections 18.8.2, 20.15, 21.7, 23.9(d), 26.8.2 and 27.6.4. These sections use "shall give." Section 7.1.3 of the Zoning Bylaw also includes this wording and uses "shall give."

Decision:

- ☐ Revise as follows:
☒ Make no change

Article 19, Warrant Committee

1981 Bylaws

We have no specific questions regarding this article.

Article 20, Public Safety and Property*1981 Bylaws*

- A. In § 20.1 we question whether the word "or" should be added as follows:

No person, other than an authorized Town agent, shall place or throw or cause to be placed or thrown onto any public sidewalk, street, fire hydrant, or highway or upon any of the common lands of the Town any snow, dirt, gravel or foreign substance, including excrement or noxious or slippery liquids or material, or suffer the same to remain thereon after being notified by a police officer to remove the same.

Decision:

- ☒ Add "or" as indicated
☐ Revise as follows:
☐ Make no change

- B. The prohibition against placing snow on fire hydrants in § 20.1 is also covered by state law. Section 27B of MGL c. 148 provides as follows:

No person other than an employee in the service of the commonwealth or any political subdivision thereof or in the service of an independent contractor acting for the commonwealth or any such subdivision shall pile, push or plow snow or ice on or against any fire hydrant or other similar device used for fire protection which is located in any public or private way so as to conceal such hydrant or device or cover any outlet thereof. Whoever violates this section shall be punished by a fine of not more than one hundred dollars.

Decision:

- ☐ Revise as follows:
☒ Make no change

- C. Section 20.11.3 establishes a fee of \$25 for a breeder's license. Is this amount still satisfactory?

Decision:

- ☒ Revise as follows: Delete 2ND sentence "The fee ... section 20.11" regarding fees
☐ Make no change

- D. Section 20.11.16 provides for the following fines to be used in the noncriminal disposition of violations of § 20.11: second offense, \$25; third and each subsequent offense: \$50. Are any revisions desired to these amounts?

Decision:

- ☐ Revise as follows:
☒ Make no change

- E. Section 20.15 provides for a fine of \$300 for violations of certain sections of this article, including § 20.12. That section requires the removal of snow and ice from sidewalks. We note that MGL c. 85, § 5, provides as follows (emphasis added):

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.

Decision:

- ☐ Delete reference to § 20.12 from § 20.15; add to § 20.12 a fine of \$10
☐ Revise as follows:
☒ Make no change

Article 21, Vehicles and Parking

1981 Bylaws

- A. In § 21.5.1, the last paragraph, which gives the formula for determining the number of handicapped parking spaces, was copied from MGL c. 40, § 21, Clause (23)(a) but is incomplete. The statute includes the following additional wording:

more than five hundred but not more than one thousand, one and one-half per cent of such spaces but not less than ten; more than one thousand but not more than two thousand, one per cent of such spaces but not less than fifteen; more than two thousand but less than five

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thousand, three-fourths of one per cent of such spaces but not less than twenty; and more than five thousand, one-half of one per cent of such spaces but not less than thirty.

Decision:

- ☐ Add this wording
☒ Do not add this wording

- B. Section 21.5.2, regarding handicapped parking spaces, appears to have been copied from MGL c. 40, § 21, Clause (23)(b), but the last part does not match the statute. Section 21.5.2 ends with "and shall be 12 feet wide or two eight-foot-wide areas with four feet of cross hatch between them." The corresponding part of the statute reads:

and shall be at least 8 feet wide, not including the cross hatch access aisle as defined by the architectural access board established in section 13A of chapter 22. The cross hatch access aisle abutting a handicapped parking space shall be considered part of the handicapped parking space to which it abuts to provide individuals who use wheelchairs or other mobility aids with sufficient space to enter and exit their vehicles. No person shall park in the cross hatched access aisle.

