



TOWN OF ERVING

SELECT BOARD / WATER COMMISSIONERS

To be held at the Senior & Community Center,
1 CARE DRIVE, ERVING, MASSACHUSETTS 01344

Jacob A. Smith, Chair
William A. Bembury
Scott Bastarache
Select Board

Bryan Smith
Town Administrator

Meeting Agenda

Monday, July 18, 2022

This meeting is open to the public.

Scheduled Business

<i>Time</i>	<i>Agenda Item</i>
6:30 PM	Call to Order

Old Business

<i>Agenda Item</i>	<i>Section</i>
Discussion Regarding Town Response to COVID-19	1
Review of Renewal Agreement for Co-Responder Clinician Services with Clinical Support Options & Intermunicipal Agreement	2
Review of Sexual Harassment Prevention Policy- 3 rd Read	3
Review of Protected Class Harassment Prevention Policy- 3 rd Read	4
Review of Town Bylaw Codification Project & Editorial Analysis	5

New Business

<i>Agenda Item</i>	<i>Section</i>
Meeting Minutes: June 21, 2022, & July 06, 2022	6
Discussion of the use of Officers at Elections	7
Review of FY2021 CDBG Program Report- Quarter ending 6-30-2022	8
Discussion Regarding Textile Waste Ban & Disposal Options	9
Amended Description of Poplar Mountain Road Order of Public Layout	10
Review of FY2023-FY2026 Regional Dog Shelter Agreement	11
Review of FY2023 Agreements with the Franklin County Solid Waste Management District for Sludge Hauling, Transfer Station Hauling, and Household Hazardous Waste	12
Review of 1 st and 2 nd Water Commitments for FY2023	13
Review of Town-wide Master Project List & Discussion for Upcoming Focus	14
Review of Ford Transit Connect Van Procurement- Wastewater	15

Other Business

Signing of the Treasury Warrant

Anticipated Next Meeting Dates

Monday, August 01, 2022- 6:30PM	Monday, August 15, 2022- 6:30PM
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Note: These agenda items and estimated times are those reasonably anticipated by the Chair. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion. Estimated agenda times may need to be changed on the night of the meeting for the sake of expediency. Section numbers correspond to agenda packets and are not an indication of the order of the agenda

Town of Erving

Select Board Public Meeting Participation Guidance

The Select Board welcomes residents to communicate questions, comments or concerns. Participants at Select Board meetings are notified that the meetings are both video and audio recorded, and comments provided will become part of the record. While offering public input, it is important that the Select Board is also allowed enough time to conduct their other business. The following guidelines have been established to make the best use of time at Select Board meetings.

1. To request time on the Select Board agenda, persons must contact the Town Administrator at (413) 422-2800, Ext.1102 or at SBRequests@erving-ma.gov by noon on the Tuesday before the meeting.
 - a. Requests will be submitted to the Chairperson for consideration and scheduling.
 - b. Supporting documentation related to the request must be provided to the Administrator's office by noon on the Thursday prior to the meeting. The Chairperson may remove requested agenda topics that are made without supporting documentation.
2. The Select Board encourages public participation as follows:
 - a. Town residents can bring comments before the Select Board that require discussion and are on the agenda, only after being recognized by the Chair. If your issue is not on the agenda, you may bring it up under "Future agenda items".
 - b. "Topics not anticipated" should be brought to the Chair for possible consideration prior to the meeting.
 - c. Please try to keep your comments short and to the point.
 - d. If it appears that the topic(s) being discussed will consume longer than the time allocated then, at the discretion of the Chair, the matter will be placed on an upcoming Select Board meeting agenda.
 - e. If you believe that your topic will require more time or desire to make a more formal presentation than is allowed under these guidelines, please contact the Town Administrator to ask to be put on a future agenda so that we can properly allocate enough time.
 - f. You are free to ask questions or to make your point for all to consider. However, engaging in active debate with Select Board or audience members will not be allowed.
 - g. All comments and questions must be directed to the Chair of the Select Board per MGL Chapter 30A, Section 20(g).
 - h. Participants are expected to speak from the presenter/guest table.
 - i. All remarks must be respectful and courteous, free of personal attacks. Inappropriate language will not be tolerated.
3. Employees and Board members who have business with the Select Board should be placed on the agenda beforehand (see Item # 1.).
4. Anyone wishing to contact the Select Board in writing may do so at:

Town of Erving, Attn: Select Board, 12 East Main Street, Erving, Massachusetts 01344

Alternatively, members of the public can complete a Select Board submission form at the meeting sign in table and office staff member will follow up.

The Select Board appreciates your cooperation in honoring these guidelines.

From Massachusetts Attorney General Official Website

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. Any member of the public also has a right to make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the Chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The Chair is required to inform other attendees of such recording at the beginning of the meeting.

While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the Chair. An individual is not permitted to disrupt a meeting of a public body, and at the request of the Chair, all members of the public shall be silent. If after clear warning, a person continues to be disruptive, the Chair may order the person to leave the meeting, and if the person does not leave, the Chair may authorize a constable or other officer to remove the person.

Hello all,

Cooperative Public Health Service Weekly Report covering 27 June – 10 July 2022*

*Arbovirus data is one week older (published on Tuesday last week; see part IV)

New this week: an extra data visualization map and the inclusion of arbovirus data.

This week's report is by Maureen O'Reilly, moreilly@frcog.org

Let's get started!

COVID's up first...

- I. In the widest lens, the [CDC's COVID-19 Community Level rating](#) places Franklin County as **GREEN**. The CDC gives the following information

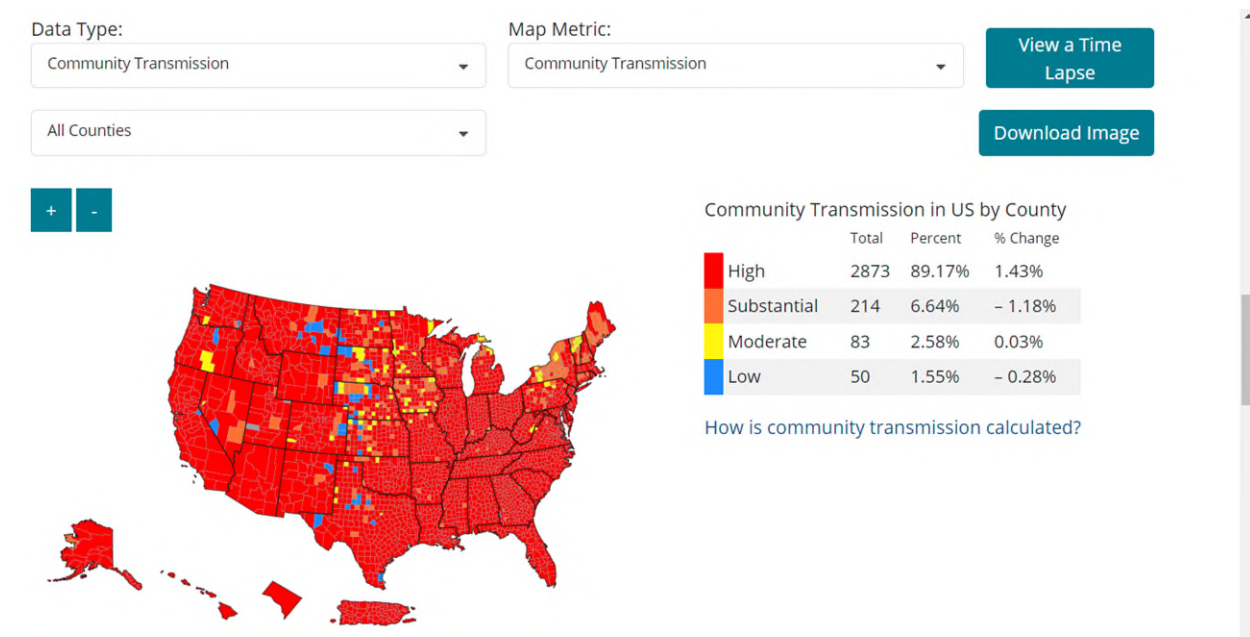
What Prevention Steps Should You Take Based on Your COVID-19 Community Level?

Low	Medium	High
<ul style="list-style-type: none">Stay up to date with COVID-19 vaccinesGet tested if you have symptoms	<ul style="list-style-type: none">If you are at high risk for severe illness, talk to your healthcare provider about whether you need to wear a mask and take other precautionsStay up to date with COVID-19 vaccinesGet tested if you have symptoms	<ul style="list-style-type: none">Wear a mask indoors in publicStay up to date with COVID-19 vaccinesGet tested if you have symptomsAdditional precautions may be needed for people at high risk for severe illness

People may choose to mask at any time. People with [symptoms, a positive test, or exposure](#) to someone with COVID-19 should wear a mask. Masks are recommended in indoor public transportation settings and may be required in other places by local or state authorities.

If you are immunocompromised or high risk for severe disease, learn more about [how to protect yourself](#) with additional CDC recommendations for each COVID-19 Community Level.

- On a separate webpage, the [CDC has more in-depth recommendation for individual- and household-level prevention](#) by Community Level status
- I'd like to point this out: the Community rating uses lagging indicators (e.g. hospitalizations) to determine community level. "Lagging indicators" mean that hospitalizations from COVID follow an increase in COVID cases in a given area.
- The [CDC has a map of community transmission](#)—which calculates transmission rates in a given county based on the number of new COVID cases (per 100K people) and the percentage of positive tests. Here's the transmission map (information covers: Mon Jul 04 2022 - Sun Jul 10 2022 for case rate and Sat Jul 02 2022 - Fri Jul 08 2022).

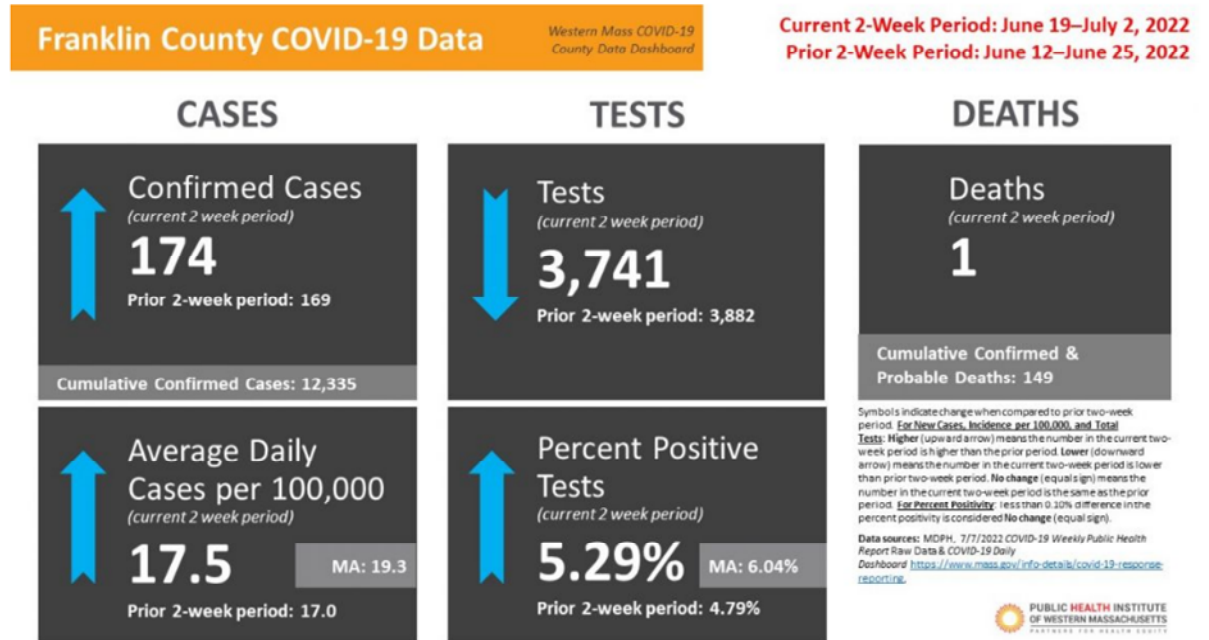


- So, although Franklin County is **GREEN**, there is still a high rate of transmission—and that's something to consider and keep an eye on.
- To access this data, go to the link (above) and use the drop-down menu to select "Community Transmission" for the field "Data Type."

II. At the Franklin County level is the [Public Health Institute of Western Mass COVID-19 dashboard](#). An important note about this resource: although its numbers are accurate, it may feel a step or two behind the

times because it compares two, two-week periods (see top right of the photo below).

Based on best available data as of 7/7/2022



- The number of confirmed cases is similar over each two-week period, and although the number of official tests is down, it's also quite similar.
- So, what sticks out to me is the increase in the percentage of positive tests (up a half of a percent). As we know official testing numbers are lower than home tests, so we'd also expect to see a higher percentage of positive home rapid tests.

