

CHARTER AND BY-LAW REVIEW COMMITTEE MEETING

June 24, 2009

The Charter and By-law Review Committee (CBRC) held a meeting on June 24th, 2009 at 5:30 p.m. in the School Committee Room, town hall. The meeting was duly posted by Carol Gloff, chair. Ms. Gloff called the meeting to order at 5:44 p.m.

Members present: Jay Ball, Barbara Chinetti, Karen Adelman Foster, Carol Gloff, Tony Lista, Richard Sidney

Members absent: Robert Healey

Others present: Nicholas Mabardy, Lieutenant, Interim Chief of Police (incoming)
Onorina Maloney, Interim Town Clerk
Dennis R. Mannix, Chief of Police (outgoing)
Charles Panagopoulos, Comptroller
James Sheridan, Chief of Fire Department
Martha White, Town Administrator

Attachments: Consolidated comment documents (documents in which previous CBRC comments and questions have been consolidated by Ms. Gloff):

ART-42 CBRC Comments
ART-43 CBRC Comments
ART-50 CBRC Comments
ART-51 CBRC Comments
ART-52 CBRC Comments
ART-53 CBRC Comments
ART-72 CBRC Comments
ART-72A CBRC Comments
ART-73 CBRC Comments
ART-74 CBRC Comments
ART-75 CBRC Comments
ART-92 CBRC Comments

Email from John P. Flynn, Town Counsel, to Carol Gloff and Dennix Mannix, dated Jun 24, 2009, 1:33 p.m., Subject: RE: Review of police –associated by-law articles before Dennis retires

Email from John P. Flynn, Town Counsel, to Carol Gloff, dated Jun 24, 2009, 3:48 p.m., Subject: By Laws - Article 51

Email from John P. Flynn, Town Counsel, to Carol Gloff, dated Jun 24, 2009, 5:36, Subject By laws, Article 52

DISCUSSION OF BY-LAWS

[Note: Comments and questions from previous CBRC meetings were compiled by the chair in consolidated comment documents. These documents (listed above as attachments) were used in the meeting, as were emails from town counsel to the chair (also listed above as attachments). Specific comments on the consolidated

comment documents enumerated as CG1, CG2, etc, and referred to in this way in these minutes. Specific comments on the emails from town counsel are enumerated as 1, 2, 3, etc, and are here referred to as JF 1, JF2, JF3, etc.]

[Note: Where a CBRC motion or vote reads “to change,” the committee is aware that we are voting only to propose a change to Town Meeting.]

Article 42 (See attachment “ART-42 CBRC Comments”)

Sect 1, CG1: A discussion was held regarding whether it was necessary to specify license fees in the by-laws if the fees are set by the MGL. Chief Mannix explained that non-criminal enforcement is possible only if there is a relevant by-law.

Ms. White remarked that section 1 is not now administered per by-law, but by a different, two-step process. She will propose a re-write.

Article 43 (See attachment “ART-43 CBRC Comments”)

Sect 1, CG1: Ms. White reported that this section is from the MGL and did not see a conflict. The committee took no action.

Sect 2, CG2: The committee determined it best to take no action.

Article 50 (See attachment “ART-50 CBRC Comments” and “Email from John P. Flynn, Town Counsel, to Carol Gloff and Dennis Mannix, dated Jun 24, 2009, 1:33 p.m., Subject: RE: Review of police – associated by-law articles before Dennis retires”)

Sect 1, CG1, JF1: JF1 needs clarification and will be re-asked. The question is not whether one amendment in the By-Laws can address the concept of gender neutrality. It is rather whether one article in the warrant can change multiple pronouns throughout the By-Laws.

CG 2, JF2: Mr. Sidney moved to change “permit” to “license” in section 5. Ms. Adelman Foster seconded. Ms. Chinetti moved to amend the motion to additionally change “permit” to “license” in section 3 and in each instance of “permit” in the article. Ms. Adelman Foster seconded. Additional discussion ensued, and it was determined that further advice from counsel would be useful.

Mr. Lista moved to lay the motion on the table. Ms. Adelman Foster seconded. The motion carried unanimously.

Sect 3: Chief Mannix suggested that the words “shall keep a sufficient number of lighted lanterns” be changed to “shall provide sufficient illumination.”

Mr. Sidney moved that the words “shall keep a sufficient number of lighted lanterns” be changed to “shall provide sufficient illumination.” Mr. Ball seconded. The motion carried unanimously.

Sect 3, CG3, JF3: The committee determined it best to take no action.

- Sect 5, CG4, JF4: **Ms. Adelman Foster moved that the words “or Selectman” be deleted and that the words “move it” be replaced with “remove the obstruction.” Ms. Chinetti seconded. The motion carried unanimously.**
- Sect 9, CG5, JF5: **Ms. Adelman Foster moved that the word “and” be changed to “or.” Mr. Sidney seconded. The motion carried unanimously.**
- Sect 10, CG6, JF6: Chief Mannix reported that specifying baseball and football does not restrict the police from preventing hazardous or nuisance-causing activities of other sorts. The committee determined it best to take no action.
- Sect 11: Ms. White will find out if the Board of Health currently licenses per this section. If not, she will address enforcement via the Board of Selectmen.
- Sect 12, CG7, JF7: The committee determined it best to take no action..
- Sect 14 CG8,9 JF8,9: **Mr. Sidney moved that the words “of a house” be deleted, and Ms. Adelman Foster seconded. The motion carried unanimously.**
- Sect 14a, CG10, JF10: Chief Mannix commented that a by-law that addresses the consumption of marijuana could allow the town to fine violaters \$300. Chief Mannix, Lieutenant Mabardi, and Ms. Maloney will research the matter.
- Sect 14a, CG11, JF11: Chief Mannix reported that the police department does not return confiscated alcoholic beverages after final adjudication, but rather disposes of it.
- Mr. Sidney moved that the words “at which time they shall be returned to the person entitled to lawful possession.” be deleted. Karen Adelman Foster seconded. The motion carried unanimously.**
- Sect 15, CG12, JF12: The committee found Town Counsel’s note unclear, as the CBRC inquiry was whether “on” could be changed to “or” as a typo without town meeting approval. The question will be asked again.
- Sect 15, CG13, JF13: The committee determined it best to take no action.
- Sect 15, CG14, JF14: Chief Mannix will seek an answer.
- Sect 16.6. CG15, JF15: The committee determined it best to take no action.
- Sect 16.7, CG16, JF16: The committee determined it best to take no action.
- Sect 16.7: Ms. Maloney observed that the fines in this section are not now enforced per By-Law. She will propose new wording for the last paragraph.
- Section 16.7 CG17, JF17: Chief Mannix explained the fines are set by the Board of Selectmen and defined in the ticket book. The committee determined it best to take no action.

- Section 16.7: Ms. Maloney stated that under MGL, municipalities may waive licensing fees for citizens over the age of 70, although municipalities may not waive any associated late fees. She will research further.
- Sect 16.8 **Ms. Adelman Foster moved that the word “his” be replaced with the words “the investigating officer’s.” Mr. Sidney seconded, and the motion passed unanimously.**
- Sect 16.9 CG18, JF18: The committee determined it best to take no action.
- Sect 16.9, CG19, JF19: **Mr. Sidney moved that “.4” be deleted, Mr. Lista seconded, and the motion passed unanimously.**
- Sect 16.15 CG20, JF20: Ms. Maloney observed that the fees in the schedule are low by comparison with other towns. She will prepare a survey of other town’s fees.
- Ms. Maloney asked who the overseeing agent is for kennels. Ms. White observed that this may be an inconsistency that should be addressed by By-Law. She will research the matter.
- Sect 17 CG22, JF22: The committee determined it best to take no action.
- Sect 19, CG23, JF23: **Ms. Adelman Foster moved changing the section name to read “Prohibitions on Ponds,” and the replacement of the words “Morse’s Pond” with the words “any pond.” Ms. Chinetti seconded, and the motion carried unanimously.**
- Sect 22: Ms. White suggested that she ask Commission on Disability for comment on this section.
- Article 51 (*See attachment “ART-51 CBRC Comments” and “Email from John P. Flynn, Town Counsel, to Carol Gloff, dated Jun 24, 2009, 3:48 p.m., Subject: RE: By Laws – Article 51”*)
- Sect 1a: **Mr. Sidney moved to change the words “110 volt AC” with the word “power.” Mr. Ball seconded, and the motion carried unanimously.**
- Sect 1f: **Mr. Ball moved to insert the word “signal” between the words “indicates” and “line.” Mr. Sidney seconded, and the motion carried unanimously.**
- Sect 1i CG1, JF1: This section will be forwarded to Domenic Mallozzi for review.
- Sect 2, CG2, JF2: The committee determined it best to take no action.
- Sect 3b: **Mr. Ball moved to delete the passages “Within six (6) months after the effective date of this by-law” and “shall be disconnected therefrom,” to and to replace the phrase “All automatic dialing devices shall not be interconnected” with “No automatic dialing devices shall be interconnected.” Ms. Adelman Foster seconded, and the motion carried unanimously.**
- Sect 6c CG3, JF3: The committee determined it best to take no action.
- Sect 8, CG4 JF4: Chief Mannix reported that this By-Law is complied with. The committee determined it best to take no action.