Decision:

- ☒ Revise to match MGL c. 40, § 21(23)(b)
☐ Revise as follows:
☐ Make no change

- C. Section 21.5.4 establishes a fine of \$50 for violations of § 21.5.3, which prohibits parking in spaces reserved for disabled veterans or handicapped persons. This fine is lower than the minimum fine of \$100 prescribed by MGL c. 40, § 21, Clause (24). The Town might want to review §§ 21.5.3 and 21.5.4 in conjunction with the statute, which reads as follows:

(24) For prohibiting or regulating the standing or leaving of vehicles unattended within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons and within certain other areas.

An ordinance or by-law made under this section shall prohibit or regulate the leaving of unauthorized vehicles within parking spaces, including the cross hatch areas, designated for use by disabled veterans or handicapped persons as authorized by clause (23) or in such a manner as to obstruct a curb ramp designed for use by a handicapped person as a means of egress to a street or public way.

The penalty for a violation of an ordinance or bylaw made under this section shall be not less than \$100 nor more than \$300 and shall provide for the removal of the vehicle in

accordance with section 22D. This penalty shall not be a surchargeable offense under section 113B of chapter 175.

Decision:

- 60-805(4) ✓
- ☒ Change fine from \$50 to \$100
 - ☐ Revise as follows:
 - ☐ Make no change

- D. Section 21.7 establishes a ^{penalty} fine of \$50 for violations of this chapter when the noncriminal disposition procedure is used. Is any revision needed to this amount?

Decision:

- 60-805(6) ✓
- ☒ Change \$50 to \$100
 - ☐ Revise as follows:
 - ☐ Make no change

see. After \$50 for each offense, except that the penalty for a violation of section 21.5.3 shall be \$100 for each offense.

Article 22, Flammable Fluids, Solids and Gases*1981 Bylaws*

The schedule of fees in § 22.3 should be reviewed to ensure that these fees are current and adequate. There are no history notes in this article which suggests that it has not been amended since the adoption of the General Bylaws in 1981.

Decision:

- 60-505 ✓
- ☐ See revisions on enclosed copy
 - ☐ Make no change

☒ Delete section.

Article 23, Belmont Noise Bylaw

4-22-2002

- A. We recommend updating the title of this article to be simply "Noise." The inclusion of

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"Belmont" and "Bylaw" seems unnecessary, as all of these articles are bylaws of the Town.

Decision:

- Article 60 ✓
- ☒ Revise title as indicated
 - ☐ Revise as follows:
 - ☐ Make no change

- B. The fine amounts in § 23.9(b) and (c) should be reviewed to ensure they are still satisfactory.

Decision:

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

- C. In § 23.10(b) the wording "Subsequent violations of the same offense" does not really make sense. An offense is not something that can be violated.

Decision:

- 60-645 B ✓
revise to read
- ☒ Revise to read "Subsequent violations ~~of the same provision~~"
 - ☐ Revise to read "Subsequent violations of this article"

☒ Other: "Subsequent violations shall result in the immediate filing of a complaint."

Article 24, Alarm Bylaw

4-26-2004

- A. As with Article 23 we recommend deleting "Bylaw" from the article title.

Decision:

- Need to change contents + 60-30
- ☒ Revise title to "Alarm Devices" "Alarms"
 - ☐ Revise as follows:
 - ☐ Make no change
- Denial

- B. The following fees are established in this bylaw: \$25 for alarm registration; \$250 for master box registration and an additional \$250 for each building connected to a master box beyond

the initial building; and \$10 for an appeal to the Alarm Appeal Board. Are these fees current and adequate?

Decision:

☐ Revise as follows:

☐ Make no change

☒ Delete 24.6.3

- C. Section 24.12 sets false alarm charges of \$10 for the second false alarm, \$25 for the third false alarm and \$50 for the fourth and each subsequent false alarm, along with a charge of \$50 for an unregistered alarm. Are these amounts still satisfactory?

Decision:

☐ Revise as follows:

☒ Make no change

- D. Section 24.17.1 establishes a fine of up to \$100 for violations of this bylaw. Is any revision desired?

Decision:

☒ Revise as follows: strike out "up to" ^{before} One Hundred

☐ Make no change

- E. We question whether the following underlined wording should be added to § 24.18.4:

The Administrator shall take reasonable steps to inform the alarm user in advance that responses will be discontinued or the master box will be disconnected and the actions that the alarm user must take in order to prevent alarm response from being discontinued or the master box from being disconnected.