III. The CPHS district: COVID-19 and other reportable diseases

New COVID cases				
Town	27 Jun - 03 July	04 - 10 July	Lyme	Anaplasmosis
Ashfield				
Bernardston	3	1	2	
Buckland		3		
Charlemont		1	1	1
Colrain	2	3		
Conway	2	1	1	
Erving	3	1	1	1
Gill	1	3		
Hawley				
Heath		1		
Leyden		1		
Monroe				
Northfield	5	2		
Rowe				
Shelburne	8	1	1	
Total:	24	18	6	2

- Our COVID case counts are relatively steady. A small part two to this: I'll get more into the [Biobot Wastewater Data](#) another time—but what recent wastewater sampling tells us is that the variant BA.5 is definitely in Franklin County (that variant was a little over 70% of all COVID virus detected in wastewater samples, based out of Greenfield). I can't say which cases/what % of cases are BA.5, but I'm sure it's making up a large portion of current cases.
- Once again, the biggest take-away to me are the numbers of tick-borne illness. [Tick bite prevention information and materials](#) can be found on the FRCOG website.
- A small part two to this: I'll get more into the [Biobot Wastewater Data](#) another time—but what recent wastewater sampling tells us is that the variant BA.5 is definitely in Franklin County (that variant was a little over 70% of all COVID virus detected in wastewater samples, based out of Greenfield).

IV. Arbovirus data: As the arbovirus coordinator for many towns, Lisa White and I receive weekly reports from MDPH about the status of

mosquito testing in the Pioneer Valley Mosquito Control District, as well as other mosquito control districts across the state.

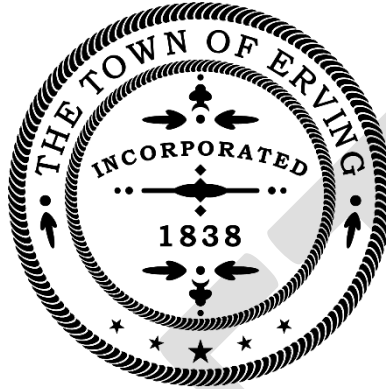
Here is the most recent report:

WNV and EEE Virus Surveillance Summary	
Results contained in this report reflect data inclusive of MMWR Week 26 (Sunday, 06/26/2022-Saturday, 07/02/2022)	
Mosquito Surveillance	
Number of Mosquito Samples Tested	1430
Number of WNV Positive Samples	0
Number of EEE Positive Samples	0
Equine/Mammal Surveillance	
Number of Mammal Specimens Tested	0
Number of WNV Positive Horses	0
Number of EEE Positive Horses	0
Number of other WNV Positive Mammals	0
Human Surveillance	
Number of Human Specimens Tested	0
Number of Human WNV Cases	0
Number of Human EEE Cases	0

Numbers reflect finalized results; data are subject to change as additional test results are finalized.

- This is state-wide (1430 mosquitoes tested over XX weeks so far)
- As you can see, zero cases of EEE and West Nile. Not shown: zero cases of Chikungunya and Dengue Fever statewide.
- We know from that these cases rise later in the season (more time for transmission between reservoir species + mosquitoes + onto humans) –so we’re keeping an eye on this!

That’s a wrap. Thank you for reading this far & have a great week!



AGREEMENT BETWEEN
THE TOWN OF ERVING
AND
CLINICAL & SUPPORT OPTIONS, INC. TO PROVIDE
CO-RESPONSE CLINICAL PROFESSIONAL
SERVICES

Effective Date: July 01, 2022

Professional Services Agreement | Table of Contents

Statements of fact	3
1. Responsibilities of Parties.....	4
2. Term of Agreement.....	4
3. Compensation	4
4. Time and Place of Performance.....	5
5. Confidentiality	5
6. Independent Contractor:	5
7. Insurance.....	5
8. Indemnification.....	6
9. Compliance with Laws	6
10. Conflict of Interest.....	6
11. Successors/Assigns	6
12. Notices	6
13. Amendments/Waivers	7
14. Entirety of the Agreement	7
15. Third Parties	7
16. Severability.....	7
17. Governing Law and Exclusive Venue	8
18. Not ConStrued Against the Drafter	8
19. Heading.....	8
20. Counterparts	8
21. Representation of Authority	8
22. Violation of Law.....	8
23. Nondiscrimination	8
24. Licenses and Fees	8
25. Compliance with the Law.....	8
26. Access to Records.....	9
27. No Waiver	9
28. Signatory Approval.....	9

CLINICIAN CO-RESPONDER PILOT PROGRAM AGREEMENT

This Agreement ("Agreement") is entered into on the **18th day of July, 2022**, by and between:
Town of Erving (Erving), having its usual place of business at 12 East Main Street, Erving, MA 01344; and

Clinical and Support Options ("CSO") having its usual place of business at 8 Atwood Drive, Suite 201, Northampton, MA 01060.

To provide services to the Town of Erving and also to provide services to the following towns:

Town of Bernardston ("Bernardston"), having its usual place of business at 38 Church Street, Bernardston, MA 01337; and

Town of Gill ("Gill"), having its usual place of business at 325 Main Road, Gill, MA 01354; and

Town of Leverett ("Leverett"), having its usual place of business at 9 Montague Road, Leverett, MA 01054; and

Town of Northfield ("Northfield"), having its usual place of business at 69 Main Street, Northfield, MA 01360; and

Town of Warwick ("Warwick"), having its usual place of business at 12 Athol Road, Warwick, MA 01378; and

The municipalities collectively referred to as the "Towns," and CSO and the Towns collectively referred to as the "Parties."

STATEMENTS OF FACT

Whereas, Erving has applied for funding through the Massachusetts Department of Mental Health to support the operation of a pilot program ("Program") that would provide a Co-Response Clinician to the Towns to assist in support to individuals in the community who need mental health and/or substance use services; and

Whereas, Erving is willing to serve as the lead fiduciary entity for this program and desires to enter into an agreement with CSO to provide Clinical Co-Response services; and

Whereas, Erving as the lead entity desires to enter into a regional agreement with the Towns and with CSO to provide Clinical Co-Response services to the member communities; and

Whereas, CSO employs clinicians qualified to provide the services necessary to the Program (CSO Co-Response clinician).

Whereas, each of the Municipalities has authority to enter into an Inter-municipal Agreement pursuant to M.G.L. c. 40, §4A; and

Now, therefore, the Parties agree as follows:

1. RESPONSIBILITIES OF PARTIES

Under the general direction of the Erving Police Department, as the lead fiduciary entity, CSO will provide the following services for the Program and individuals served:

- a. Provide a CSO Co-Response Clinician for coverage to the Towns five (5) days a week. In addition, CSO Co-Response Clinicians shall be available to provide consultation and back up for the Towns by phone and in person twenty-four (24) hours a day, seven (7) days a week.
- b. CSO shall coordinate a monthly operations meeting with the Erving Police Department, participating departments, local service providers, when appropriate, and other identified stakeholders.
- c. The CSO Co-Response Clinician shall utilize data collection tools and shall collect data for operational analysis and outcome studies.
- d. The CSO Co-Response Clinician shall be hired only with the approval of the Erving Chief of Police or their designee. Any personnel or performance related matters involving the CSO Co-Response Clinician will be brought to the attention of the CSO leadership immediately.

Towns will provide the following:

- e. The Towns agree to utilize the CSO Co-Response Clinician for appropriate calls for service and consultations.
- f. The Towns will include the CSO Co-Response clinician in appropriate department meetings and roll call.
- g. Any personnel or performance related matter involving the CSO Co-Response Clinician will be immediately brought to the attention of the Erving Chief of Police who will then work with the CSO Supervisor assigned to the Program.
- h. Erving will be responsible for general Program administration, including the timely processing of vendor invoices and reports to the Massachusetts Department of Mental Health.
- i. The Towns are responsible for sending all invoices for reimbursement to Erving for processing on a monthly basis

2. TERM OF AGREEMENT

The term of this Agreement shall begin on July 1, 2022 and continue through June 30, 2023, unless extended in writing by the parties hereto. This Agreement may be terminated by either party with written notification of thirty (30) days.

3. COMPENSATION

- A. In accordance with the terms of this Agreement, Erving will compensate CSO for service delivery in the aggregate amount of **\$87,389.00**. This will be paid in quarterly installments. CSO will send Erving an invoice for services rendered, with payment terms of net 30 days.
- B. Each of the member towns can spend up to **\$20,000.00** in wages and up to **\$2,000.00** in equipment to be reimbursed by Erving. Each town is responsible for sending Erving a reimbursement request by the 5th of each month for the preceding months, for processing.

- C. The compensation provided by this Agreement is subject to the continued availability of Town funds and appropriations and the continued availability of any other funds anticipated or earmarked for the work hereunder.

4. TIME AND PLACE OF PERFORMANCE

All services outlined within this Agreement shall be delivered throughout the towns of Erving, Bernardston, Gill, Leverett, Northfield, and Warwick.

5. CONFIDENTIALITY

Client confidentiality shall be strictly maintained in compliance with applicable law and client records will only be released when accompanied by a valid release form or as otherwise permitted by law.

6. INDEPENDENT CONTRACTOR:

CSO acknowledges and agrees that it is acting as an Independent Contractor for all work and services rendered pursuant to this Agreement and neither CSO nor the CSO Co-Responder Clinician shall be considered an employee or agent of the Towns for any purpose.

7. INSURANCE

- A. **Coverage For Term of Agreement:** CSO shall, at all times during the term of this Agreement, maintain professional liability insurance comparable to liability insurance and comprehensive public liability insurance, which shall include the broad form comprehensive general liability endorsement covering CSO's activities, including, but not limited to, the provision of clinical mental health support services pursuant to this Agreement. Such policies shall be written by a responsible company qualified to do business in Massachusetts and in good standing therein and shall provide the minimum coverage as set forth below. The policies provided for herein shall specifically cover the indemnity provisions of this Agreement. CSO shall be considered in default of this Agreement if any of the required insurance coverages expires, lapses or is otherwise not valid.
- B. **Towns as Co-Insured or Additional Insured:** The Towns shall be named as a co-insured or additional insured on all insurance coverages. All insurance certificates shall provide that the policies shall not be cancelled without at least thirty (30) days written notice to the Towns.
- C. **Notification of Coverage:** CSO shall deposit with the Issuing Authority copies of the policies and certificates of insurance naming the Town as an additional insured. CSO shall deposit copies of successor policies and certificates of insurance with the Towns. CSO shall notify the Towns in writing at least thirty (30) days prior to the expiration or cancellation of any such policies.
- D. **Insurance Coverage:**
- a. Comprehensive Liability Insurance: \$1,000,000 for each occurrence and \$3,000,000 aggregate;
 - b. Professional Liability Insurance: \$1,000,000 for each occurrence;

- c. Umbrella Coverage: \$2,000,000 for each occurrence & aggregate;
- d. Workers' Compensation Insurance: Full Workers' Compensation Insurance and Employer's Liability shall be maintained with limits as required by Massachusetts law.

8. INDEMNIFICATION

CSO shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of CSO's breach of this Agreement or the negligence or misconduct of CSO, or CSO's agents or employees.

9. COMPLIANCE WITH LAWS

CSO and the Towns shall comply with all Federal, State, and local laws, rules, regulations, and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.

10. CONFLICT OF INTEREST

Any activity associated with this Agreement that would constitute a violation of M.G.L. c.268A, the Commonwealth's Conflict of Interest law, is prohibited.

11. SUCCESSORS/ASSIGNS

This agreement is binding upon the parties hereto, their successors, assigns, and legal representatives. CSO shall not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement, in whole or in part, without the prior written consent from the Town.

12. NOTICES

Any and all notices, consents, demands, request, approvals or other communications required or permitted under this Agreement shall be in writing, with copy by email, and delivered by hand or mailed postage prepaid to the addresses below or as furnished from time to time in writing hereafter by one party to the other party. Notice shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service, or, if sent by private overnight or other delivery service, when deposited for such delivery service.

To Erving:	Bryan Smith, Town Administrator 12 East Main Street Erving, MA 01344 administrator@erving-ma.gov	Robert L. Holst, Chief of Police 12 East Main Street Erving, MA 01344 police@erving-ma.gov
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To Bernardston:	Louis Bordeaux, Town Coordinator PO Box 194 Bernardston, MA 01337 bos@townofbernardston.org	James Palmeri, Chief of Police PO Box 194 Bernardston, MA 01337 police@townofbernardston.org
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To Gill:	Ray Purington, Town Administrator 325 Main Road Gill, MA 01354	Christopher Redmond, Chief of Police 196B Main Road Gill, MA 01354
To Leverett:	Marjorie McGinnis, Town Administrator PO Box 300 Leverett, MA 01054	Scott D. Minckler, Police Chief PO Box 300 Leverett, MA 01054 policechief@leverett.ma.us
To Northfield:	Andrea Llamas, Town Administrator 69 Main Street Northfield, MA 01360	John Hall, Chief of Police 69 Main Street Northfield, MA 01360
To Warwick:	David Young, Town Coordinator 12 Athold Road Warwick, MA 01378	David Shoemaker, Chief of Police 12 Athol Road Warwick, MA 01378
To CSO:	Karin Jeffers, President and CEO 8Atwood Drive, Suite 201 Northampton, MA 01060	

13. AMENDMENTS/WAIVERS

Amendments, or waiver of any term, condition, covenant, duty, or obligation contained in this Agreement may be made only by written amendment executed by authorized representatives of the parties to the original Agreement, prior to the effective date of the amendment.