Sect 9d CG5,6 JF 5,6: Chief Mannix remarked that disconnecting alarms could pose a liability risk for the town.

Mr. Sidney moved to delete the last sentence from the section, Ms. Adelman Foster seconded, and the motion carried unanimously.

Sect 9a, c, e: **Mr. Sidney moved to change the word “shall” to “may” in sections a, c, and e. Mr. Ball seconded, and the motion passed unanimously.**

Sect 10 CG8: The committee determined it best to take no action.

Article 52 (See attachment “ART-52 CBRC Comments” and “Email from John P. Flynn, Town Counsel, to Carol Gloff, dated Jun 24, 2009, 5:36 p.m., Subject: RE: By Laws, Article 52”

Sect CG1 JF1: The committee determined it best to take no action.

Sect 3 CG2, JF2: The committee determined it best to take no action.

Sect 3 CG3, JF3: The committee determined it best to take no action.

Sect 3, CG4, JF4: The committee determined it best to take no action.

Sect 3, CG5, JF5: Chief Mannix reported that the cost of distributing licenses was recovered by the fee. The committee determined it best to take no action.

Article 53 (See attachment “ART-53 CBRC Comments”)

Sect 1, CG1: The committee determined it best to take no action.

Sect 4, CG2: The committee made no determination on this section.

Article 72 (See attachment “ART-72 CBRC Comments”)

Sect 1, CG1,CG2: The committee determined it best to take no action.

Sect 2, CG 3: The committee determined it best to take no action.

Sect 4 CG4: Chief Mannix reported that snow piles are not addressed in this By-Law.

Sect 4 CG5: Chief Mannix reported that the police enforce this By-Law when necessary.

Sect 6 CG 6 &CG7: Ms. White will review for consistency with sign By-Law.

Article 72A (See attachment “ART-72A CBRC Comments”)

Sect 3 CG1: Not discussed.

Sect 6, CG2: Chief Mannix reported that the building inspector is responsible for removing non-conforming newsracks.

Sect 6, CG3: Not discussed.

Sect. 6, CG4: Not discussed.

Article 73 (See attachment "ART-73 CBRC Comments")

The committee determined it best to take no action on this article.

Article 74 (See attachment "ART-74 CBRC Comments")

CG1: Ms. White will research other towns' approach to flea markets.

CG2: The committee determined it best to take no action.

Sect 3, CG3: Not discussed.

Article 75 (See attachment "ART-75 CBRC Comments")

Sect 2: **Mr. Sidney moved to change the word "and" to "or." Mr. Ball seconded, and the motion carried unanimously.**

Sect 3, CG1: Not discussed.

Sect 4, CG2: Ms. White addressed the entire article as problematic. She will review.

Article 92 (See attachment "ART-92 CBRC Comments")

Sect 1, CG1: Chief Mannix suggested consideration of increasing the fine. The committee took no action (but did not decide it best to take no action).

Sect 2.1: The insertion of "(\$300.00)" before the final period was agreed by consensus.

Sect 3 CG2-4: The committee determined it best to take no action.

Schedule of Fines, CG5, 6: Ms. White will research.

CONCLUSION AND ADJOURNMENT

The committee will cancel its meeting on Thursday, Jun 25th, 7:00 a.m., and post a sign on the Town Hall door accordingly. It will meet next on July 1st at 5:30 p.m. to discuss financial articles.

Adjournment was moved by Mr. Sidney and seconded by Ms. Adelman Foster. Ms. Gloff adjourned the meeting at 9:06 p.m.

Respectfully submitted by Karen Adelman Foster, CBRC member

Minutes approved on July 15, 2009 by a vote of 4-0-1.

ARTICLE 42

LICENSES

Section 1

License and Registration fees for storage of gasoline, petroleum products, or inflammable fluids, including fuel oils, for sale and for other than the applicant's own use, shall be as follows:

Licenses Fees

(1) Not over 2,000 gallons	\$ 35.00
(2) Each additional 1,000 gallons or part thereof	5.00
(3) Maximum license fees	150.00

Comment [CG1]: The CBRC asks why a few fees are specified in this by-law? Is this required by MGL? If not, why are these here?

Registration fees

one-half (1/2) of the license fees

Section 2

Every person before commencing business in the Town as a transient vendor, whether as principal or agent, shall make written application under oath, for a Town license to the Board of Selectmen and upon payment of a license fee fixed by it in compliance with Chapter 101 of the Massachusetts General Laws, shall be issued a license, provided, however, that said transient vendor comply with the regulations of the Board of Selectmen.

ARTICLE 43

LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

Section 1 Report of Delinquent Taxpayers and Subject Property

The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually 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 pending petition before the appellate tax board, and a list of properties for which such taxes, fees, assessments, betterments or other municipal charges have not been paid.

Comment [CG2]: Would Town Counsel please compare this to By-law Article 12, Section 7 to see if they are in conflict? The CBRC is not certain and think we need a legal opinion. Thanks.

Section 2 Denial, Revocation, or Suspension of Licenses and Permits

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension.

The Building Inspector or Community Development Department may deny an application for a permit regarding property which appears on said list of properties for which a tax, fee,, assessment or other municipal charge has not been paid. Said list shall be prima facie evidence for denial of said license or permit application of any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license or permit.

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate, or that all local taxes, fees, assessments, betterments or other municipal charges have been paid to the municipality as of the date of issuance of said certificate, as applicable.

Comment [CG3]: Do they have to have everything paid up to the town, or just any bills that were over 1 year old?

Section 3 Payment Agreements

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

Section 4 Waiving of Penalty by Board of Selectmen

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

Section 5 Exclusions

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

ARTICLE 50

POLICE REGULATIONS

Comment [CG4]: This is a GENERAL COMMENT: IF WE WANT TO MAKE THE CHARTER AND BY-LAWS NON-GENDER SPECIFIC, DO WE NEED TO AMEND EACH ARTICLE OR CAN WE DO ONE GENERAL CHANGE?

Section 1 Obstruction of Public Ways; License Required

No persons except officers of the Town in the lawful performance of their duties and those acting under their orders, shall obstruct any sidewalk or street or any part thereof, or break or dig the ground of the same, without first obtaining a written license from the Selectmen therefor.

Comment [CG5]: Here it says "license", whereas in Section 5 it says "permit". Is there a difference?

Section 2 Deposit of Rubbish; Defacement of Public Ways

No person shall place or cause to be placed upon any public sidewalk or street any rubbish, debris, or broken glass, or paint, print, word, figure, or picture, except when authorized by the Director of Public Works and except as provided in Section 3 hereunder.

Section 3 Obstruction Due to Construction; Safety Requirements

Every person intending to erect, repair or take down any building on land abutting on any street or way which the Town is required to keep in repair, and who desires to make use of any portion of said street or way for the purpose of placing therein building materials or rubbish, shall give notice thereof to the Selectmen. The Selectmen may grant a permit to occupy a portion of said street or way, and such permit shall be upon the condition that the licensee shall keep a sufficient number of lighted lanterns at or near the parts of the street or way obstructed or unsafe, and shall keep a railing or guard around the same, while such obstruction shall continue. If such obstruction is more than a temporary condition, the licensee shall place a good temporary walk around said obstruction, and at the completion of the work shall restore the street or way to its former condition.

Section 4 Indemnification of Town

Before obtaining a license as specified in the preceding section the person applying for the same shall execute a written agreement to indemnify and save harmless the Town against and from all damages, by reason of cost or expense it may suffer or be put to by reason of any claim for damages or by reason of any proceeding, criminal or civil, on account of the existence of such obstruction or excavation.