Decision:

☒ Add underlined wording

☐ Revise as follows:

☐ Make no change

Article 25, Bylaw Review Committee

4-25-1983

We have no specific questions regarding this article.

Article 26, Recycling Program

4-24-1991

- A. Section 26.5 provides that if collection of solid waste is refused, the person placing the solid waste for collection must remove it by 8:00 a.m. on the day following such refusal or be subject to a fine of up to \$50. A similar provision is included in Article 20, § 20.2, which prohibits persons from leaving refuse containers out after 8:00 a.m. on the day following collection; however, the penalty for violation of § 20.2 is \$300 pursuant to § 20.15. Should the penalty for violation of these sections be the same?

Decision:☐ Revise as follows:☒ Make no change

- B. Section 26.8 provides for the noncriminal disposition of violations of this bylaw but does not indicate what the fine would be if the noncriminal disposition procedure is used.

Decision:☐ Revise as follows:☒ Make no change**Article 27, Newsracks**

4-23-2001

- A. Section 27.5.1(ii) begins "if the Administrator determines that the violation has not been corrected on or after the date for compliance." Should this wording read "on or before the date for compliance"?

Decision:☐ Revise to read "on or before the date for compliance"☒ Revise as follows: "corrected by the date for compliance."☐ Make no change

✓
60-810
E(c)

- B. Section 27.6.1 sets the penalty for violations of this bylaw at \$25 per day. Is this amount still satisfactory?

Decision:

- ☐ Revise as follows:
☒ Make no change

Article 28, Kennel Regulations

4-28-2003

- A. The following sentence is included as § 28.1(e): "A veterinary hospital shall not be deemed to be a kennel, nor shall it be entitled to be so licensed, under this article." This sentence should be moved; it does not actually provide a definition of the term "veterinary hospital." We recommend adding this sentence to the definition of "kennel" in § 28.1(a).

Decision:

- ☒ Move sentence as indicated

☒ Revise as follows: *veterinary hospital not Veterinary Hospital*
NO Initial caps -

- B. In § 28.2.2(g) the cross-reference to § 20.10.5 is incorrect. There is no such subsection in Article 20. Was the intent to reference § 20.11.5, which deals with barking and crying animals?

Decision:

- ☒ Revise reference to § 20.11.5

☐ Revise as follows:

- C. In § 28.8 the reference to MGL c. 140, § 136C is incorrect (there is no section with this number) and should be to MGL c. 140, § 137C, Inspection of kennels; revocation, suspension and reinstatement of license; nuisance. We will make this correction.

- D. Section 28.9 first authorizes the Board of Selectmen to set the fee for a kennel license and renewal. It then provides that "The fee for any application for a kennel license or renewal

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thereof shall be \$150." It is not clear why this sentence has been included, if the intent of this section is provide for the Selectmen to set this fee.

Decision:

- all 06
- ☒ Delete the last sentence of § 28.9
- ☐ Revise as follows:
- ☐ Make no change

- 60-205H ✓
- E. Section 137C of MGL c. 140 includes the following: "Any person maintaining a kennel after the license therefor has been so revoked, or while such license is so suspended, shall be punished by a fine of not more than fifty dollars." Should this wording be added to this bylaw? There are no specific penalty provisions in this bylaw, so violations would be subject to § 1.5.

Decision:

- ☐ Add indicated wording
- ☒ Do not add this wording

Article 29, Conservation Commission

4-28-2003

Section 29.4 authorizes the noncriminal disposition of violations of any rules and regulations promulgated by the Conservation Commission but does not specify the fine amount. We note that MGL c. 40, § 8C, provides as follows: "The commission may adopt rules and regulations governing

the use of land and waters under its control, and prescribe penalties, not exceeding a fine of one hundred dollars, for any violation thereof."