14. ENTIRETY OF THE AGREEMENT

This Agreement, including all documents incorporated herein by reference, constitute the entire integrated agreement between CSO and the Towns with respect to the matters described herein. This Agreement supersedes all prior agreements, negotiations, and representations, either oral or in writing, between the Parties hereto.

15. THIRD PARTIES

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third-party against either the Towns or CSO.

16. SEVERABILITY

If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless the Towns would be prejudiced.

17. GOVERNING LAW AND EXCLUSIVE VENUE

The Parties agree this Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Parties submit to the jurisdiction of the courts of Franklin County, Massachusetts for the adjudication of dispute arising out of this Agreement.

18. NOT CONSTRUED AGAINST THE DRAFTER

Both Parties acknowledge they have read this Agreement. have had the opportunity to review it with their respective counsel and have agreed to all of its terms. No provision(s) of this Agreement shall be construed by any court or other jurisdictional authority against any party hereto by reason of such party being deemed to have drafted or structured such provision(s).

19. HEADING

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement.

20. COUNTERPARTS

This Agreement may be signed in any number of counterparts, all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument. and any party hereto may execute this Agreement by signing one or more counterparts.

21. REPRESENTATION OF AUTHORITY

Each person signing this Agreement hereby represents and warrants that he or she has the full authority and is duly authorized and empowered to execute this Agreement on behalf of the party for which he or she signs.

22. VIOLATION OF LAW

CSO shall strictly observe and comply with all federal, state and local laws and regulations which may govern the work to be performed as herein specified.

23. NONDISCRIMINATION

CSO shall not discriminate against any person because of race, gender, age, color, religion, ancestry, handicap, sexual orientation, sexual identity, gender identity, veteran status, national origin or any other protected class under the law.

24. LICENSES AND FEES

CSO shall obtain all licenses and permits (other than the license and permit granted by the Agreement) required to conduct the activities pursuant to this Agreement and shall promptly pay all fees, taxes or other state or municipal costs necessary for said licenses, permits or activities.

25. COMPLIANCE WITH THE LAW

CSO shall conduct operations under this Agreement in compliance with all applicable laws, regulations, rules, by-laws and codes of the local, state and federal government such provisions being incorporated herein by reference.

26. ACCESS TO RECORDS

CSO will make all books, accounts, data, records, reports, files and other papers required to be kept or kept in the course of the work to be performed under this Agreement available at all reasonable times for inspection, review and audit by Erving or its authorized representative.

27. NO WAIVER

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of any such terms, conditions or acts but the same shall be and remain at all times in full force and

28. SIGNATORY APPROVAL

WITNESS OUR HANDS AND SEALS as of the first date written above.

For **CLINICAL AND SUPPORT OPTIONS, INC:**

Karin Jeffers
President and CEO

Date

For **TOWN OF ERVING:**

Jacob A. Smith
Chairman, Erving Select Board

Date

Robert L. Holst
Chief of Police, Erving Police Department

Date

This agreement also provides services as enumerated for the municipalities that sign below:

For **TOWN OF BERNARDSTON:**

Chairman, Bernardston Select Board

Date

James Palmeri
Chief of Police, Bernardston Police Department

Date

For **TOWN OF GILL:**

Chairman, Gill Select Board Date

Christopher Redmond Date
Chief of Police, Bernardston Police Department

For **TOWN OF LEVERETT:**

Chairman, Leverett Select Board Date

Scott D. Minckler Date
Chief of Police, Leverett Police Department

For **TOWN OF NORTHFIELD:**

Chairman, Northfield Select Board Date

John Hall Date
Chief of Police, Northfield Police Department

For **TOWN OF WARWICK:**

Chairman, Warwick Select Board Date

David Shoemaker Date
Chief of Police, Warwick Police Department



TOWN OF ERVING

12 Main Street
Erving, Massachusetts 01344
Telephone: (413) 422-2800
Facsimile: (413) 422-2808
Email: administrator@erving-ma.gov

ADM-101

Policy

Sexual Harassment Prevention Policy

Approved: _____ Date: _____
Select Board Chair, Jacob A. Smith

Table of Contents

.01	Issue Date / Effective Date.....	1
.02	Purpose.....	1
.03	The Rule.....	1
.04	Examples of Conduct That May Constitute Sexual Harassment.....	2
.05	Individual Responsibilities.....	3
.06	Complaints of Sexual Harassment.....	3
.07	Investigation of Sexual Harassment Complaints.....	3
.08	Retaliation.....	4
.09	Violation of Policy.....	4
.10	State and Federal Agencies.....	4
.11	Workplace Conduct.....	4
	Acknowledgment of Receipt of the Sexual Harassment Prevention Policy.....	5

.01 Issue Date / Effective Date

This policy is issued and effective on _____

.02 Purpose

The Town of Erving (the “Town”) is committed to promoting a workplace free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings is illegal and will not be tolerated by the Town. Further, any retaliation against an individual who has complained of sexual harassment and/or cooperated in an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated.

To achieve the Town’s goal of providing a workplace free from sexual harassment, this *Sexual Harassment Prevention Policy* outlines the Town’s procedure by which complaints of harassment may be made. The Town will respond promptly to complaints of sexual harassment, and where it is determined that inappropriate conduct has occurred, it will address such conduct and impose such corrective action as is necessary.

.03 The Rule

Sexual harassment of employees occurring in the workplace or in other settings is not tolerated by the Town. The term “sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other uninvited verbal, visual, or physical conduct of a sexual nature when:

- submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of employment or used as a basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, humiliating, or sexually offensive work environment.

Further, retaliation against an individual who has complained about sexual harassment and/or cooperated with an investigation of a sexual harassment complaint will not be tolerated.

It is also against the policy of the Town for an individual to engage in any other form of unlawful harassment and/or inappropriate or unprofessional conduct in the workplace.

.04 Examples of Conduct That May Constitute Sexual Harassment

While it is not possible to list all of the circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness:

- sexual advances or propositions;
- verbal abuse, jokes, or language of a sexual nature;
- use of sexually degrading words;
- conversation or gossip with sexual overtones;
- sexually-oriented teasing;
- comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences or discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of his/her sexual preference;
- unwelcome invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment;
- sexually-oriented letters, notes, or communications;
- sending, posting, or distributing offensive or discriminatory messages or materials that contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching, repeated brushing up against one's body, deliberate bumping, cornering, grabbing, or impeding or blocking movements;
- assaults of a sexual nature, molestations, or coerced sexual acts;
- sending, posting, or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually suggestive gestures, leering or staring at parts of a person's body; and
- condoning sexual harassment.

Sexual harassment can occur in a variety of circumstances. Here are some things to remember:

- a man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;
- the harasser does not have to be the victim's supervisor;
- the victim does not have to be of the opposite sex from the harasser; and
- the victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed

toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim's work performance by creating a hostile, humiliating, or sexually offensive work environment.

.05 Individual Responsibilities

Each individual of the Town is personally responsible for:

- ensuring that their conduct does not sexually harass any other individual with whom they come in contact on the job, such as a subordinate, co-worker, client, visitor, applicant, or vendor;
- cooperating in any investigation of alleged sexual harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate sexual harassment and to maintain a work environment free from such harassment; and
- ensuring that an individual who files a good-faith sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

.06 Complaints of Sexual Harassment

The Town has designated a Sexual Harassment Grievance Officer. The Sexual Harassment Grievance Officer is Town Administrator Bryan Smith, who can be reached by phone at (413) 422-2800, extension 1102 or by email at bryan.smith@erving-ma.gov. If an employee prefers, they may contact Jennifer Eichorn, Treasurer, who has been designated as the Alternate Sexual Harassment Grievance Officer, who may be contacted by phone at (413) 422-2800, extension 1112 or by email at Jennifer.eichorn@erving-ma.gov.

If any individual believes they have been subjected to sexual harassment, the individual should initiate a complaint by contacting the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer as soon as possible following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Town to investigate what occurred. The individual will be asked to write out their complaint to document the allegation.

If an individual prefers to discuss a possible sexual harassment incident with their supervisor, the individual may always do so, but individuals do not have to go through the regular chain of supervision when reporting sexual harassment and may, instead, go directly to the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer.

.07 Investigation of Sexual Harassment Complaints

Upon receiving the complaint, the Sexual Harassment Grievance Officer or the Alternate Sexual Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include interviews with the individual making the complaint, witnesses, and the person accused of sexual harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

When the investigation has been completed, the Town will, to the extent appropriate, inform the individual who filed the complaint and the individual alleged to have committed the complained-of conduct, of the results of the investigation. If the investigation reveals that sexual harassment did occur, the Town will act promptly to eliminate the offensive conduct.

.08 Retaliation

Retaliation against an individual for making a good-faith complaint of sexual harassment or cooperating in an investigation is against the law and prohibited. If any individual believes that they have been subjected to retaliation for having brought a complaint of harassment or for having participated in an investigation, that individual is encouraged to report the situation as soon as possible to the Sexual Harassment Grievance Officer, the Alternate Sexual Harassment Grievance Officer, or their supervisor.

.09 Violation of Policy

Any individual violating this *Sexual Harassment Prevention Policy* will be subject to appropriate discipline, including possible termination of employment.

.10 State and Federal Agencies

In Massachusetts, the Massachusetts Commission Against Discrimination (“MCAD”) is the state agency responsible for enforcing Massachusetts state law prohibiting sexual harassment. The MCAD can be reached at One Ashburton Place, Room 601, Boston, MA 02108, (617) 994-6000, or 436 Dwight Street, Suite 220, Springfield, MA 01103, (413) 739-2145, or 484 Main Street, Room 320, Worcester, MA 01608, (508) 453-9630, or 128 Union Street, Suite 206, New Bedford, MA 02740, (774) 510-5801. The U.S. Equal Employment Opportunity Commission (“EEOC”) is responsible for enforcing the federal law prohibiting sexual harassment. The EEOC can be reached at John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200.

A complaint to the MCAD must be filed within 300 days of the alleged conduct. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

.11 Workplace Conduct

It is important to note that while this *Sexual Harassment Prevention Policy* sets forth the Town’s goal of promoting a workplace that is free of sexual harassment, it does not, in any way, limit the Town’s authority to discipline or take remedial action for workplace conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

Acknowledgment of Receipt of the Sexual Harassment Prevention Policy

I acknowledge receipt of this *Sexual Harassment Prevention Policy* from the Town and I have read its contents.

Employee's Name (Please Print)

Employee's Signature

Date

This signed Acknowledgement is to be returned to the Town Administrator's Office within five (5) business days after receipt of this Policy.

DRAFT



TOWN OF ERVING

ADM-102

12 Main Street
Erving, Massachusetts 01344
Telephone: (413) 422-2800
Facsimile: (413) 422-2808
Email: administrator@erving-ma.gov

Policy

Protected Class Harassment Prevention Policy¹

Approved: _____ Date: _____
Select Board Chair, Jacob A. Smith

Table of Contents

.01	Issue Date / Effective Date.....	1
.02	Purpose.....	1
.03	Equal Employment Opportunity	1
.04	Harassment.....	2
.05	The Rule.....	2
.06	Examples of Conduct That May Constitute Harassment.....	2
.07	Individual Responsibilities.....	3
.08	Violation of Policy	3
.09	Procedures for Complaints.....	3
.10	Retaliation	3
.11	State and Federal Agencies	4
.12	Workplace Conduct.....	4
	Acknowledgment of Receipt of the Protected Class Harassment Prevention Policy.....	5

.01 Issue Date / Effective Date

This policy is issued and effective on _____

.02 Purpose

The Town of Erving (the “Town”) depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to maintaining a positive and congenial work environment free from harassment. The Town recognizes the right of all individuals to be treated with respect and dignity.

Employees are encouraged to see their immediate supervisor with suggestions, questions or problems relating to their job or work environment, or the employee can contact Human Resources. While the Town cannot promise that every problem will be resolved to an employee’s satisfaction, the Town values employee input, and employees should feel free to raise issues of concern.

.03 Equal Employment Opportunity

The Town is an equal employment opportunity employer and does not discriminate in hiring or employment on the basis of race, color, religious creed, national origin, sex, ancestry, sexual orientation,

¹ Sexual harassment is covered by a separate policy, which has been issued to all employees.

as defined by law, age, as defined by law, qualified mental or physical disability, genetic information, military status, veteran status, or application for military service, gender identification, transgender status, pregnancy, or any other protected class legally applicable to the Town (collectively, “Protected Classes”). If an employee believes they require an accommodation in order to perform the essential functions of their job due to disability, please notify Human Resources.

.04 Harassment

Harassment on the basis of a Protected Class (hereafter referred to as “harassment”), is a form of behavior that adversely affects the employment relationship. State and Federal law prohibit such behavior. The Town condemns and prohibits the unlawful harassment of any applicant, employee, client, vendor or visitor.

Because the Town takes allegations of harassment seriously, we will respond promptly to complaints of harassment and, where it is determined that inappropriate conduct has occurred, we will act promptly to address the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

.05 The Rule

It is against the policy of the Town for any individual to harass another individual on the basis of a Protected Class when:

- submission to or rejection of such conduct is made either implicitly or explicitly a term or condition of employment or a basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, humiliating, or offensive work environment.