Comment [CG6]: With whom is this written agreement? Who writes it?

Section 5 Obstruction of Sidewalks

No person shall, without written permit from the Selectmen, place or cause to be placed upon any sidewalk any object so as to obstruct the sidewalk for more than one hour, or for more than ten (10) minutes after being notified by a police officer or Selectman to remove the obstruction.

Comment [CG7]: Does this mean one Selectman alone can request that the obstruction be moved? Or, does it require the entire board to vote on it?

Section 6 Crossing of Sidewalks by Vehicles

No person shall operate or place a motor vehicle, or trailer which is drawn by or used in combination with a motor vehicle, or any object having an over-all weight in excess of one-half (1/2) ton, upon a public sidewalk, except in using an established driveway, without a permit from the Director of Public Works which may, before issuing a permit, require the applicant to execute a written agreement to indemnify and save the Town harmless against and from all cost for the repair of damage to the sidewalk caused by such use, or by reason of any cost or expense it may suffer or be put to by reason of any claims for damages against the Town resulting from such use.

Section 7 deleted.

Section 8 Obstruction of Pedestrians

Three (3) or more persons shall not stand together or near each other in any street, or on any footwalk or sidewalk, or upon any land left open between the curbing and building facing thereon and left open and used as a sidewalk in the Town, so as to obstruct the free passage of foot passengers; and any person or persons so standing shall move on immediately after a request to do so made by any police officer of the Town.

No person shall loaf or loiter upon any public way after having been requested by a police officer to move.

Section 9 Tampering with Lighting on Public Ways

No person shall extinguish any street light, or extinguish and remove any light placed to warn the public against an obstruction or a defect in any street or way, unless such person is authorized by those having charge of such lights, or of the street or way, so to do.

Comment [CG8]: Should this "and" be "or"?

Section 10 Playing on Public Ways

No person shall throw stones, snowballs, or other dangerous articles within any public way, nor play at baseball or football within any public streets of this Town.

Comment [CG9]: Why specifically baseball or football? Are lacrosse, hockey, basketball, etc. permitted to be played in the public streets? What does the Police Department think?

Section 11 Transporting Garbage or Rubbish; License Required

No person shall carry or transport for hire any garbage or refuse in or through any public way or square in the Town of Natick, unless duly licensed by the Board of Selectmen upon such terms and conditions as said Board deems necessary for the health, comfort, and convenience of the Town. The Board of Health shall submit recommendations thereunder when requested by the Board of Selectmen.

Section 12 Damaging Public Shade Trees

No person shall unlawfully remove, mar, deface, or damage any public tree, shrub, flower bed, grassy border, structure, or device and no person shall attach any sign or structure to any public shade tree.

Comment [CG10]: What about yard sale signs and political posters? These seem to appear on trees.

Section 13 Indecent or Profane Language

No person shall use any indecent or profane language in any public place in the Town or near any dwelling house or other building thereon.

Section 14 Trespassing; Invasion of Privacy

No person shall enter upon the premises of another for the purpose of committing any wanton or malicious act, nor for the purpose or with the intention of invading the privacy of another by peeping into the windows of a house or spying upon any person or persons resident therein.

Comment [CG11]: Does this mean the building or the entire property?

Comment [CG12]: Does this include windows of a condo, apartment or garage?

Section 14 a Consumption of Alcoholic Beverages

Comment [CG13]: What about decriminalization of marijuana? How should we deal with this? Do we need a section 14b to cover this?

No person shall drink any alcoholic beverages as defined in Chapter 138, Section 1 of the Massachusetts General Laws while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person of control thereof. All alcoholic beverages being used in violation of this By-Law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

Comment [CG14]: Where does this come from? Are we actually doing this? Can we delete this?

Section 15 Use of Firearms on Other Hunting Equipment

Comment [CG15]: Shouldn't this say "or"? Is this just a typo?

No person shall fire or discharge any firearms of any kind nor shall use bow and arrow where the arrow is equipped with a metal or other dangerous tip nor use, set, place or maintain any type of leghold, steel-jaw, or Conibear trap within the limits of any highway, park, or other public property or on any private property, except with the written consent of the owner or legal occupant or person having the right of control thereof, provided, however, that this By-Law shall not apply to the lawful defense of life or property or to any military exercises or funeral.

Comment [CG16]: What about a cross bow?

Comment [CG17]: Has this been superseded by MGL?

Section 16 Animal Control

16.1 Disturbing the Peace - No person shall own or keep in the Town any pet which, by barking, howling or in any other manner, disturbs the peace of another by reason of excessive noise for a prolonged period.

16.2 Threat to Health and Safety - No person shall own or keep in the Town any pet which, by biting, maiming, killing, chasing, or vicious disposition, threatens the health or safety of persons or property.

16.3 Removal of Feces - The person owning a pet shall be responsible for the prompt removal of any feces deposited on public or private property, except on the property of the owner of the pet or with the permission of the owner or occupant of the property.

16.4 Restraint of Pets - No person shall allow a pet, other than a cat, to run at large anywhere in the Town, except on the property of the owner of the pet or with the permission of the owner or occupant of the property.

16.5 Leashing of Dogs - No dog shall be permitted in any street or public way in the Town unless effectively restrained by a leash or chain not exceeding seven (7) feet in length.

16.6 Complaint of Nuisance - If any person shall make a complaint to the animal control officer or, in the case of after-hours complaints, to the police, concerning a violation of this Section 16, the investigating officer shall investigate such complaint and may prescribe fines, confinement, muzzlement, or removal or recommend disposal in accordance with this section.

Comment [CG18]: Is "disposal" the correct word to be using here? What does "disposal" mean?

16.7 Fines - If the investigating officer determines that a violation of this section has occurred, fines may be levied according to the following schedule:

Comment [CG19]: Do the following fines need to be listed in this by-law, or could they be removed and set by the BoS? Are these set by MGL? Is there something in our Charter that requires them to be here?

First offense	\$25.00
Second offense	\$50.00
Third offense	\$75.00
Fourth and subsequent offenses	\$100.00
Unrestrained dog found on school or park property	\$100.00

Comment [CG20]: Also, where are standard police fines, e.g., parking fines, defined/set?

Dog unlicensed	\$100.00
Dog unvaccinated for rabies	\$300.00

In addition to the foregoing fines, failure to renew a license for a dog within thirty days of the required time shall be punishable by a fine of twenty-five dollars. Failure to renew a license for a dog within sixty days of the required time shall be punishable by an additional fine of twenty-five dollars

16.8 Confinement - The investigating officer may order an animal to be muzzled or confined to the owner's premises when, in the investigating officer's judgment, it is required for any of the following reasons:

- (1) If found at large or unmuzzled, as the case may be, while an order of the Board of Selectmen for the muzzling or confinement is in effect.
- (2) If found in a school, school yard or public recreational area.
- (3) For having bitten any person.
- (4) For having killed, maimed or damaged any other domesticated animal or livestock.
- (5) For chasing any vehicle upon any public way or way open to public travel in the Town.
- (6) For any violation of Sections 16.1 through 16.5.

16.9 Recommendation for Disposal - The investigating officer may recommend disposal of an animal to the Board of Selectmen when in the investigating officer's judgment it is required for any violation of Section 16.4.

Comment [CG21]: What is meant by "disposal"?

Comment [CG22]: We think this reference is wrong; we think it should either reference all of Section 16 or specifically Section 16.8.

16.10 Other Fees and Charges - The owner shall be responsible for any fines, kennel fees, court and legal costs, as well as the cost of publishing and sending notices. These fees must be paid before any pet is released from confinement.

16.11 Definition - For the purpose of this section, pet shall be defined as follows:

Pet: any domesticated animal, not including livestock or fowl, which is commonly housed within or upon the owner's or keeper's premises.

16.12 Board of Selectmen Review - If any person shall make a complaint to the Board of Selectmen, in writing, that a person is aggrieved by the ruling of an investigating officer, the Board of Selectmen shall investigate said complaint. The Selectmen may examine the complainant under oath. The Selectmen may make an order concerning the restraint or disposal of said animal as may be deemed necessary.

16.13 Judicial Review - Any person aggrieved by any order of the Board of Selectmen may seek judicial review in the manner provided in MGL, Chapter 140, Section 157.

16.14 **Applicability of General Laws** - This by-law is not intended to derogate or limit any powers, rights, or obligations set forth in MGL, Chapter 140, but is in addition thereto.