Decision:

- ☐ Add "Violation of any rule or regulation adopted by the Conservation Commission shall be punished by a fine of \$100."
- ☐ Revise as follows:
- ☒ Make no change

Article 30, Door-to-Door Solicitation and Canvassing

4-25-2005

- A. Section 30.1 refers to MGL c. 43, § 13. This reference is incorrect. Chapter 43 of the General Laws is titled "City Charters" and § 13 is titled "Duration of plan adopted."

Decision:

- ☒ Revise as follows: Delete from "Adopted Pursuant to ... Massachusetts"

- B. In the first paragraph of § 30.3 we recommend changing "must apply for a permit" to "must apply for registration" for consistency with the rest of this bylaw. The term "permit" does not appear anywhere else in this bylaw; all other references are to registration.

Decision:

☐ Revise as indicated

☒ Revise as follows: ^{ADD.} Must

☐ Make no change

Delete "apply for a permit with the Chief of Police" by filing application form with the Chief of Police.

- C. In § 30.3.1(f) the following underlined wording is unconnected to the rest of the subsection and does not make sense: "Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired." There is no mention in this sentence of a permit or anything else that could be "issued." Perhaps the following revision could be made: "Names of the last three communities (if any) in which the organization has conducted a solicitation or

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canvassing operation, complete with the date of issue and expiration date of any permit or registration issued by those communities."

Decision:

- 60-405 ✓
A 6 ✓
- ☒ Revise as indicated
☐ Revise as follows:
☐ Make no change

- D. The same wording problem as noted in Item C above is also found in § 30.3.2(e): "Name of the last three communities (if any) in which the applicant has solicited or canvassed door to door, complete with the date of issue and expiration date."

Decision:

- 60-420 ✓
B (5)
- ☒ Revise to read "complete with the date of issue and expiration date of any permit or registration issued by those communities"
☐ Revise as follows:
☐ Make no change

- E. Section 30.4 establishes an application fee of \$25 for an organizational applicant. Is this amount still satisfactory?

Decision:

- ☐ Revise as follows:
☒ Make no change

- 60-420 D ✓
- F. In § 30.5.4 we will correct "Sex Offenders Registry Board" to "Sex Offender Registry Board."

- G. Section 30.9.1 provides for a fine of not more than \$300 for violations of this bylaw. This amount is the maximum authorized by MGL c. 40, § 21, and would not appear to require change.

Revise → Remove "Not to exceed"

60-440 A

Article 31, Disability Access Commission

4-23-2007

We have no specific questions regarding this article.

Article 32, Stretch Energy Code

4-25-2011

- A. Section 32.3 refers to 780 CMR 13, 34, 61 and 93. The State Building Code (8th Edition) posted on the website of the Executive Office of Public Safety and Security does not include 780 CMR 61 or 93; 780 CMR 52 to 109 are listed as "Reserved." The 7th Edition One and Two Family Dwelling Volume included 780 CMR 61 ~~and~~ ^{or} 93 but that volume expired August 4, 2011.

Decision:

- 60-315
C ✓
✓
- ☒ Delete reference to 780 CMR 61 and 93
- ☒ Revise as follows: *should say "780 CMR 13 or 34, 61 or 93 no applicable"*
- ☐ Make no change

- B. Section 32.5 provides for the Stretch Energy Code to be enforced by the Inspector of Buildings. There are references elsewhere in the bylaws to the "Building Inspector." Should these titles be consistent?

Decision:

- ☐ Change "Inspector of Buildings" to "Building Inspector"
- ☒ Change "Building Inspector" to "Inspector of Buildings"
- ☐ Make no change

Article 33, Community Preservation Committee

4-25-2011

We have no specific questions regarding this article.

STATE ACTS APPLICABLE TO BELMONT

Representative Town Meeting Act

Chapter 302, Acts of 1926, as amended

This act can be included in the new Code either before the General Bylaws or in the Appendix. As a state act, it will be included exactly as it appears without any changes.

Decision:

☐ Include first in Code before the General Bylaws

☒ Include in Appendix

Legislative Acts Accepted by the Town

We typically include this list in the Appendix of the Code but it can be included at the beginning of the Code immediately following the Representative Town Meeting Act if desired by the Town.

Decision:

☒ Include in Appendix

☐ Include immediately following Representative Town Meeting Act