It is also against the policy of the Town for an individual to engage in any inappropriate or unprofessional conduct in the workplace.

.06 Examples of Conduct That May Constitute Harassment

While it is not possible to list all of the circumstances that may constitute unlawful harassment, depending upon the totality of the circumstances, including the severity of the conduct and its pervasiveness, the following is a list of situations that could constitute unlawful harassment:

- verbal abuse, comments, jokes, teasing, threats or the use of words that degrade a person because of their Protected Class;
- obscene or suggestive gestures or sounds intended to relate to a person’s Protected Class;
- posting or distributing letters, notes, objects, pictures, cartoons or other materials that degrade a person because of their Protected Class;
- sending or posting offensive or discriminatory messages or materials related to an individual’s Protected Class through the use of electronic communications (e.g., internal and external electronic mail, voicemail, facsimile, and Internet sites, including social media sites); and
- condoning harassment on the basis of a person’s Protected Class.

Harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim’s supervisor; and
- The victim does not have to be the person at whom the unwelcome harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the victim or unreasonably interferes with the victim’s work performance by creating a hostile, humiliating, or offensive work environment.

.07 Individual Responsibilities

Each individual of the Town is personally responsible for:

- ensuring that their conduct does not harass any other individual with whom they come in contact on the job, such as a subordinate, co-worker, client, visitor, applicant or outside vendor;
- cooperating in any investigation of alleged harassment by providing any information they possess concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate harassment and to maintain a work environment free from such harassment; and
- ensuring that an employee who files a good-faith harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

.08 Violation of Policy

Any individual violating this policy will be subject to appropriate discipline, including possible termination of employment.

.09 Procedures for Complaints

The Town has designated a Harassment Grievance Officer. The Harassment Grievance Officer is Bryan Smith, Town Administrator, who can be reached by phone at (413) 422-2800 ext. 1102 or by email at bryan.smith@erving-ma.gov. If an employee prefers, they may contact Jennifer Eichorn, Treasurer, who has been designated as the Alternate Harassment Grievance Officer, who may be contacted by phone at (413) 422-2800 ext. 1112 or by email at Jennifer.eichorn@erving-ma.gov.

If any individual believes they have been subject to harassment on the basis of their Protected Class, the individual should initiate a complaint by contacting the Harassment Grievance Officer or the Alternate Harassment Grievance Officer as soon as possible. The individual should make the complaint promptly following any incident of alleged harassment. The individual should be aware that the longer the period of time between the event giving rise to the complaint and the complaint being made, the more difficult it will be for the Harassment Grievance Officer or their designee to investigate what occurred. The individual will be asked to write out their complaint to document the allegation.

If an employee prefers to discuss a possible harassment problem with their supervisor, or Human Resources, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting harassment and may, instead, go directly to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer.

Upon receiving the complaint, the Harassment Grievance Officer or the Alternate Harassment Grievance Officer will promptly undertake an investigation of the matter. The investigation may include interviews with the employee making the complaint, with witnesses, and with the person accused of harassment. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances.

When the investigation is completed, the Town will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained of conduct, of the results of the investigation. If the investigation reveals that unlawful harassment did occur, the Town will act promptly to eliminate the offensive conduct.

.10 Retaliation

Retaliation against an individual for making a good-faith complaint of harassment, or against any individual for cooperating in an investigation of a harassment complaint, is against the law. The Town will not tolerate any such retaliatory conduct. If any employee believes that they have been subjected to

retaliation for having brought a complaint of harassment, or for having participated in an investigation of a complaint of harassment, that employee is encouraged to report the situation as soon as possible to the Harassment Grievance Officer or the Alternate Harassment Grievance Officer, or to the employee's supervisor, or Human Resources.

.11 State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD") is responsible for enforcing the state law prohibiting harassment on the basis of protected class. The MCAD can be reached at One Ashburton Place, Room 601, Boston or 484 Main Street, Room 320, Worcester. The U.S. Equal Employment Opportunity Commission ("EEOC") is responsible for enforcing the federal law prohibiting harassment on the basis of protected class. The EEOC can be reached at John F. Kennedy Federal Building, Government Center, Room 475, Boston, MA 02203, (617) 565-3200.

A complaint to the MCAD must be filed within 300 days of the alleged conduct. A complaint under the federal law should be filed within 180 days, but under certain circumstances, a federal complaint may be filed within 300 days.

.12 Workplace Conduct

It is important to note that while this policy sets forth the Town's goal of promoting a workplace that is free of harassment, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for workplace conduct that it deems unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

Acknowledgment of Receipt of the Protected Class Harassment Prevention Policy

I acknowledge receipt of this *Protected Class Harassment Prevention Policy* from the Town and I have read its contents.

Employee's Name (Please Print)

Employee's Signature

Date

This signed Acknowledgement is to be returned to the Town Administrator's Office within five (5) business days after receipt

DRAFT



A Member of the ICC Family of Solutions

Editorial and Legal Analysis

PREPARED FOR:

Town of Erving

PROJECT EDITOR:

Claudia M. Zuch

czuch@generalcode.com | 800.836.8834

Return to General Code by:

August 21, 2020

Town of Erving

Contents

Introduction.....	ii
General Decisions & Information.....	vi
Binders.....	vi
Penalties.....	vii
Text Style.....	ix
Wrap Up.....	x
Completeness Check.....	x
Sending Materials.....	x
Project Schedule.....	xi

Town of Erving

INTRODUCTION

Editorial and Legal Analysis

This Editorial and Legal Analysis is an in-depth review of the Town’s legislation. Questions and comments are included for each chapter in the Manuscript (Code in progress) to provide the Town with an opportunity to make revisions to its legislation prior to the adoption and publication of the new Town Code. This Editorial and Legal Analysis is set up as a workbook, with “Decision” boxes to simplify the Town’s review and response process.

The purpose of this Analysis is to guide Town officials in making decisions as to what legislation is or is not to be included in the Town Code and with what, if any, revisions. This Editorial and Legal Analysis has been prepared on the basis of a critique of the Town’s existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town’s law.

Legal Advice

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

Manuscript on *eCode360*® Code Review site

Your Manuscript is available to view on your secure online *eCode360 Code Review* site. It is current through the June 2019 Town Meeting, although we have reviewed proposed warrant articles for the 2020 Annual Town Meeting as well.

- To access your *eCode360 Code Review* site, go to **<https://codereview.ecode360.com/ER3962>** and log in using your password.
- The Manuscript on your *Code Review* site has not been edited, but represents the Town’s current legislation of a general and permanent nature, organized and renumbered in the new Code’s format.
- Each piece of legislation in the Manuscript is identified by its adoption date in the “History” included in each chapter.
- Amendments and changes to such legislation have been inserted where appropriate in the text, and superseded and extraneous material has been deleted.

- Internal references (i.e., a reference to a section number within a law) have been updated to facilitate your review.

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

Disposition List

At the end of the Manuscript is a Disposition List of all legislation reviewed for the project to date. The Disposition List indicates where each law has been incorporated into the Manuscript, or the reason for its exclusion. The Disposition List will be updated as the project progresses, and a final version will be published in the Code and updated with each Code supplement.

Review by Town

This Editorial and Legal Analysis is set up as a workbook. Where the phrase “sufficient as written” is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the experiences of the Town. We encourage Town officials to review all chapters of the Manuscript, using this Editorial and Legal Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?
- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that should be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town’s cost in administering the legislation?

Our experience indicates that the Town may find it helpful to designate one person or a small committee to perform the detailed review work and to report back to the governing body with specific recommendations and any questions needing some type of policy decision. Often at this point the completed workbook is passed on to the Municipal Attorney for his or her review of the decisions. As the governing body will adopt the Code following final publication, we recommend that the governing body has preapproved all changes.

Refer to the “Code Project Guidelines” located in **Misc. Documents** on your *Code Review* site for suggestions on managing this review stage.

Town of Erving

The Town has decided to readopt the general and zoning bylaws in their entirety at the conclusion of this project. Therefore, any changes the Town decides to make as a result of its Analysis review will be formally adopted by Town Meeting at that time.

Extent of Decisions

It is not necessary for the Town to answer every single question in the Editorial and Legal Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is, and revising it in the future. The aim should be to answer as many questions as possible within the time frames.

If the Town wishes to use this approach, either mark the checkbox option indicating “Do not revise” and/or make a notation of **LEAVE AS IS** at the chapter title in the Editorial and Legal Analysis.

“Defer” Option. Most questions include an option to “*Defer decision until after Code publication.*” If the Town selects this option, the item in question will be published as is. If the Town decides to make a change after publication, that change will be considered out of the scope of the codification project, but can be adopted by the Town through its usual bylaw adoption procedure and incorporated into the Code as part of a routine supplement.

- Upon request, we will supply the Town with a list of deferred questions at the end of the project so officials can revisit these items at a later date.
- If the Town does not need to revisit the item at a later date, check “Do not revise.”

“Critical” Questions. We have identified some questions in the Editorial and Legal Analysis as “critical,” meaning that without a response from the Town we will not be able to proceed with our final editing and/or that postponing a decision until after Code publication will require extensive changes that may be costly to the Town to implement. Those questions are identified by a red **CRITICAL** note to the upper right of the question.

In addition, the questions and comments in this Analysis do not preclude the Town from submitting additional changes based on its review. Simply submit a list of requested changes, marked-up Manuscript pages and/or any documentation that clearly indicates the additional changes the Town is requesting.

Process / Next Steps

Once the Town has completed its review of the Editorial and Legal Analysis and either indicated all desired changes in the Editorial and Legal Analysis workbook and/or attached text changes separately, General Code will prepare a Preliminary Draft of the Code for the Town to review prior to preparation of a Final Draft for adoption at Town Meeting. All desired changes from the Town should be submitted prior to preparation of the Preliminary Draft. We will update the Code content to incorporate the Town’s changes and insert any recently adopted legislation.

The *eCode360 Code Review* site will be updated throughout the project. It currently includes the Manuscript, and then will be updated to include the Preliminary Draft and finally the Final Draft. Following adoption of the Code and approval of the adoption by the Attorney General, the *Code Review* site will be taken down and the final eCode360 on-line version of the Code will be posted.

Note that we may have a few final questions for the Town with submission of the Preliminary Draft, but review of the Preliminary Draft is intended to be a quick step (not another cycle for major revisions)..

After adoption and AG approval, the Code will be formatted, indexed and prepared for printing. We will deliver the Town's one print Code book and *eCode360* will be posted for public online access.

Town of Erving

GENERAL DECISIONS & INFORMATION

Binders

Binder colors

Please choose binder and lettering colors for the one print volume you will receive.

Cover Color (choose one):

- Blue
- Green
- Burgundy
- Gray
- Black
- Brown

Cover Lettering (choose one):

- White
- Gold
- Silver

Seal or Logo

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

Decision:

- Clear, black-and-white copy of the Seal or Logo is attached.
- Electronic image of Seal or Logo (in .tiff or .jpeg format) has been e-mailed to ezsupp@generalcode.com.
- Seal or Logo is not available for reproduction on binders.

Title

Please indicate the title the Town would like to appear on the binder cover:

- Code of the Town of Erving
- Bylaws of the Town of Erving
- Bylaws and Regulations of the Town of Erving
- Other: _____

Penalties

State law generally permits a maximum fine of **\$300** for bylaw violations. See the lead-in paragraph to MGL c. 40, § 21:

Towns may, for the purposes hereinafter named, make such ordinances and by-laws, not repugnant to law, as they may judge most conducive to their welfare, which shall be binding upon all inhabitants thereof and all persons within their limits. They may, except as herein provided, affix penalties for breaches thereof not exceeding \square 300 for each offense, which shall enure to the town or to such uses as it may direct. Notwithstanding the provisions of any special law to the contrary, fines shall be recovered by indictment or on complaint before a district court, or by noncriminal disposition in accordance with § 21D.

In the chapter-specific comments that follow, we have pointed out any penalties that are currently set at less than the statutory maximum of \$300, giving the Town an opportunity to consider whether to increase the penalty.

CRITICAL

Noncriminal Disposition of Violations.

Included in the list of General Law acceptances in Chapter A400 is the Town's "acceptance" of MGL c. 40, § 21D (6-22-2009 STM by Art. 2). However, this section of state law is not a local option statute which requires a town to accept the provisions before they are in effect in the town.

We typically see towns enact a specific noncriminal disposition bylaw and the authority to dispose of violations by noncriminal disposition is frequently mentioned in the specific bylaws to which it applies. Erving has done this in its snow and ice removal bylaw, which can be found in Chapter 196, Article III, of the Manuscript (see § 196-11).

The Town may therefore wish to add a new noncriminal disposition to its new code. For example:

§ 1-1. General penalty.

- A. These bylaws may be enforced by any means available in law or in equity, including but not limited to enforcement by criminal indictment or on complaint before the District Court pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D. If enforced by criminal indictment or on complaint before the District Court, a fine of up to \square 300 may be imposed for each violation.
- B. The election of one remedy shall not preclude enforcement through any other lawful means. Each day that a violation exists shall constitute a separate offense.