16.15 **Dog License and Kennel License Fees**

Male – Female	\$15.00
Spayed – Neutered	\$10.00
Kennels	
4 Dogs	\$25.00
10 Dogs	\$50.00
25 Dogs	\$75.00

Comment [CG23]: Could these fees be removed from here and set by the BoS? Does MGL define these fees? Is there something in our Charter that requires these to be specified here?

Comment [CG24]: Also, what defines a kennel? What about doggie day care?

Section 17 Storage of Unregistered Motor Vehicles and Trailers

17.1 **Unregistered Motor Vehicles** - Unless authorized by the Board of Selectmen, no person shall in a residential district store any unregistered motor vehicle or component part or parts thereof in a front yard, front driveway, or on a vacant lot; nor shall any person, without such authorization keep ungaraged on any lot in such a district more than one such unregistered motor vehicle or component parts thereof.

Comment [CG25]: How long is "store"? For example, is 2 hours too long?

17.2 **Unregistered Trailers** - No person shall in a residential district store any unregistered trailer, or component part or parts thereof, in a front yard, front driveway, or on a vacant lot.

Section 18 Snow Removal

a. Any person leaving a vehicle so as to obstruct snow removal operations shall be subject to a fine of \$50.00.

b. No person shall plow snow into any public way after it has been plowed.

Section 19 Prohibitions on Morse's Pond

The use and operation of any internal combustion engine in or upon that portion of Morse's Pond located in the Town of Natick is prohibited. The provision of this section shall not apply to the Commonwealth of Massachusetts or any political subdivision thereof.

Comment [CG26]: What about Dug Pond? Are gas engines allowed there? If not, why not? Is it because the City of Boston actually owns part of Dug Pond?

Section 20 Disposal of Rubbish

Disposal of refuse, bottles, cans, or rubbish on private land or public property is prohibited.

Section 21 Use of Off-Road Vehicles

Motorized recreational vehicles, including trail bikes, snowmobiles, and other off-road vehicles, may not be used on public property unless the agency in charge thereof shall have opened the land for the use of such vehicles and shall have erected signs stating that such uses are permitted. Said vehicles may not be used on private property without the permission of the owner or tenant; permission may be given in advance and may be given to an individual or club, or by the posting of appropriate permission signs by the owner or a person authorized by him. No person shall operate said vehicles within three hundred (300) feet of an occupied residence without the permission of the owner or tenant, except in cases of emergency or except directly to depart from and return to such residence.

Operators of motorized recreational vehicles must conform with other prevailing laws and regulations.

Section 22 Designated Parking Spaces for the Handicapped

22.1 Authority - Designated parking spaces for vehicles owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates authorized by section two of Chapter 90 of the General Laws shall be provided in public and private off-street parking areas.

22.2 Provision for - Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping, malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by section two of Chapter 90 of the Massachusetts General Laws, according to the following formula:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces, but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces, but not less than four; more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one half percent of such spaces but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces, but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than five thousand, one half of one percent of such spaces but not less than thirty.

22.3 Identification of - Parking spaces designated as reserve under the provisions of Paragraph 22.2 shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking; Special Plates Required. Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them. Such spaces shall be identified by a sign at each space. This sign shall be located at a height of not less than five (5) feet, not more than eight (8) feet to the top of the sign.

22.4 Prohibited Parking - The leaving of unauthorized vehicles within parking spaces designated for use by disabled veterans or handicapped persons as authorized by Paragraphs 22.2 and 22.3, or within a cross hatch area which is adjacent to a parking space designated for use by disabled veterans or handicapped persons as authorized by Paragraphs 22.2 and 22.3, or in such manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way shall be prohibited.

22.5 Penalty for Violation - The penalty for violation of Paragraph 22.4 of this by-law shall be one hundred dollars (\$100.00). The vehicle may be removed according to the provisions of Section 120D of Chapter 266 of the General Laws.

Section 23 Identification of Dwellings

Every building containing dwellings shall be identified by a street number, to be affixed to and displayed on such building, or elsewhere on the property containing such building, in such manner as to be readily visible from the street.

ARTICLE 51

ALARM SYSTEMS

Section 1 Definitions

For the purpose of this by-law the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. The term "Alarm System" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a power line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. Fire alarm systems and alarm systems, which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this by-law.
- b. The term "Alarm User" or "User" means any person on whose premises an alarm system is maintained within the town except for alarm systems on motor vehicles. Excluded from this definition and from the coverage of this by-law are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of "alarm system," as that term is used by this by-law, and shall be subject to this by-law.
- c. The term "Automatic Dialing Device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- d. The term "Central Station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.
- e. The word "Town" means Town of Natick.
- f. The term "Communications Console" means the instrumentation on alarms console at the receiving terminal of a signal line which, through both visual and audible signals, indicates an activation of an alarm system at a particular location, or which indicates signal line trouble.
- g. The term "Direct Connect" means an alarm system which has the capability of transmitting system signals to and receiving them at the Natick Police Department Communications Center.
- h. The term "False Alarm" means (1) the activation of an alarm system through

mechanical failure, malfunction, improper installation or negligence of the user of alarm system or of his employees or agents; (2) any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department, when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, malfunction of telephone transmission lines and similar conditions.

- i. The term "Interconnect" means to connect an alarm system to a telephone line, either directly or through a mechanical device that utilizes a standard telephone for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.
- j. The term "Police Chief" means the Chief of Police of the Town of Natick Police Department, or any authorized agent thereof.
- k. The term "Police" or "Police Department" means the Town of Natick Police Department, or any authorized agent thereof.
- l. The term "Public Nuisance" means anything which annoys, injures or endangers the comfort, repose, health or safety of any person(s) or of any community or neighborhood.
- m. The term "Selectmen" means the Natick Board of Selectmen.

Comment [CG27]: We need Bob LaFrancois what wording would be correct in this paragraph, given 2009 technology.

Section 2 Administrative Rules

The Police Chief may promulgate such rules as may be necessary for implementation of this by-law.

Comment [CG28]: Do such rules exist? We should ask Dennis Mannix about this.

Section 3 Automatic Dialing Devices - Interconnection to Natick Police Department

- a. No automatic dialing device shall be interconnected to any telephone numbers at the police department after the effective date of this by-law.
- b. All automatic dialing devices shall not be interconnected to any telephone numbers at the police department. The user of each such device shall be responsible for having the device disconnected upon notification by the Police Chief.

Section 4 Automatic Dialing Devices - Intermediary Services

Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

- a. a central station;
- b. an answering service; or
- c. any privately-owned or privately operated facility or terminal.

Section 5 Direct Connection to Police Department

- a. All alarms must be authorized by the Police Chief prior to being connected to the police department.
- b. In accordance with the normal practices in effect in the town, the Police Chief shall have the authority to request bids or proposals from companies in order to furnish, at no cost to the town, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department. Each of the said bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console, except that no fee shall be assessed to the municipality for any alarms or connections to the console from properties owned by the municipality.

Such services shall be set forth in the form of a written contract between the alarm company and each alarm user. The provisions of this paragraph (b) relate solely to the aforementioned communications console, connections to the said console by alarm users, and fees and charges related to the installation and maintenance of the console. Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance, and/or servicing of the alarm system to be installed on his premises.
- c. The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm receiving equipment at the police department and for furnishing the appropriate interface equipment, if required, in order to provide an input signal which is compatible with the receiving equipment used to operate the communications console.
- d. The provisions of this article concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county and state agencies and religious organizations.

Section 6 Control and Curtailment of Signals Emitted by Alarm Systems

- a. Every alarm user shall submit to the Police Chief and the alarm company who maintains the system at the police communications console the names and telephone numbers of at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and the alarm company.
- b. All alarm systems directly connected to the Police Station shall be equipped with a test device which will give a ten-second delay or longer prior to the alarm system activation in order to warn the alarm user of an open alarm circuit.
- c. Any alarm system that is heard audibly in a residential neighborhood in excess of five (5) times in any seven (7) day period, and any alarm system emitting a continuous and uninterrupted signal for more than thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort, or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such an alarm system, the Police Chief shall endeavor to contact the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The Police Chief shall cause to record the names and addresses of all complaints and the time each complaint was received.

In the event that the Police Chief is unable to contact the alarm user, or member of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the Police Chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

If entry upon the property outside the home or building in which the alarm system is located is made in accordance with this section, the person so entering upon such property (1) shall not conduct, engage in, or undertake any search, seizure, inspection or investigation while he is upon the property; (2) shall not cause any unnecessary damage to the alarm system or to any part of the home or building; and (3) shall leave the property immediately after the audible system has ceased. After an entry upon property has been made in accordance with this section, the Police Chief shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed \$50.00.

Comment [CG29]: Why is there a cap of \$50? Is this set by MGL, or required for some other reason? Could this be at the Selectmen's discretion?

Within ten (10) days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the Selectmen and may present evidence showing that the signal emitted by this alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him; or the requirements of this section were not fulfilled. The Selectmen shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of abatement.

Section 7 Testing of Equipment

No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the Police Chief. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

Section 8 Emergency Notification List

Every business establishment within the Town whether alarmed or not shall provide written notice to the Police Chief listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night and the two are authorized to respond to any emergency which has caused the police to be dispatched to said premises. Such notice shall be submitted during the first month of each year and shall be kept current at all times reflecting any changes in authorized personnel. Owner-residents shall be excluded from this paragraph.

Comment [CG30]: Are businesses complying with this in Natick? If not, why not and how can we enforce this?

Section 9 False Alarms

a. When emergency messages are received by the police department that evidence false alarms, the Police Chief shall take action as may be appropriate under paragraphs (b), (c), (d) and (e) of this section and, when required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.

b. After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the Police Chief shall notify the alarm user, in person, by telephone, or by mail of such fact and require the said user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the

town, or on any other reasonable basis requests an extension of time for filing the report, the Police Chief may extend the fifteen (15) day period for a reasonable period. If the said user fails to submit such a report within fifteen (15) days or within any such extended period, the Police Chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of the receipt of the Police Chief's order.

c. In the event that the Police Chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the Police Chief shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

d. In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the Police Chief may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that the police department records eight (8) false alarms within the calendar year from an alarm system, the Police Chief shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected.

Comment [CG32]: Is this really being done?

Comment [CG31]: For fewer than 8 false alarms the wording was "may"; at 8 alarms it is "shall." Is there a reason for this change? What does Natick actually do?

Comment [CG33]: Do we need to specify this penalty in this by-law? Is this required by MGL? Could this be removed and left to the BoS?

e. Any user of an alarm system which transmits false alarms shall be assessed a penalty of one hundred (\$100.00) dollars for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the town Treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment the Police Chief shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Police Chief's order.

f. Any user of an alarm system who has, in accordance with this section, been ordered by the Police Chief to discontinue use of an alarm system may appeal the order of discontinuance to the Selectmen. Notice of an appeal shall be filed with the Town Clerk within ten (10) days of the date of the order of discontinuance. Thereafter the Selectmen shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such evidence, the Selectmen may affirm, vacate or modify the order of discontinuance.

Section 10 Penalties

The following acts and omissions shall constitute violations of this by-law punishable by fines of up to \$100.00:

Comment [CG34]: Do we need to specify this penalty in this by-law? Is this required by MGL? Could this be removed and left to the BoS?

- a. failure to obey an order of the Police Chief to discontinue use of an alarm system, after exhaustion of the right of appeal;
- b. failure to disconnect an automatic dialing device from any telephone numbers at the police department;
- c. interconnection of an automatic dialing device to any telephone numbers at the police department;
- d. failure to pay two (2) or more consecutive fines assessed under this by-law within sixty (60) days from the date of assessment;

- e. failure to comply with the requirements of Section 6;
- f. failure to comply with the requirements of Section 8.

Each day during which the aforesaid violations continue shall constitute a separate offense.

ARTICLE 52

SOLICITORS AND CANVASSERS

Section 1 License Required

It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town of Natick without first obtaining a license therefor in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person exempted under Chapter 101 of the General Laws, or to any person duly licensed under Chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this by-law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries. The provisions of this by-law shall not apply to any person who goes door-to-door to sell goods or periodicals on behalf of any group organized for any political purpose or for any purpose described in section four of chapter one hundred and eighty of the Massachusetts General Laws, and the provisions of this by-law shall not apply to any person under the age of eighteen years who sells or offers to sell newspapers.

Section 2 Definition

A solicitor or canvasser is defined as any person who, for himself, or for any other person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

Comment [CG35]: Does this include people who knock on doors to offer such things as pizza coupons or other coupon books, etc.

Section 3 Application

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under penalties of perjury, containing the following information:

Comment [CG36]: Is there any limit to the number of these licenses that can be granted?

- (a) Name of applicant
- (b) Address of applicant (local and permanent home address)
- (c) Applicant's height, weight, eye and hair color
- (d) Applicant's social security number
- (e) The length of time for which the right to do business is desired
- (f) A brief description of the nature of the business and the goods to be sold
- (g) The name and home office address of the applicant's employer. If self-employed, it shall so state.
- (h) A photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner
- (i) If operating a motor vehicle: the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.

Comment [CG37]: Is there a limit to how long a license is good for? Could we require an annual application and annual fee?

At the time of filing the application, each applicant shall pay a fee of five (\$5.00) dollars.

Comment [CG38]: Why is this fee so low? Is this set by MGL? Could it be removed from here and set by the BoS?

Section 4 Issuance of License

A license shall be issued to any person who provides the information required by Section 3 of this by-law and who pays the required fee. Failure to comply with the provisions of this by-law shall be a basis for denial of a license or for suspension or revocation of a license issued under this by-law.

Comment [CG39]: See comment about duration on prior page.

ARTICLE 53

USE OF RECREATIONAL CONVEYANCES

Section 1 Prohibited Areas of Use

Recreational conveyances, both motorized and non-motorized, including, but not limited to, scooters, skateboards, roller skates, and roller blades may not be used or operated in, on or upon any building owned by the Town of Natick or the stairs and grounds of a building owned by the Town of Natick, except grounds specifically designated for recreational use or operation. Such recreational conveyances may not be used or operated upon any private building or land where the owner or other person in control of the property has posted a notice prohibiting such use or operation.

Comment [CG40]: Is a bicycle ever NOT a recreational vehicle?

Section 2 Hazardous Use Or Operations Prohibited

No person shall use or operate any such recreational conveyance in, on or upon any public way, sidewalk, parking area, or private property where such use or operation is permitted, in such a way that a hazard is created for pedestrians or vehicles. For purposes of this by-law, a hazard exists when a reasonable person could conclude that an injury to a person or damage to property would result from the use or operation of these conveyances in the manner observed.

Section 3 Penalty

Any person using or operating a recreational conveyance in a prohibited area or in a hazardous manner shall be assessed a fine of twenty-five dollars (\$25.00) for a first offense, and fifty dollars (\$50.00) for second and subsequent offenses. As an alternative to the monetary penalty, violators may, upon mutual agreement with the police department, elect to perform, for a first offense, eight hours community service, and sixteen hours community service for second and subsequent offenses. Such community service shall be at the direction of the Natick Police Department.

Section 4 Severability

In the event that any provision of this by-law is determined to be illegal or invalid by final judgment of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.

Comment [CG41]: Is there a particular reason why this by-law has a severability clause? Should we be adding severability clauses to all of our by-laws? If so, could this be done by one article/motion at TM, or would we need a separate article for each by-law article?

ARTICLE 72

BUILDING REGULATIONS

Section 1 Building Permits, Orders, and Certificates

Each permit, order and certificate issued by the Building Inspector shall bear a serial number and date, identical on all copies, and shall definitely locate the premises referred to by street and number or otherwise.

Comment [CG42]: Is this the correct title?

Comment [CG43]: Do we have serial numbers on all of these documents when issued?

Section 2 Identification of Structures by Street Number

At the time of issuing a certificate of occupancy for a building or structure, whether same be new, added to or altered, or for a change of occupancy if no street number has been assigned thereto, the Building Inspector shall, wherever it is practicable, assign a number or numbers in accordance with the existing numbering system. The Building Inspector shall also assign and order street numbers in accordance with the said system to be affixed or displayed on any buildings not already so numbered on any street. Such numbers shall be affixed or displayed in such a manner as to be readily visible from the street. Owners shall be allowed ten (10) days after the giving of written notice by the Building Inspector to comply with such order.

Comment [CG44]: What happens if the owner does not comply? Is there a fine or other enforcement?

The street number of an existing building or structure may be changed only by vote of the Board of Selectmen, after a Public Hearing by the Board of Selectmen for which fourteen (14) days written notice has been given to the owner of each building or structure for which the number is proposed to be changed and after receipt by the Board of Selectmen of a written recommendation from the Safety Committee of the Town.