§ 1-2. Enforcement through noncriminal disposition.

- A. Any general or zoning bylaw of the Town of Erving, or rule or regulation of its officers, boards or departments adopted at a public meeting for which notice is posted on the Town website for a period of not less than one week prior to such public meeting, may, in the discretion of the Town official who is the appropriate enforcing person, be enforced through noncriminal disposition as provided in MGL c. 40, § 21D.

Town of Erving

- B. The specific penalty for purposes of noncriminal disposition for each such violation, if not otherwise specified in the bylaw, rule or regulation, shall be as follows, with each day a violation exists constituting a separate violation for purposes of this bylaw:
 - (1) First violation: warning.
 - (2) Second violation: \$50.
 - (3) Third violation: \$100.
 - (4) Fourth and subsequent violations: \$300.
- C. The term "enforcing person" as used in this bylaw shall mean: any Town of Erving police officer with respect to any offense, as well as the Fire Chief, Town Administrator, Building Inspector, Zoning Enforcement Officer, Conservation Commission or its agent, Board of Health or its agent, Sealer of Weights and Measures, Code Enforcement Officer, Water Superintendent, and their designees, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws, rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

NOTE that the above is sample language from the Town of Wenham and will likely require revision should you choose to incorporate it into the Town of Erving bylaws, particularly the amounts of the penalties in § 1-2B and the "enforcing persons" in § 1-2C above.

If the Town chooses to include the above (or something similar) penalty provisions in its code, we will make it Chapter 1, General Provisions, Article I, Penalties and Enforcement.

Decision:

Add above penalty provisions to the Erving Code. *(Please indicate any 1-2B and/or 1-2C changes under "Revise as follows" below.)*

Revise as follows:

Do not add these provisions to the Erving Code.

Text Style

The Manuscript already reflects certain General Code style conventions; others will be implemented when the Code is fully edited later in the project. Those style conventions include the following:

- **Capitalization.** Only proper nouns are capitalized. For example, “Planning Board” is capitalized, while “approved by the appropriate Town board” is not. “Town” is capitalized when referring to the Town of Erving.
- **Numbers.** Numbers one through nine are written out in text format; 10 and above, fractions and decimals appear in numeric format.
- **Statutory Citations.** Massachusetts General Laws are cited in the following format:
MGL c. ___, § ___.
- **Hyphenated Words.** Most words are not hyphenated. For example, any instance of “by-law” are changed to “bylaw”; “non-structural” is changed to “nonstructural.”
- **Section and Subsection Titles.** All sections in the Code have section titles, which are initially capitalized only (unless another capitalization rule applies).

Town of Erving

WRAP UP

Completeness Check

In order to ensure that the codification project can be scheduled for final editing upon return of this Editorial and Legal Analysis to General Code, please double-check the following items prior to sending:

Binder and Seal. Is the table on page vi completed? Is the Seal attached (or has it been e-mailed) if required?

New Legislation. Is the latest legislation being submitted? As-adopted copies, with enactment dates and numbers, should be sent.

Responses. Throughout the Editorial and Legal Analysis, are all questions answered?

- The only blank boxes should be for topics that are to be deleted or included “as is.”
- Items marked with a question mark or a note “to be reviewed” cannot be accurately edited and require follow-up. It is most efficient for the Town officials to get the answer now, when the whole document is available.

Attachments. Are all attachments accounted for? If the Town has indicated “revise as attached” is a corresponding document attached?

Sending Materials

Please submit a copy of the completed Editorial and Legal Analysis and any documents with a decision or revised wording. Please be sure to keep a copy of the completed Analysis for Town records.

- ✓ If several officials have completed their own copies of the Editorial and Legal Analysis, please compile all responses into one comprehensive version. Any conflicts in responses should be resolved prior to submission.
- ✓ If several officials have worked in the same copy of the Editorial and Legal Analysis, that version is fine to send to General Code, as long as there are no conflicts in the responses.

Send materials to:

General Code
781 Elmgrove Road
Rochester, NY 14624

OR

E-mail files to ezsupp@generalcode.com

Project Schedule

The table below shows the remaining steps in the project and the estimated time frames for completion of these steps. The dates shown will change as project pieces are completed ahead of schedule or if there are delays in completing any project pieces. (All time frames are calculated using business days.)

Project Piece	Deadline	Contract Terms
Review of Manuscript and Editorial and Legal Analysis; submission of responses to General Code (Town)	8-21-2020	100-day review period
Submission of Preliminary Draft, including editing, stylization and incorporation of any changes requested by Town as a result of its review of the Editorial and Legal Analysis (General Code)	March 2021	Within 145 days of receipt of responses to Editorial and Legal Analysis
Review of Preliminary Draft; submission of any final changes to General Code (Town)	May 2021	45-day review period
Submission of Final Draft for adoption at Town Meeting (General Code)	August 2021	Within 60 days of approval of Preliminary Draft
Adoption of Code at Town Meeting (Town)		
Publication of Code, including indexing and posting of eCode360 on-line version of Code (General Code)		Within 40 days of notification of Attorney General approval of Code adoption articles

NOTE: If the Town intends to adopt the new code at its Spring 2021 Annual Town Meeting, please let us know. If the Town is able to meet its August 2020 Analysis review deadline, we should be able to work within the contractual deadlines to ensure that the Town receives its Preliminary Draft and then the Final Draft in time for 2021 ATM adoption.

Decision:

- Town intends to adopt its new code at the Spring 2021 ATM.
- Town will adopt its new code at another Town Meeting.

Question CODE-001

Votes, Bylaws and Acceptances. The various chapters are articles in the Manuscript chapters include both bylaws adopted at Town Meeting as well as other important votes and actions of the Town. Some actions (not bylaws) appear as reference statements, with the subject matter identified by the chapter or article title and the reference statement indicating when the Town took action on the subject.

See, for example, Chapter 9, Article I:

**ARTICLE I
Housing Authority**

[The Town voted to establish a Housing Authority 9-27-1948 STM by Art. 1.]

Question CODE-002

CRITICAL

Nomenclature: Board of Selectmen v. Selectboard. The phrase "Board of Selectmen" is used throughout the bylaws, although the term "Selectboard" also appears. If the Town is interested in making this phrase gender-neutral, the Code project provides a good opportunity to make that change across all Town bylaws.

Note that if the Town decides to make this change, you may also wish to consider whether the Code as a whole should be made gender-neutral by changing "he" to "he/she," etc.

Pick one option from list below

- Change "Board of Selectmen" (or "Selectmen") to "Selectboard" throughout bylaws.
- Change "Board of Selectmen" (or "Selectmen") to "Select Board" throughout bylaws.
- Revise as follows:

- Do not revise.

Question CODE-003

Nomenclature: Building Inspector, Inspector of Buildings, Building Commissioner. The Zoning Bylaw identifies the "Building Inspector" as the official responsible for enforcing the Zoning Bylaw (see § 230-1.2). Other chapters in the Code reference the "Inspector of Buildings" and/or "Building Commissioner."

(1) Does the "Building Commissioner" position exist in the Town? If not, that phrase could be deleted from the Code or changed to "Building Inspector". See §§ 115-11, 230-4.10, 230-4.11 and 305-8.

(2) For the sake of consistency, should "Inspector of Buildings" be changed to "Building Inspector" throughout the Code?

Pick one or more options from list below

- Delete/Revise "Building Commissioner" as suggested in (1) above.
- Change "Inspector of Buildings" to "Building Inspector" as suggested in (2) above.
- Revise as follows:

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

Question 9-001

CRITICAL

[Chapter 9 Boards, Commissions and Committees](#)

Building Code Board of Appeals (12-30-1974 STM by Art. 21). The Town indicated that this 1974 bylaw should be added to the Code (see the description in the [Disposition List](#) at the end of the Manuscript). However, state law provides that appeals of decisions based on the State Building Code go to the Building Code Board of Appeals in the State Department of Public Safety (MGL c. 143, § 100). A local bylaw or ordinance cannot direct such appeals to a local appeals board. Therefore, we have not included this bylaw in the Manuscript.

Pick one option from list below

- Town Comment (if any):

Question 9-002

[Chapter 9 Boards, Commissions and Committees](#)
[Article I Housing Authority](#)

This article simply references the 1948 vote establishing the Housing Authority and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 9-003

[Chapter 9 Boards, Commissions and Committees](#)
[Article II Planning Board](#)
[§ 9-2 Appointment of members; term of office.](#)

How are Planning Board members selected? Are they elected at the Annual Town Meeting? This § 9-2 refers to appointment by the Moderator as well as annual election. The "appointment" provisions may have referred to the initial appointment of the five-member board. Please consider whether this section should be revised in one of the following ways:

Option #1: *[Said] The five members of the Planning Board shall be appointed by the Moderator to serve staggered three-year terms. [one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years and thereafter] The Moderator shall appoint one member [to be elected] annually. [Members shall be elected to serve staggered three (3) year terms.]*

Option #2: *[Said five members shall be appointed by the Moderator: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years and thereafter] One member [to] of the Planning Board shall be elected annually. Members shall be elected to serve staggered three-year terms.*

Pick one option from list below

- Revise as suggested in Option #1 above.
- Revise as suggested in Option #2 above.
- Revise as follows:

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

Question 9-004

[Chapter 9 Boards, Commissions and Committees](#)
[Article III Conservation Commission](#)

This article establishes the Conservation Commission and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 9-005

[Chapter 9 Boards, Commissions and Committees](#)
[Article IV Historical Commission](#)

State law Historical Commission provisions in MGL c. 40, § 8C were amended in 2014 to allow alternate members to be appointed:

Alternate members may be appointed in like manner as provided for in this section not exceeding in number the principal members.

Should this Article IV also be revised to permit the appointment of alternate members?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 9-006

[Chapter 9 Boards, Commissions and Committees](#)
[Article VI Council on Aging](#)
[§ 9-10 Membership; appointment; terms.](#)

This section establishes terms for the initial Council on Aging members without specifying the regular terms. Should the section be revised as follows?

*[Said] **The Council on Aging** shall consist of seven members appointed by the Board of Selectmen, who shall be voters and residents of the Town. They shall be appointed **to staggered three-year terms.** [as follows: Three members for three years; two members to be appointed for two years; and two members to be appointed for one year.]*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 9-007

[Chapter 9 Boards, Commissions and Committees](#)
[Article VII Recreation Commission](#)

This article establishes the Recreation Commission and appears to be sufficient as written.

Pick one option from list below

- Revise as follows:

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

Question 9-008

[Chapter 9 Boards, Commissions and Committees](#)
[Article VIII Finance Committee](#)

This article establishes the Finance Committee and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 9-009

[Chapter 9 Boards, Commissions and Committees](#)
[Article IX Personnel Relations Board](#)

Is the Personnel Relations Board still in operation in the Town? We do not see it listed on the Town's website.

Pick one option from list below

Board is no longer in existence; remove this article from the Code.

Revise as follows:

Retain article without change.

Defer decision until after Code publication.

Question 9-010

[Chapter 9 Boards, Commissions and Committees](#)
[Article X Capital Planning Committee](#)

This article establishes the Capital Planning Committee and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 18-001

[Chapter 18 Finances](#)
[Article I Stabilization Fund](#)

This article contains a reference statement to the Town's establishment of a stabilization fund in 1965. No changes are recommended, although the Town could add a reference to the statutory authority for the funds in MGL c. 40, § 5B:

*[At the 12-29-1965 STM, by Art. 1, the Town voted to create a stabilization fund **in accordance with MGL c. 40, § 5B.**]*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 18-002

[Chapter 18 Finances](#)

[Article II Telecommunications Revolving Account](#)

This article establishes the described revolving account and appears to be sufficient as written, although we note that it is not included in the list of revolving funds established in Article III of this chapter. Should it be?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 18-003

[Chapter 18 Finances](#)

[Article III Revolving Funds](#)

This article establishes the listed revolving funds in accordance with MGL c. 44, § 53E 1/2 and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 45-001

[Chapter 45 Officers and Employees](#)
[Article I Terms of Office of Treasurer, Collector and Clerk](#)

This article references the votes establishing certain officers' terms of office and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 45-002

[Chapter 45 Officers and Employees](#)
[Article II Election of Moderator](#)

This article references the annual election of the Moderator and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 45-003

[Chapter 45 Officers and Employees](#)
[Article III Constables](#)

This article establishes three Constable positions in the Town and appears to be sufficient as written, although it could also reference their terms of office. See MGL c. 41, § 91A, which reads as follows (emphasis added):

The selectmen in any town may from time to time appoint, for terms not exceeding three years, as many constables as they deem necessary.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 45-004

[Chapter 45 Officers and Employees](#)
[Article IV Cemetery Commissioners](#)

This article references the appointment by the Moderator of Cemetery Commissioners and appears to be sufficient as written. We note, however, that MGL c. 114, § 27, references appointment of the Commissioners by the Selectmen.

If a town so votes under § 21 Chapter 41 the selectmen shall appoint a board of cemetery commissioners to consist of three members, to be appointed for the term of three years. The commissioners shall, under the supervision and control of the selectmen, maintain the public cemeteries in the town, and shall with the approval of the selectmen, appoint such employees as are necessary to maintain such cemeteries.