Section 3 Fees

A fee schedule for permits and certificates may be established or amended by the Selectmen and the Building Inspector after due notice has been given by publication in a local newspaper at least fourteen (14) days prior to approval.

Section 4 Fences

All fences shall be erected with the finished side of the fence facing the property of the abutters and the frame side of the fence facing the property on which it is erected. The fence owner shall not use the land between the fence and the boundary line for the storage or disposal of any material. The fence owner shall have access to any abutter's side of the fence for maintenance and repairs.

Unless written permission is secured from the abutters to erect fence on property lines, fence must be erected at least one (1) foot in from boundary lines.

Section 5 Height Requirements at Intersection

In any lot which abuts an intersection of two or more streets, no fence, shrubbery or other object which is located within fifteen (15) feet of such an intersection, shall be maintained more than three (3) feet above the street grade measured at said intersection.

Comment [CG45]: What about piles of snow?

Comment [CG46]: How is this enforced? Fines or other enforcement?

Section 6 Signs in Public Ways

Comment [CG47]: Should this section be moved to the Sign By-law?

Comment [CG48R47]: Should we add something that says that the police (or whoever else we want) is authorized to remove signs?

No person shall place any unauthorized or non-conforming sign within the right-of-way of any street. The Building Inspector is authorized to take down and remove such an unauthorized or non-conforming sign. Such sign shall be retained by the Building Inspector for a period of thirty days after its removal. The owner of such sign may reclaim it within thirty days of its removal by submitting satisfactory proof of ownership to the Building Inspector. If such sign is not claimed within such thirty day period, the Building Inspector may cause such sign to be destroyed without incurring any liability to the Town or any of its Agents.

ARTICLE 72. A.

NEWSRACKS ON PUBLIC PROPERTY AND PUBLIC WAYS

Section 1 Purpose and criteria

The purpose of this by-law is to promote the public health, safety and welfare of the inhabitants of Natick through the regulation of placement, type, appearance and servicing of newsracks on public property and in public ways so as to:

- (1) Provide for pedestrian and vehicular safety and convenience;
- (2) Minimize to the greatest extent possible interference with the safe and efficient movement of pedestrians and vehicular traffic, including ingress into or egress from any building situated along a public way, or movement along any public sidewalk or between a public way and a public sidewalk;
- (3) Provide for safe and adequate access to poles, posts, traffic signs and signals, hydrants, mailboxes and areas used for public transportation services;
- (4) Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on public property and public ways, or which unreasonably detract from surrounding aesthetics, including adjacent properties, landscaping and other improvements, as well as to have abandoned or unused newsracks removed;
- (5) To regulate in a fair and equal manner all newsracks and their contents.

Section 2 Definitions

As used in this by-law, the following terms shall have the meanings indicated:

- (1) Newsrack - Any type of unmanned device or enclosure intended for the vending or free distribution of newspapers, periodicals, magazines or other literature.
- (2) Public property - Any municipally owned land or building located in the Town of Natick.
- (3) Public way - Any public street, highway, sidewalk, parkway or alley located in the Town of Natick.

Section 3 General placement of newsracks

Subject to the specifications and prohibitions set forth in this by-law, newsracks may be installed on public property and in public ways, however, such newsracks shall be placed parallel to and no closer than eighteen (18) inches from the curb, or near the wall of a building parallel to and not more than six (6) inches from the wall.

Comment [CG49]: Could/should a fee be charged for placing a newsrack on the streets of Natick? Would this be legal? If so, how would it be administered and enforced?

Section 4 Newsrack specifications

- (1) Newsracks shall be maintained in good working order at all times, freshly painted and with unbroken handles. There shall be no sharp or jagged edges or protrusions on any newsrack which could cause injury or damage to persons or vehicles;
- (2) The name, address and telephone number of a responsible person who may be contacted at any time shall be displayed on the newsrack in such manner as to be readily visible and readable.
- (3) Newsracks shall be either freestanding or shall be bolted in place through four (4) standard holes in the newsrack base to pavement or a pad. No newsrack may be chained, wired, cabled, attached or fixed to any pole, post, tree, fence, bench, trash receptacle or any other structure on public property or in a public way unless such anchor has been provided specifically for such purpose. If a bolted newsrack is removed, the bolts shall be likewise removed entirely and the holes shall be filled with suitable material;
- (4) Newsracks shall carry no cardholders or advertising except the name of the newspaper or material being dispensed limited to two (2) square feet per side and six (6) square feet in total, and/or a copy of the latest edition of such material behind a clear panel in the door of the newsrack.
- (5) Except for the clear panel, all surfaces of a newsrack shall be either green, beige, brown, black, yellow, blue or gray in color with a flat finish. Brilliant or flourescent-type finish is not permitted.

Section 5 Newsrack prohibitions

No newsrack shall be placed, installed, used or maintained:

- (1) Within ten (10) feet of any marked crosswalk;
- (2) Within ten (10) feet of any fire hydrant, fire or police call box, or other emergency facility or device;
- (3) Within ten (10) feet of any driveway;
- (4) Within ten (10) feet ahead of and ten (10) feet to the rear of any sign marking a designated bus stop, as measured along the edge of the pavement or curb line;
- (5) At any location where the clear space for passage of pedestrians would be reduced to less than six (6) feet;
- (6) Within five (5) feet of any display window of any building abutting any sidewalk or in such a manner as to impede or interfere with the use of such window display purpose, or within six (6) feet of any building entrance;
- (7) Facing another newsrack, separated only by the width of a sidewalk or pedestrian walkway;
- (8) Within five (5) feet of any sign, street light pole, traffic signal pole, utility poles or parking meters.
- (9) Within five (5) feet of any stairway, ramp or handicap access device.
- (10) Within twenty (20) feet of any fixed flagpole, commemorative monument, school or school ground, playground or athletic field, cemetery, funeral home or building or site of regular secular or religious ceremony and observance.

Section 6 Enforcement

This by-law shall be enforced by the Inspector of Buildings subject to the following:

- (1) Nonconforming newsracks. Within one hundred (100) days after the effective date of this by-law, and at any time thereafter, any newsrack in violation or nonconformance with any provision of this by-law shall be subject to remedy as provided by law, including but not limited to the imposition of fines, and removal by the Town; [redacted]
- (2) Abandonment. In the event that any newsrack installed pursuant to this by-law does not contain the publication specified therefor within a period of forty-eight (48) hours after release of the current issue or when no publication is in the newsrack for a period of more than seven (7) consecutive days, the newsrack shall be considered abandoned and the Town shall thereafter remove such newsrack. In the event that a newspaper publishing company or its distributor desires to voluntarily abandon or discontinue a newsrack location, said newsrack shall be completely removed, and the public property or public way shall be promptly restored to a safe condition, leaving no holes or projections in any surface. [redacted]

Comment [CG50]: Who is responsible for removing the nonconforming newsracks?

Comment [CG51]: Who sets these fines? MGL, the BoS, or someone else?

Comment [CG52]: Does the BoS have a policy on this?

Section 7 Severability.

If any subsection, paragraph, term or provision of this article of this by-law is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such determination shall have no effect on any other paragraph, term or provision hereof, all of which shall remain in full force and effect.

ARTICLE 73

JUNK COLLECTORS

Section 1

The Selectmen may license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals and secondhand articles from place to place in the Town and no person shall engage in the business without such license.

Section 2

The Selectmen may require all such collectors and their employees or agents to display badges upon their persons or vehicles, or both, when engaged in said business and may prescribe the design thereof.

Section 3

The Selectmen may require that any place, vehicle or receptacle used for the collecting or keeping of said articles be examined at any time by said Selectmen or their agent.

Section 4

No person licensed under this Article shall directly or indirectly purchase or receive any of said articles of a minor or apprentice, knowing or having reason to believe him to be such.

ARTICLE 74
JUNK DEALERS

Comment [CG54]: Should there be a separate article that deals with licensing of flea markets?

Comment [CG55]: Does the gift shop at the Senior Center need a junk dealer license? If it needs one, does it have one?

Section 1

The Selectmen shall license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, old metal and second-hand articles and no person shall be a dealer in or keeper of such a shop without a license.

Section 2

No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper, stock or other inflammable material without a written license therefor from the Selectmen.

Section 3

Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town, shall keep a record in the form prescribed by the police department, on which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made. No article shall be accepted without a showing of positive photo identification by the person offering the article for sale to the shop keeper. The shop keeper's record shall at all times be open to the inspection of the Selectmen, members of the police department and any other person authorized by the Board of Selectmen to make such inspection.

A copy of the weekly record shall be forwarded to the police department operations division at the end of each week, and any article taken into possession by the shop keeper shall be held on premises for ten days before resale.

After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing.

Violations of the provisions of this by-law shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.

Comment [CG56]: Is this fine set by MGL? Could it be removed from here and set by the BoS? Should we treat fees and fines differently?

A copy of this by-law will be provided to each licensee at the time of licensing or renewal.

ARTICLE 75

REMEDY OF PUBLIC NUISANCE

Section 1 Authority and Purpose

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by the Massachusetts General Laws, this by-law is adopted to remedy nuisances within the Town.

Section 2 Definitions

In this by-law, the following words shall have the following meanings:

- (1) **Building:** A combination of any materials, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, to form a structure for the shelter of persons, animals, or property. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof".
- (2) **Interested Parties:** In connection with the notification requirements of this by-law, interested parties are the owner(s) of the property which is the subject of the hearing; the Town Administrator or his designee; owners of property directly opposite the subject property on any public or private street or way; abutters of the subject property; and abutters of abutters within three hundred feet of the property line of the subject property. Ownership of land shall be determined by the most recent tax list.
- (3) **Nuisance:** All public nuisances as known at common law or in equity jurisprudence; and furthermore whatever is dangerous to human life or detrimental to health. Specific conditions which may be characterized as nuisances include, without limitation:
 - (a) Burned structures not otherwise lawfully habitable or usable
 - (b) Dilapidated structures
 - (c) Dangerous or unsafe structures
 - (d) Dead, decayed, diseased or hazardous trees, debris or trash
 - (e) Unregistered or abandoned vehicles or discarded vehicle parts which are not reasonably related to a use of the property permitted under current zoning
 - (f) Commercial vehicles in excess of that permitted under current zoning by-laws
 - (g) Construction equipment not being diligently employed in construction activity on-site in a single family (RS) zoning district.
- (4) **Owner:** The recorded title holder to the property, or the authorized agent, assignee or representative of said title holder.
- (5) **Occupant:** The person occupying or in control of such property.

- (6) **Structure:** A combination of materials assembled at a fixed location to give support or shelter such as a building, framework, retaining wall, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, or mast for an antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

Section 3 Investigation

The Town Administrator shall, upon written complaint, have any condition inspected which may constitute a nuisance. The Town Administrator shall assign the investigation to the town official who, in his judgment, is the most appropriate investigating authority.

Comment [CG57]: We think this "his" is intended to refer to the TA, not the town official to whom the TA has assigned the investigation. If we are correct, the sentence has a grammar problem.

Section 4 Report

If, in the opinion of the Town Administrator or his designee, the reported condition does constitute a nuisance, he or his designee shall make a written report to the Selectmen of such condition, together with a petition for remedial action, and shall file a copy of the petition with the Town Clerk.

Comment [CG58]: Is this being done?

Section 5 Hearing

Upon receipt of such petition and report, the Board of Selectmen shall set a date for a hearing before said Board, not more than thirty (30) days after the date of filing of the petition with the Town Clerk.

Section 6 Notification

Notice of said hearing shall be posted, published and sent to all interested parties not less than fourteen (14) days before the date of said hearing. Notice of the hearing shall state the subject matter sufficient for proper identification, and the date, time and place of the hearing and shall be made in the following manner:

- (1) Publication of the notice in a newspaper of general circulation in the Town
- (2) Mailings by first class mail to the addresses of interested parties.

Section 7 Order

Within seven (7) days of the hearing, the Selectmen shall determine whether or not the condition constitutes a nuisance, and shall determine what action shall be taken by the owner to remove the nuisance. Such actions may include, but shall not be limited to abatement or removal of the nuisance at the owner's expense within twenty-four hours after service of the order, or such other time as may be determined by the Selectmen.

Comment [CG59]: Would "remedy" be a better word here? Please describe the legal difference between "remove" and "remedy."

Section 8 Service of Order

The Town Clerk shall deliver a copy of the order to an officer qualified to serve civil process, who shall forthwith serve an attested copy thereof. Such order shall be in writing and shall be served on the owner in the manner specified by MGL, Ch. 111, s. 124, as amended.

Section 9 Penalty

An owner or occupant shall forfeit twenty dollars (\$20.00) for every day during which he willfully violates such order.

Comment [CG60]: Forfeit? Is there a better word than "forfeit" to use here? Does the money need to be collected or does the Town already have it?

Section 10 Appeal to Superior Court

In accordance with MGL, Ch. 139, s. 2, a person aggrieved by such order may appeal to the Middlesex Superior Court. This civil action must be commenced within three (3) days after the service of the attested copy of the order upon said aggrieved person.

Comment [CG61]: Is \$20 appropriate?

Section 11 Removal of Nuisance by Selectmen

If the owner fails to comply with the order within the time limit given in the order, the Selectmen may cause the nuisance to be removed and all expenses incurred thereby shall constitute a debt due the Town upon completion of the removal and the rendering of an account therefor to the owner, and shall be recoverable from such owner in an action of contract. Any such debt shall constitute a lien on the land upon which the nuisance was located. The Selectmen shall follow the procedures relative to liens provided in MGL, Ch. 139, s. 3A, as amended.

ARTICLE 92

ENFORCEMENT OF BY-LAWS

Section 1 Fines

The fine for violating any provisions of the By-Laws shall be fifty dollars (\$50.00), except where other penalties are specifically authorized by general laws, by charter, or by by-law.

Comment [CG62]: Why \$50? Is this set by MGL?

Section 2 Enforcement

2.1 Criminal Complaint

Whoever violates any provision of these By-Laws may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in such manner, shall be three hundred dollars (\$300).

2.2 Noncriminal Disposition

Whoever violates any provision of these By-Laws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in the Massachusetts General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, commission, or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is intended that the sections of those laws or by-laws listed in the table entitled "Schedule of Fines," which is incorporated into this subsection by reference, are to be included within the scope of this subsection; that the specific penalties as listed there shall apply to such cases; that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed, if any, shall also be enforcing persons; and that each day on which a violation exists shall be deemed to be a separate offense.

Section 3 Complaints by the Public; Procedures

Any person witnessing the violation of any provision of the Town By-Laws may report such incidents to the appropriate enforcing person. Enforcing persons are hereby designated as (1) police officers, in all cases; (2) those municipal personnel designated in specific by-laws or by Massachusetts law as being responsible for enforcement; or (3) the Town Administrator, who shall refer the complaint to the appropriate municipal personnel for action. The enforcing person shall determine what action to take concerning the complaint, if any.

Whenever a complaint is received in writing from a known person, the official responsible for enforcement shall make a reply to that person within sixty days of receipt. The reply shall note what action, if any, was or will be taken on the complaint. If final action has not been completed by the time the reply is prepared, a follow-up reply shall also be issued after final action is completed.

Comment [CG63]: What does it mean to be a "known person"? does this require that they include their address?

Comment [CG64]: Is this being done?

Comment [CG65]: Is this being done?

SCHEDULE OF FINES

Comment [CG66]: Is this table needed or are these fines defined in other places?

Comment [CG67]: Does this table need to be updated?

Subject	Reference	Other Enforcing Authority	Fine
Underground storage tank registration	(B) Art.81, s.5	Health Officer, Sanitarian	\$50.00
Underground storage tank inventory control	(B) Art.81, s.6	Health Officer, Sanitarian	\$50.00
Underground storage tank testing and removal	(B) Art.81, s.9	Health Officer, Sanitarian	\$100.00
Smoking	(B) Art.83	Health Officer, Sanitarian	
First offense			\$25.00
Second offense			\$50.00
Third offense			\$100.00
Fourth offense			\$200.00
Littering, illegal dumping	(G) c.270, s.16, s.16A	Health Officer, Sanitarian	
First, second, third offenses			\$20.00
Fourth offense			\$100.00

Key: (B) - By-Laws; (G) - General Laws; Art. - Article; c. - chapter; s. - section.

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, June 24, 2009 1:33 PM
To: Carol Gloff; 'mannix@natickpolice.com'
Cc: 'White, Martha'
Subject: RE: Review of police-associated by-law articles before Dennis retires
Carol:

This is my response to the Charter and By Law Review Committee's comments regarding Article 50 of the By Laws.