Does the Moderator still appoint the Cemetery Commissioners in the Town?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 45-005

[Chapter 45 Officers and Employees](#)
[Article V Town Accountant](#)

This article appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 53-001

[Chapter 53 Personnel Policies](#)

This chapter references the establishment of an Employee Personnel Manual for the Town and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 64-001

[Chapter 64 Purchasing](#)

This chapter establishes general procurement authority and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 77-001

[Chapter 77 School Department](#)

This chapter addresses various requirements of the School Committee and appears to be sufficient as written. The Town may wish to consider the following:

1. Both "School Committee" and "Elementary School Committee" are used in this chapter. Are these different bodies or should § 77-2 be revised to change "Elementary School Committee" to simply "School Committee"?
2. Does § 77-2 reflect the current composition of the Committee?
3. Section 77-3 includes a 2009 and a 2014 enactment, both referencing five-year contracts for school bus transportation services. Is it necessary to retain both provisions in the Code or could Subsection A be deleted as essentially superseded by Subsection B?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 84-001

[Chapter 84 Town Meetings](#)
[§ 84-1 Warrant language.](#)

Code Content:

*[\[§ 84-1\]](#) The order directing the serving of warrants for Town Meetings and elections shall read as follows: "You are directed to serve this warrant by posting attested copies thereof one at the entrance of the Town Hall Building in Erving Center, one on the bulletin board in Farley Village, and one on the bulletin board in Millers Falls, all in the Town of Erving, **seven days, at least, before time of holding said meeting.**"*

This section provides for the posting of a warrant for a Town Meeting at least seven days before the meeting. That is consistent with MGL c. 39, § 10 for Annual Town Meetings.

We note that this bylaw may be repealed at the upcoming 2020 Town Meeting and replaced by a new bylaw, but if it is not repealed, we note that the warrant for a Special Town Meeting must be posted at least **14 days** before the meeting. Therefore, this section could be revised as follows:

*The order directing the serving of warrants for Town Meetings and elections shall read as follows **for Annual Town Meetings or elections**: "You are directed to serve this warrant by posting attested copies thereof one at the entrance of the Town Hall Building in Erving Center, one on the bulletin board in Farley Village, and one on the bulletin board in Millers Falls, all in the Town of Erving, seven days, at least, before **the** time of holding said meeting." **For Special Town Meetings the last phrase of the order shall read: "14 days, at least, before the time of holding said meeting."***

Pick one option from list below

- Revise as suggested.
- Revise as follows:

- Do not revise.
- Not applicable; this bylaw has been repealed.
- Defer decision until after Code publication.

Question 89-001

[Chapter 89 Town Property](#)
[Article I Disposition of Property Taken Under Tax Title Procedure](#)
[§ 89-1 Authority to sell property.](#)

Code Content:

[\[§ 89-1\]](#) *The Selectmen shall be authorized to sell, after first giving notice of the time and place of sale, by **posting such notice of sale in some convenient and public place in the Town**, 14 days at least before the sale, property, taken by the Town under tax title procedure, provided that the Selectmen, or whomsoever they may authorize to hold such public auction, may reject any bid which they deem inadequate.*

This section could be reviewed against MGL c. 60, § 53, which reads as follows (Note that the second and third paragraphs were added in 1970):

If a tax on land is not paid within 14 days after demand therefor and remains unpaid at the date of taking, the collector may take such land for the town, first giving 14 days' notice of his intention to exercise such power of taking, which notice may be served in the manner required by law for the service of subpoenas on witnesses in civil cases or may be published, and shall conform to the requirements of § 40. He shall also, 14 days before the taking, post a notice so conforming in two or more convenient and public places.

Whenever the collector of taxes of a city or town shall have taken land therein he may, in the name and on behalf of said city or town, take immediate possession of such land and, until the tax title so acquired is redeemed, collect the rent and other income from such land, which rent and income, after the payment therefrom of all necessary expenses in the care, repair and management of such land, shall be applied on account of the taxes, assessments, rates, charges, interest and costs due said city or town on said land, with any balance remaining being paid to the person otherwise entitled thereto. Upon petition of any person having a right to redeem such tax title, the superior court for the county within which the land lies, if it adjudges justice and the circumstances so warrant, may, upon such terms as it shall deem equitable, enjoin a taking of possession under this section or command the surrender of a possession taken.

Neither said city or town nor any of its officers, agents or employees shall be liable or accountable to the owner or to any other person having an interest in such land for failure to collect rent or other income therefrom; and neither said city or town nor any of its officers, agents or employees shall be liable for injury or damage caused by the possession of land under the section to such land or to the person or property of any person.

The first paragraph of the statute requires posting in two or more places in the Town, while § 89-1 only requires posting "in some convenient and public place."

If this statute should generally be referenced in § 89-1, perhaps § 89-1 could be revised as follows:

*The Selectmen shall be authorized to sell, after first giving notice of the time and place of sale, by posting such notice of sale [~~in some convenient and public place in the Town, 14 days at least before the sale,~~] **of such** property, taken by the Town under tax title procedure, **in accordance with MGL c. 60, § 53,** provided that the Selectmen, or whomsoever they may authorize to hold such public auction, may reject any bid which they deem inadequate. **All action by the Town shall conform with MGL c. 60, § 53, as amended.***

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 105-001

[Chapter 105 Alcoholic Beverages](#)

[§ 105-1 Consumption on public ways prohibited.](#)

Code Content:

*[\[§ 105-1\]](#) Whoever shall within the Town, whether that public way be a Town way, highway, State highway, or private way open to the public, consume intoxicating beverages shall be liable to a **fine not exceeding \$50.00**. This section shall also be construed as to prohibit the consumption of intoxicating beverages by any person while such person is standing, sitting, walking, running, or otherwise present within such way or public place as hereinabove defined, or within any vehicle whether parked or moving, which is within the limits of such public way or place herein defined.*

Should the penalty in this section be increased to the statutorily permitted maximum of **\$300**?

Pick one option from list below

Increase penalty to \$300.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 105-002

[Chapter 105 Alcoholic Beverages](#)

[§ 105-2 Consumption in public buildings or on public property prohibited.](#)

Code Content:

[\[§ 105-2\]](#) Whoever shall consume any intoxicating beverages in any public building, or on public property, including cemeteries, schoolhouses, and school grounds, public squares or in any private schoolhouses, and school grounds, public squares or in any private way or parking area regulated under the provisions of General Laws Chapter 90, Section 18, shall be liable to a fine not exceeding \$50.00.

Should the penalty in this section be increased to the statutorily permitted maximum of **\$300**?

Pick one option from list below

Increase penalty to \$300.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 105-003

[Chapter 105 Alcoholic Beverages](#)
[§ 105-3 Exceptions.](#)

Code Content:

[\[§ 105-3\]](#) *The forgoing §§ 105-1 and 105-2 shall not apply to any activity duly licensed by the Board of Selectmen under the applicable provisions of the General Laws. A violation of this bylaw shall be deemed to be a breach of the peace.*

We question whether the above-highlighted "breach of the peace" sentence is acceptable. The Attorney General disapproved similar wording in a noise bylaw from another Massachusetts town as conflicting with state law, stating: "*The proposed bylaw cannot declare that a violation of its terms will be deemed a breach of the peace, because the determination whether conduct amounts to a breach of the peace is a determination which must be left to the enforcing police officer based on the circumstances present at the time of the violation. The bylaw itself cannot qualify conduct as a breach of the peace because even conduct which violates the bylaw does not necessarily have a disturbing effect on the public peace.*"

Pick one option from list below

- Revise section to delete the above-highlighted sentence.
- Revise as follows:

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

Question 105-004

[Chapter 105 Alcoholic Beverages](#)
[§ 105-4 Enforcement.](#)

Code Content:

[\[§ 105-4\]](#) *It shall be the duty of any police officer of the Town to **arrest any person** who violates provisions of §§ 105-1 and 105-2, and cause such persons to be detained until he can be taken before a court hearing having jurisdiction of the offense.*

Are these "arrest" provisions still applicable for violations of the prohibitions in this chapter? The Town may wish to revise these provisions in one of the following ways:

(1) If the Town has decided to add penalty provisions as Chapter 1, Article I (see Preface pp. vii-viii), this section could be deleted in its entirety.

(2) If the Town has decided to add Chapter 1 penalty provisions, a general reference to those provisions could be added:

§ 105-4. Enforcement.

The provisions of this bylaw shall be enforced by any police officer of the Town in accordance with Chapter 1, Article I, of the Town Code.

(3) If the Town has decided not to include the Chapter 1 penalty provisions, this section could be revised to provide for noncriminal disposition by replacing § 105-4 with the following:

§ 105-4. Enforcement; noncriminal disposition of violations.

A. This bylaw may be enforced by any police officer of the Town and by any means available in law or in equity, including but not limited to enforcement by criminal indictment or on complaint before the District Court pursuant to MGL c. 40, § 21, or by noncriminal disposition pursuant to MGL c. 40, § 21D. The election of one remedy shall not preclude enforcement through any other lawful means. Each day that a violation exists shall constitute a separate offense.

*B. The specific penalty for purposes of noncriminal disposition for each such violation shall be as follows, with each day a violation exists constituting a separate violation for purposes of this bylaw: **[Town to insert penalty amount(s) here]***

Pick one option from list below

- Revise as suggested in (1) above.
- Revise as suggested in (2) above.
- Revise as suggested in (3) above with the following penalties:

- Revise as follows:

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

Question 110-001

[Chapter 110 Beano](#)

This chapter references the Town's 1972 authorization for beano in the Town and appears to be sufficient as written.

Pick one option from list below

- Revise as follows:

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

Question 115-001

[Chapter 115 Buildings and Building Construction](#)
[Article I Numbering of Buildings](#)
[§ 115-5 Duty to post numbers.](#)

Code Content:

[\[§ 115-5\]](#) *It shall be the responsibility of each property owner in the Town to obtain, display and maintain the assigned street number within ninety (90) days of adoption of this by-law at the Town Meeting.*

This section refers to compliance with the newly adopted bylaw in 1989. To make these provisions apply to current buildings the Town could revise this section in one of the following ways:

Option #1: Delete § 115-5 in its entirety; OR

Option #2: Revise the section to read as follows: *It shall be the responsibility of each property owner in the Town to obtain, display and maintain the assigned street number. [~~within 90 days of adoption of this bylaw at the Town Meeting.~~]* OR

Option #3: Revise the section to read as follows: *It shall be the responsibility of each property owner in the Town to obtain, display and maintain the assigned street number within 90 days of adoption of this bylaw at the Town Meeting or within 90 days of notification of an assigned or reassigned number from the Town Clerk in accordance with § 115-4 of this bylaw.*

Pick one option from list below

- Revise as suggested in Option #1 above.
- Revise as suggested in Option #2 above.
- Revise as suggested in Option #3 above.
- Revise as follows:

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

Question 115-002

[Chapter 115 Buildings and Building Construction](#)
[Article I Numbering of Buildings](#)
[§ 115-6 Enforcement; violations and penalties.](#)

Code Content:

[\[§ 115-6\]](#) *This by-law shall be enforced by the Police Dept. Failure to comply with this by-law shall subject property owners to a fine of not more than fifty (\$50.00) dollars for each offense.*

(1) Should the penalty in this section be increased to the statutorily permitted maximum of **\$300**?

(2) Note that if the Town has decided to add general penalty provisions to the Code (see the "Critical" question on Preface pp. vii-viii), this section could be revised as follows:

*This bylaw shall be enforced by the Police Department. Failure to comply with this bylaw shall subject property owners to [~~a fine of not more than fifty (\$50.00) dollars for each offense.~~] **penalties as set forth in Chapter 1, Article I, of the Town Code.***

Pick one option from list below

Revise as suggested in (1) above.

Revise as suggested in (2) above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 115-003

[Chapter 115 Buildings and Building Construction](#)
[Article II Stretch Energy Code](#)
[§ 115-10 Stretch Code adopted.](#)

Code Content:

[\[§ 115-10\]](#) *The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future **editions**, amendments or modifications, is herein incorporated by reference into the Town of Erving General Bylaws.*

This Article II adopts the Stretch Energy Code and appears to be generally sufficient as written, although we question whether "editions" in the above-highlighted text should be changed to "additions".

Pick one option from list below

Change "editions" to "additions" as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-001

[Chapter 121 Dogs](#)

[§ 121-3 Reference to Massachusetts General Laws.](#)

Code Content:

[\[§ 121-3\]](#) *The provisions of Massachusetts General Laws (herein after referred to as MGL), Chapter 140, Sections 136A through 174D inclusive as may be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.*

The statutes cited in this section could be revised to include §§ 174E (added in 2012, re: tethering animals to stationary objects) and 174F (added in 2016, re: confining animals in vehicles) as follows:

*The provisions of [~~Massachusetts General Laws (herein after referred to as MGL), Chapter~~] **MGL c. 140**, §§ 136A through [~~174D~~] **174F**, inclusive, as may be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-002

[Chapter 121 Dogs](#)
[§ 121-7 Vaccination Requirement.](#)

State vaccination provisions in MGL c. 140, § 145B were amended in 2012 to include the following Subsection (d):

(d) A licensing authority may grant an exemption from this section for a dog, cat or ferret that: (i) the local board of health has declared exempt from the rabies vaccination requirement upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons; (ii) is in transit; or (iii) was brought into the commonwealth temporarily for the sole purpose of display in a show or for exhibition.