1. One amendment can address the concept of gender neutrality. It is not necessary to amend each individual article in question.
2. Section 1 and Section 5 should be consistent, and should refer to a written license.
3. The indemnification agreement should release, hold harmless and hold harmless the town of Natick and its officers, employees, boards, commissions and committees, agents and representatives. It should be prepared by the Town.
4. This should be by vote of the Board of Selectmen.
5. The word "and" appears to be a typo and should be "or".
6. There is no legal reason why the application should be limited to baseball or football.
7. If the intent is to prohibit any signs or structures on public shade trees, that is a reasonable regulation and the wording should remain.
8. "Premises: refers to the entire property.
9. House does not necessarily refer to a condo, apartment or garage.
10. An amendment to the By Laws would be necessary to address marijuana.
11. I believe that at least part of the rationale for this provision is to preserve the evidence until the case is finally resolved, including appeals.
12. To change "nor" to "or" in the first two lines is acceptable.
13. It is not clear that crossbow is included within bow and arrow. I would defer to the Chief on this point.
14. I would defer to the Chief.
15. "Disposal" in this context refers to killing. Replacement of the word "Disposal" with the words "killing by permissible execution" would clarify this provision.
16. I recommend that the fines be included in the By Law. They are regulated by statute. In my opinion it provides clear notice to the public to include the fines in the By Law.
17. Chief Mannix will address this issue.
18. See item 15 above.
19. Reference to Section 16 rather than Section 16.4 would be appropriate.
20. I recommend that the fees be included in the By Law.
21. "Kennel" is defined by Chapter 140, Section 136A of the Massachusetts General Laws as "one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over, owned or kept on a single premises irrespective of the purpose for which they are maintained". In my opinion, this definition includes doggie day care.
22. With unregistered vehicles I believe that the intent is to prohibit them in those locations. Any storage is prohibited, although a showing of reasonable efforts to remove the vehicle would certainly be taken into consideration.
23. I do not know of any legal reason why Dug Pond has not been addressed.

Please inform the members of the Committee.

John Flynn

From: Carol Gloff [mailto:cagloff@comcast.net]
Sent: Tuesday, June 23, 2009 6:06 PM
To: palmer@natickma.org; charlie@natickma.org; dangelo@natickma.org; John P. Flynn
Cc: 'White, Martha'
Subject: FW: Review of police-associated by-law articles before Dennis retires

Let me try this again. I had copied your email addresses from a prior email, but doing so added some punctuation that the email system did not like.

Carol

From: Carol Gloff [mailto:cagloff@comcast.net]
Sent: Tuesday, June 23, 2009 5:59 PM
To: 'palmer@natickma.org'; 'dangelo@natickma.org'; 'charlie@natickma.org'; 'John P. Flynn'
Cc: 'White, Martha'
Subject: FW: Review of police-associated by-law articles before Dennis retires

Hi Jan, Bob, Charlie and John,

This is just a reminder that the Charter and By-law Review Committee (CBRC) will be meeting at 5:30 PM tomorrow in the School Committee Meeting Room to discuss the by-law articles that are relevant to the Police Chief/Department. Those articles are: By-law Articles 42, 43, 50, 51, 52, 53, 72, 72A, 73, 74, 75, and 92.

Each of you was emailed 1 or more of these by-law articles last week on Tuesday (June 16), as the CBRC also thought that your comments would be relevant. You didn't receive all 12 of the articles below, and I'm only asking you to review those that I emailed to you directly last week (Tuesday, June 16).

I have not heard back from each of you, so I do not know if you will be able to provide your comments on these articles for tomorrow's meeting, and if you plan to attend the meeting or if you plan to provide your comments without attending the meeting. Would you please let me know if you will be able to provide your comments for tomorrow evening and if yes, if you will do so in person or by some other method.

Also, please copy Martha White on any reply email. I will be out at client meetings all day tomorrow and may not have the opportunity to read email before the CBRC meeting. Since Martha is coming to the meeting, I trust that she could provide me with any emailed feedback that you may send.

If you have any questions or comments, please call my cell phone tomorrow: 508-494-4895.

Thank you for your assistance with our review.

Carol

From: Carol Gloff [mailto:cagloff@comcast.net]
Sent: Thursday, June 18, 2009 3:48 PM
To: 'omaloney@natickma.org'; 'palmer@natickma.org'; 'Panagopoulos, Charles'; 'dangelo@natickma.org'; 'js Sheridan@natickma.org'; 'charlie@natickma.org'
Cc: 'White, Martha'; 'John P. Flynn'
Subject: Review of police-associated by-law articles before Dennis retires

Good afternoon,

On Tuesday I sent each of you a number of by-laws for your review to assist the Charter and By-law Review Committee (CBRC) in its work. Today the CBRC met and determined that we would like to obtain Chief Mannix's comments on the by-laws before he retires, which means we hope to discuss his comments at our meeting next Tuesday, June 24 beginning at 5:30 PM. Chief Mannix (and Lt. Mabardy) have been asked to review By-law Articles 42, 43, 50, 51, 52, 53, 72, 72A, 73, 74, 75, and 92.

The CBRC also realized today that it would make our review process much more efficient if we were able to obtain comments on a particular by-law from all relevant departments at the same time. We acknowledge that this is short notice, but wonder if you might be able to review by next Wednesday any by-laws from the list above that are also on your list to review. We understand if you can't complete these reviews in this short timeframe, but thought we would at least ask. Also, note that most of you don't have all of these by-laws on your list for review; you only need to review the ones that I sent you on Tuesday.

Finally, if you are available to attend our meeting on Wednesday, June 24 at 5:30 PM in the School Committee meeting room in order to discuss your comments, it would be very helpful. If you cannot attend, we would appreciate receiving your comments in writing in advance.

Please call (508-651-3026) or email me with any questions or comments.

Note that we will discuss comments on other articles on subsequent Wednesday evenings or Thursday mornings.

Thank you.

Carol

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, June 24, 2009 3:48 PM
To: Carol Gloff
Cc: 'mannix@natickpolice.com'; 'White, Martha'
Subject: By Laws - Article 51

Carol:

This is my response to the Charter and By Law Review Committee's comments regarding Article 51 of the By Laws.

The deletion is Section 1 a. presents no legal problem.

I recommend that the current wording in Section 3 b. be retained. The time when this requirement was adopted is important. Section 3 a. addresses new situations.

Regarding the Committee's comments:

1. I would defer to Bob LeFrancois on this issue. Deletion of "voice grade" presents no legal problem.
2. I recommend leaving this language in the By Law. It is appropriate for the Chief to have the authority to promulgate rules.
3. We find no legal limitation regarding the amount of such fees and expenses which may be recovered.
4. Violation of this provision may be enforced by a criminal complaint or non-criminal disposition under Section 92 of the By Laws.
5. This presents a policy issue, not a legal issue.
6. This presents a policy issue, not a legal issue. The provision is reasonable.
7. We find no legal limitation regarding this particular penalty. Chapter 40, Section 21 of the Massachusetts General Laws provides that towns may affix penalties for violations of their bylaws not exceeding \$300 for each offense. This penalty is well within that authority. I recommend that the penalty be included in the bylaw.

Please inform the members of the Committee.

John Flynn

From: John P. Flynn [jflynn@mhtl.com]
Sent: Wednesday, June 24, 2009 5:36 PM
To: Carol Gloff
Cc: 'mannix@natickpolice.com'; 'White, Martha'
Subject: By laws, Article 52

Carol:

This is my response to the comments of the Charter and By Law Review Committee regarding Article 52 of the Natick By Laws.

1. The definition in Section 2 includes such solicitation if the coupons, etc. are being sold. The definition in Section 2 does not apply if the coupons, etc. are being given away if no consideration is being sought in return for the coupons.
2. We find no legal limit on the number of licenses that can be granted.
3. We find no legal requirement for the duration of the license. In my opinion, a one year term and an annual fee would be reasonable.
4. The fee is not set by the Massachusetts General Laws. In 1993 Natick accepted Chapter 40, Section 22F of the Massachusetts General Laws, which allows the town to fix reasonable fees for licenses. As is the case with any other fee, it must be reasonably related to the costs of providing the service. It cannot be a revenue raising measure. However, our courts realize that it is difficult to have a 100% correlation between the amount of the fee and the costs of the service for which the fee is charged. Incidental revenue is acceptable, as long as the fee is reasonably related to the cost of providing the service.
5. See the response to comment 3 above.

Please inform the members of the Committee.

John Flynn