Should all or some of these exceptions be added to this § 121-7? A new Subsection D could be added as follows:

D. The Board of Selectmen may grant an exemption from this section for a dog that:

(1) The Board of Health has declared exempt from the rabies vaccination requirement upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons;

(2) Is in transit; or

(3) Was brought into the Town temporarily for the sole purpose of display in a show or for exhibition.

Pick one option from list below

- Revise as suggested.
 Revise as follows:

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

Question 121-003

[Chapter 121 Dogs](#)
[§ 121-7 Vaccination Requirement.](#)

Code Content:

[§ 121-7A] Whoever is the owner of a dog or cat six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine approved by the Department of Public Health, and shall cause such dog or cat to be revaccinated at intervals recommended by the vaccine's manufacturer. Said owner shall produce a veterinarian's certificate that such dog or cat has been so vaccinated setting forth the date of such vaccination and the duration of immunity; or a notarized letter from a veterinarian that a certification was issued. (MGL Chapter 140, Section 145B)

See MGL c. 140, § 145B, Subsection (a), which now requires "a licensed vaccine according to the manufacturer's directions." This Subsection A could be similarly revised as follows:

*A. Whoever is the owner of a dog or cat six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine [~~approved by the Department of Public Health~~] **according to the manufacturer's directions**, and shall cause such dog or cat to be revaccinated at intervals recommended by the vaccine's manufacturer. Said owner shall produce a veterinarian's certificate that such dog or cat has been so vaccinated, setting forth the date of such vaccination and the duration of immunity; or a notarized letter from a veterinarian that a certification was issued.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-004

[Chapter 121 Dogs](#)
[§ 121-8 Licensing Requirements.](#)

Code Content:

[\[§ 121-8A\]](#) Every dog **six (6) months old or older** kept in the Town of Erving shall be duly registered, numbered, described and licensed. Every person who becomes owner or keeper of such a dog shall, within thirty (30) days of its becoming six (6) months old or thirty days of becoming its owner or keeper, whichever shall last occur, shall obtain a license for said animal. (MGL Chapter 140 Sections 137 and 139)

MGL c. 140, § 137 was amended in 2012 to provide that the licensing requirement applies to dogs "over the age of six months." Therefore this Subsection A could be revised as follows:

*A. Every dog **over the age of** six months [~~old or older~~] kept in the Town of Erving shall be duly registered, numbered, described and licensed. Every person who becomes owner or keeper of such a dog shall, within 30 days of its becoming six months old or 30 days of becoming its owner or keeper, whichever shall last occur, [~~shall~~] obtain a license for said animal.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-005

[Chapter 121 Dogs](#)
[§ 121-8 Licensing Requirements.](#)

Code Content:

[\[§ 121-8C\]](#) Each **pet household** and commercial kennel shall be available to inspection by the Animal Control Officer, a natural resources officer, fish and game warden, police officer, or Building Inspector or the Board of Health. (MGL Chapter 140, Section 137C)

The phrase "pet household", particularly in reference to a kennel, does not appear elsewhere in this chapter. Should Subsection C be revised as follows:

*C. Each [~~pet household~~] **hobby** and commercial kennel shall be available to inspection by the Animal Control Officer, a Natural Resources Officer, Fish and Game Warden, police officer, or Building Inspector or the Board of Health.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-006

[Chapter 121 Dogs](#)
[§ 121-8 Licensing Requirements.](#)

Code Content:

[\[§ 121-8I\]](#) *The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate for the animal to be licensed has been presented. (MGL Chapter 140, Section 137)*

This Subsection I could be revised as follows to mirror provisions found in MGL c. 140, § 137:

*I. The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate for the animal to be licensed has been presented, **certification that such dog is exempt from the vaccination requirement under MGL c. 140, § 145B or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.***

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-007

[Chapter 121 Dogs](#)

[§ 121-9 Commercial and Hobby Kennel Registration and Fees.](#)

Code Content:

[\[§ 121-9B\]](#) Prior to issuing commercial or hobby kennel licenses, written approval from the Special Permit Granting Authority must be provided stating said kennel is in conformity to the Erving Zoning Bylaw.

This Subsection B requires SPGA approval for commercial and hobby kennels. According to the table of use regulations in § 230-4.2 of the Zoning Bylaw, hobby kennels are uses permitted by right in the French King Commercial and Rural Residential Districts, which means they do not as a matter of course require SPGA approval. Do they still require the "written approval" of this Subsection B?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-008

[Chapter 121 Dogs](#)

[§ 121-12 Non-Criminal Disposition of Violation.](#)

Should this section be combined with § 121-22 of this chapter, which also includes provisions regarding noncriminal disposition of violations?

If so, we note that the list of enforcing officers in each section is slightly different. The following are listed; please check those that apply:

_____ Animal Control Officer

_____ Members of the Board of Health

_____ Any person having police powers

_____ Any person so designated by the Board of Selectmen

_____ Any police officer

_____ The Board of Selectmen

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-009

[Chapter 121 Dogs](#)
[§ 121-13 Criminal Disposition.](#)

Similarly, should these criminal disposition provisions be combined with the similar provisions in § 121-22?

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-010

[Chapter 121 Dogs](#)
[§ 121-14 Dog Waste Disposal.](#)

Code Content:

[\[§ 121-14B\]](#) *The provisions of this section shall not apply to a guide animal, hearing animal or service animal while actually engaged in the performance of its trained duties with a disabled person.*

This Subsection B could be revised as follows:

*B. The provisions of this section shall not apply to a [~~guide animal, hearing animal or~~] service animal **as defined by the Americans with Disabilities Act** while actually engaged in the performance of its trained duties with a disabled person.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-011

[Chapter 121 Dogs](#)

[§ 121-16 Complaint of Nuisance.](#)

This "nuisance" dogs section could be reviewed against the nuisance and dangerous dogs provisions in [MGL c. 140, § 157](#), which were extensively amended in 2012.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-012

[Chapter 121 Dogs](#)

[§ 121-18 Order To Restrain Or Muzzle.](#)

Code Content:

[§ 121-18C] A Police Officer or Animal Control Officer can kill a dog ordered to have been restrained if such dog is found outside of its enclosure and not under the immediate control of its owner or keeper; and, if a dog ordered to be restrained shall wound any person or wound or kill any animal, the owner or keeper of such dog shall be liable in tort to the person injured thereby in treble the amount of the damages sustained. (MGL Chapter 140, Sections 158 and 159)

This Subsection C could be reviewed against MGL c. 140, § 158, last amended in 2012, which reads as follows:

A police officer, constable or animal control officer may capture, detain or, in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court and may euthanize a dog, in a humane manner, if it is living in a wild state.

Note that state law now uses the term "euthanize" rather than "kill" and also permits capture and/or detention rather than just "kill."

This Subsection C could be revised as follows:

*C. A police officer or Animal Control Officer [~~can kill~~] **may capture, detain, or, in the case of a threat to public safety, euthanize** a dog ordered to have been restrained if such dog is found outside of its enclosure and not under the immediate control of its owner or keeper; and, if a dog ordered to be restrained shall wound any person or wound or kill any animal, the owner or keeper of such dog shall be liable in tort to the person injured thereby in treble the amount of the damages sustained.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-013

[Chapter 121 Dogs](#)
[§ 121-20 Impoundment.](#)

State law was amended in 2012 to change the required impoundment period from 10 days to seven days. Therefore, Subsections C, D and E of this section could be revised as follows:

*C. No later than two days after the impounding of any dog the owner or keeper shall be notified, or if the owner or keeper of the dog is unknown or, after reasonable efforts, is not contacted, written notice shall then be posted for [~~10~~] **seven** consecutive days in the location for posting notices in the Town Hall, which notice shall describe the dog and the place and time of taking. Dogs impounded and unclaimed by the owner or keeper after such [~~ten-day~~] **seven-day** period shall be disposed of in accordance with the provisions of MGL c. 140, § 151A.*

*D. Prior to the end of said [~~ten-day~~] **seven-day** period, the owner or keeper may obtain the release of any dog impounded hereunder by obtaining a license as required by law if the dog is currently not legally licensed, and after paying all pound fees, fines, medical costs and notification costs, if any.*

*E. A person who owns or keeps the dog and who has received such notice that the dog has been impounded and is eligible for immediate release and does not within [~~10~~] **seven** days claim said dog at the pound shall be punished by a fine as provided in ~121-22 to cover the board and disposal of such dog.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-014

[Chapter 121 Dogs](#)

[§ 121-21 Fees \(License/Kennel\), Penalties and/or Fines.](#)

Code Content:

[§ 121-21A] No fee shall be charged for a license for a dog specially trained to lead or serve a blind or deaf person provided that the Division of the Blind or the Division of the Deaf, as the case may be, certifies that such dog is so trained and actually in the service of a blind or deaf person. Certification of said training must be presented upon application for a dog license. (MGL Chapter 140, Section 139)

This Subsection A could be revised to mirror 2012 amendments to MGL c. 140, § 139 as follows:

*A. No fee shall be charged for a license for a [~~dog specially trained to lead or serve a blind or deaf person provided that the Division of the Blind or the Division of the Deaf, as the case may be, certifies that such dog is so trained and actually in the service of a blind or deaf person.~~] **service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.** [~~Certification of said training must be presented upon application for a dog license.~~]*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-015

[Chapter 121 Dogs](#)

[§ 121-21 Fees \(License/Kennel\), Penalties and/or Fines.](#)

Code Content:

[\[§ 121-21B\]](#) License/kennel fees shall be established by the Licensing Board pursuant to MGL Chapter 40, Section 22F, however, the initial fee structure is set by this bylaw as follows, and the Licensing Board may not make changes to the fee structure prior to January 1, 2012. License/kennel fees may not be changed in the middle of a License Period.

For the sake of clarity, the fees in Subsection B(7) could be revised as follows:

- (6) Kennel License (up to 4 Dogs): \$40.
- (7) Kennel License (~~up to~~ 5 to 10 Dogs): \$75.
- (8) Kennel License (11 or more Dogs): \$125.

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-016

[Chapter 121 Dogs](#)

[§ 121-21 Fees \(License/Kennel\), Penalties and/or Fines.](#)

Code Content:

[\[§ 121-21B\]](#) License/kennel fees shall be established by the Licensing Board pursuant to **MGL Chapter 40, Section 22F**, however, the initial fee structure is set by this bylaw as follows, and the Licensing Board may not make changes to the fee structure prior to January 1, 2012. License/kennel fees may not be changed in the middle of a License Period.

This section references fees set by the licensing board pursuant to MGL c. 40, § 22F. The cited statute permits fees to be set if the Town has accepted the statute. We do not currently find an acceptance of this statute in the materials provided for this project, although we note that a bylaw regarding § 22F is proposed for the 2020 ATM.

We also note, however, that state law requires dog license fees to be set at Town Meeting. See MGL c. 140, § 139, Subsection (a) of which reads as follows:

(a) The fee for a license shall, except as otherwise provided, be determined by a city or town; provided, however, that no fee shall be increased without a majority vote of the city or town council or the voters present at a town meeting.

Therefore, the Town may wish to consider revising this Subsection B to read as follows:

B. License/Kennel fees shall be established as follows: [Town to provide a list of current fees]

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until  after Code publication.

Question 121-017

[Chapter 121 Dogs](#)
[§ 121-22 Violations and penalties.](#)

(See also Question 121-017 below.)

The fines in this section could be reviewed against fines set forth in MGL c. 140, § 173A, last amended in 2018, which reads as follows (emphasis added):

... The fine for the first offense committed by a person shall be \$50. The fine for a second offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent offense, the fine shall be \$500 and the municipality may order the animal spayed or neutered. Payment shall be made only by money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that the fines shall not be lower than those stated in this section.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-018

[Chapter 121 Dogs](#)
[§ 121-22 Violations and penalties.](#)

Code Content:

[§ 121-22A(2)] Fines for violations of any provision of this bylaw, except where otherwise indicated shall be established by the Licensing Board pursuant to MGL Chapter 40, Section 22F, however, the initial fine structure is set by this bylaw as follows, and the Licensing Board may not make changes to the fine structure prior to January 1, 2012. Citations issued under the then current fine structure are not affected by any new fine structure that the Licensing Board may implement.

This Subsection A(2) references fines as being set by the licensing board pursuant to MGL c. 40, § 22F. First of all, as noted above, we do not have an indication that this statute was accepted by the Town as required by state law. More importantly, however, that statute addresses fees and not fines. Therefore, the Town may wish to revise this paragraph as follows:

*(2) Fines for violations of any provision of this bylaw **shall be as follows:** [~~except where otherwise indicated shall be established by the Licensing Board pursuant to MGL Chapter 40, Section 22F, however, the initial fine structure is set by this bylaw as follows, and the Licensing Board may not make changes to the fine structure prior to January 1, 2012. Citations issued under the then current fine structure are not affected by any new fine structure that the Licensing Board may implement.~~]*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 121-019

[Chapter 121 Dogs](#)

[§ 121-27 Quarantine of Dogs Suspected of Having Contagious Disease](#)

In the first sentence of this section, should "affected" be changed to "infected" as follows?

*The Board of Selectmen or their authorized agent, may order any dog which said person has reason to believe is [~~affected~~] **infected** with a contagious disease of a serious nature, to be quarantined or isolated for at least 10 days upon the premises of the owner or of the person in whose charge it is found, or in such other place as the Board of Selectmen or agent may designate. . . .*

Note that if the Town chooses to make this change in the first sentence, other instances of "affected" in this section will be likewise changed.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 121-020

[Chapter 121 Dogs](#)

[§ 121-27 Quarantine of Dogs Suspected of Having Contagious Disease](#)

(1) Is the \$100 penalty for violations of this section current or should it be increased to the statutory maximum of **\$300**?

(2) If the chapter penalties in § 121-22 also applies to violations of this section, the penalty could be removed from this section.

Pick one option from list below

Revise as suggested in (1) above.

Revise as suggested in (2) above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 127-001

[Chapter 127 Fees and Charges](#)

[Article I Consolidated Billing for Utility Charges and Fees](#)

Section 127-1 of this article recites the text of the bylaw adopted at the 2012 STM. For codification purposes, the text could be revised to read as follows:

*The Town [~~voted unanimously to authorize a by-law allowing~~] **hereby allows** consolidated billing [~~for~~] **and authorizes** utility charges and fees to be in the same envelopes or electronic message as the property tax bills pursuant to MGL c. 60, § 3A(c).*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 142-001

[Chapter 142 Hazardous Materials](#)
[Article I Discharge Restrictions](#)
[§ 142-2 Purpose.](#)

For the sake of clarity, this section could be revised as follows:

The purpose of this bylaw is to ensure the public health and safety of the residents of Erving, their air, and water supplies. In particular, [we seek] the Town seeks to ensure that discharges of hazardous materials which may contaminate our environment and present health risks do not occur, and that if they do, timely notice of such discharge is taken and remedial action pursued.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 142-002

[Chapter 142 Hazardous Materials](#)
[Article I Discharge Restrictions](#)
[§ 142-4 Prohibitions.](#)

Code Content:

[\[§ 142-4B\]](#) Application of fertilizers and pesticides in accordance with label recommendations and with regulations of the **Massachusetts Pesticide Control Board.**

The above-highlighted title could be changed to its current title: *Massachusetts Pesticide Board.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 142-003

[Chapter 142 Hazardous Materials](#)
[Article I Discharge Restrictions](#)
[§ 142-5 Hazardous material registration and controls.](#)

In general, the Town could review this section to ensure that it is clear who is required to comply with its requirements.

For example, Subsection B is very clear that it applies to "*any person possessing more than 25 gallons or 25 pounds of any type of hazardous material.*" However, Subsection A simply requires all filings of MSDS to also be filed with the Erving Town offices. **Who** is required to file with the Town offices?

Subsection B could be revised as follows:

Any person, firm, corporation or organization handling hazardous material in the Town shall make appropriate filings with the state and Town. All filings of Material Safety Data Sheets (MSDS) under the Massachusetts Right-To-Know Law shall also be filed with the Erving Town offices within 15 days of such filings. A copy of those filings shall be forwarded to the Fire Department.

Similarly, in Subsection C, on what types of premises must the inventory be maintained?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 142-004

[Chapter 142 Hazardous Materials](#)
[Article I Discharge Restrictions](#)
[§ 142-6 Report of leaks or spills.](#)

Code Content:

[\[§ 142-6\]](#) Any person who is aware of any spill, leak, or loss of a toxic or hazardous material shall report such spill, leak, or loss immediately to the Fire Department and the Board of Health. Commercial or industrial discharges must also be reported to DEP, as per **310 C.M.R. 40-360 and 373.**

Please review the above-highlighted citation to ensure that it is correct.

- 310 CMR 40.0360 is titled "*Reportable Concentrations for Oil and Hazardous Materials*".
- 310 CMR 40.0373 apparently no longer exists in the state regulations.

Pick one option from list below

- Delete "373" reference.
- Revise as follows:

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

Question 158-001

[Chapter 158 Licenses and Permits](#)
[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)

This article has been reviewed against MGL c. 40, § 57, which has been amended several times since the Town's bylaw was adopted in 1990. The comments that follow offer suggestions for amendments so that this bylaw mirrors the state law provisions as amended.

Question 158-002

[Chapter 158 Licenses and Permits](#)

[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)
[§ 158-1 Authority.](#)

For codification purposes, this section could be revised to read in its entirety as follows:

This bylaw is adopted pursuant to and in conformity with MGL c. 40, § 57, as amended.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 158-003

[Chapter 158 Licenses and Permits](#)

[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)

[§ 158-2 List of delinquent taxpayers.](#)

This section could be revised to mirror state law, as amended, as follows:

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

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 158-004

[Chapter 158 Licenses and Permits](#)

[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)

[§ 158-3 Authority to deny, revoke or suspend.](#)

This section could be revised to mirror state law, as amended, as follows:

*The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector **or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector**; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspensions 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~~ **article** 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.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 158-005

[Chapter 158 Licenses and Permits](#)

[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)

[§ 158-5 Waivers.](#)

This section could be revised to correct the statutory citation as follows:

*The Board of Selectmen may waive such denial, suspension or revocation if it finds there is not a direct or indirect business interest by the property owner, its officers and stockholders, if any, or members of his immediate family, as defined in **MGL c. 268A, § 1** [~~Chapter 26B Section 1~~] in the business or activity conducted in or on said property.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 158-006

[Chapter 158 Licenses and Permits](#)

[Article I Denial, Revocation or Suspension for Failure to Pay Taxes or Fees](#)
[§ 158-6 Exceptions.](#)

Code Content:

[\[§ 158-6\]](#) *This bylaw shall not apply to the following licenses or permits: open burning MGL c. 48, § 13; bicycle permits MGL c. 85, § 11A; sales of article for charitable purposes MGL c. 101, § 33; children work permits MGL c. 149, § 69; clubs and associations dispensing food or beverage licenses MGL c. 149, § 21E; dog licenses MGL c. 149, § 100; fishing, hunting, trapping license MGL c. 131, § 12; marriage licenses MGL c. 207, § 28; and theatrical events, public exhibition permits MGL c. 140, § 181.*

MGL c. 85, § 11A, regarding bicycle permits, was repealed in 2008 and could be removed from this section.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 175-001

[Chapter 175 Peddling and Soliciting](#)
[§ 175-12 Fee for solicitation.](#)

Code Content:

[§ 175-12] Upon approval by the Board of Selectmen of the application for a Certificate of Registration, the applicant shall pay to the Town a fee in the amount of \$25 except that the Board of Selectmen shall waive said fee for any charitable, religious, social, political action, or nonprofit group, including but not limited to Veteran's groups, hospitals, United Way, Y.M.C.A. and the American Red Cross. In the event that any organization or group shall have more than one solicitor, the fee shall be \$25 per solicitor unless such fee is waived by the Board of Selectmen as provided above.

Are the registration fees in this section current?

Note that if the Town has accepted MGL c. 40, § 22F (and there are other questions in this Analysis regarding that acceptance), the Town could consider revising the text to refer instead to fees set by the Board of Selectmen:

*Upon approval by the Board of Selectmen of the application for a certificate of registration, the applicant shall pay to the Town a fee [~~in the amount of \$25~~] **as set from time to time by the Selectmen pursuant to MGL c. 40, § 22F;** except that the Board of Selectmen shall waive said fee for any charitable, religious, social, political action, or nonprofit group, including but not limited to Veteran's groups, hospitals, United Way, Y.M.C.A. and the American Red Cross. In the event that any organization or group shall have more than one solicitor, the fee shall be [~~\$25~~] per solicitor unless such fee is waived by the Board of Selectmen as provided above.*

Pick one option from list below

- Town has accepted MGL c. 40, § 22F; revise as suggested.
- Revise as follows:

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

Question 175-002

[Chapter 175 Peddling and Soliciting](#)
[§ 175-13 Time limit on soliciting.](#)

For purposes of clarity, this section could be revised to include Saturdays as follows:

*It is hereby declared to be unlawful for any person, whether registered under this [~~ordinance~~] **bylaw** or not, to go upon any premises and ring the doorbell or near any door of a residence located thereon, or rap or knock to attract the attention of the occupant of such residence, for the purpose of securing an audience, with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 a.m. or after 9:00 p.m. any weekday **or Saturday**, or at any time on a Sunday or on a state or national holiday.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 175-003

[Chapter 175 Peddling and Soliciting](#)
[§ 175-15 Violations and penalties.](#)

Code Content:

*[§ 175-15] Any person who violates this bylaw may be arrested without a warrant in the place where the offense is committed pursuant to Massachusetts General Laws, Chapter 272, Section 59. The penalty for such a violation of this bylaw shall be a **fine not to exceed \$200**, which may be recovered upon complaint before the district court and shall inure to the Town. All in accord with Chapter 40, Section 21 of the General Laws of Massachusetts.*

Should the penalty in this section be increased to the statutory maximum of **\$300**?

Pick one option from list below

Increase penalty to **\$300**.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 187-001

[Chapter 187 Solid Waste](#)
[Article I Landfill/Dump](#)

If the Town continues to maintain and use a landfill/dump, this article appears to be generally sufficient as written. However, if the Town has not decided to add a general penalty to the Code as addressed earlier in this Analysis, the Town may wish to add a penalty section to this article.

Pick one option from list below

- Town no longer maintains a dump/landfill; remove this article from the Code.
- Retain this article and add the following penalty section: *Any person, firm or corporation who or which violates the provisions of this bylaw shall be subject to a fine of \$300. Each instance of dumping or disposal in violation of this bylaw shall be considered a separate offense.*
- Revise as follows:

- Retain this article without change.
- Defer decision until after Code publication.

Question 187-002

[Chapter 187 Solid Waste](#)
[Article II Enforcement by Board of Health](#)

For codification purposes, this article could be revised to read as follows:

*[The Town voted unanimously to authorize the] **The** Board of Health, and any of its agents, **are hereby authorized** to enforce the provisions of MGL c. 270, § 16 regarding the disposal of rubbish and other materials in unlawful places.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 192-001

[Chapter 192 Storage Tanks](#)

In general, this chapter could be reviewed against MGL c. 210, added to state law in 2009, which regulates the removal, location and operation of underground storage tanks. MGL c. 210, § 3 specifically states that it does not supersede the Town's ability to also regulate this subject matter, but the Town may nonetheless wish to reference state law in its bylaw.

In addition, we note that § 192-5 requires that underground fuel storage tanks, which are regulated by this bylaw, be removed and replaced no later than December 31, 2001. Since that deadline has long since past, it may no longer be necessary to retain this chapter in the Code.

Pick one option from list below

Remove Chapter 192 from the Code.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 192-002

[Chapter 192 Storage Tanks](#)

[§ 192-2 Purpose.](#)

If this chapter is being retained in the Code, for purposes of clarity, this section could be revised as follows:

The purpose of this bylaw is to ensure the public health and safety of the residents of Erving, and their water supplies. In particular, [~~we seek~~] the Town seeks to ensure that discharges of hazardous materials which may contaminate our environment and present health risks do not occur, and that if they do, timely notice of such discharge is taken and remedial action pursued.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Not applicable; this chapter is being removed from the Code.

Defer decision until after Code publication.

Question 196-001

[Chapter 196 Streets, Sidewalks and Public Property](#)
[Article I Trees and Vegetation](#)

This article appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 196-002

[Chapter 196 Streets, Sidewalks and Public Property](#)
[Article II Issuance of Permits for Trenches](#)

For codification purposes, this article could be revised to read as follows:

*~~[The Town voted by majority, p]~~ Pursuant to MGL c. 82A, § 2, ~~[to designate]~~ the Board of Selectmen **is designated** as the means by which the Town shall designate the board or officer to issue permits for the purpose of creating a trench as that term is defined by MGL c. 82A, § 4, and 520 CMR 14.00.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 196-003

[Chapter 196 Streets, Sidewalks and Public Property](#)
[Article III Snow and Ice Removal](#)

This article requires snow and ice removal from sidewalks and restricts parking during snow events and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 209-001

[Chapter 209 Vehicles](#)
[Article I Junked and Abandoned Vehicles](#)

This article prohibits the storage of junk and abandoned vehicles on property appears to be sufficient as written, although the Town may wish to review the penalty in § 209-2 to determine whether it should be increased to the statutory maximum of **\$300**.

Pick one option from list below

Increase penalty to **\$300**.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 209-002

[Chapter 209 Vehicles](#)

[Article II Removal of Vehicles During Snow Removal Operations](#)

This article provides for the removal of vehicles parked on streets that need to be cleared during a snow event. It appears to be sufficient as written, but the Town may wish to review this article in light of the parking restrictions found in [§ 196-9](#). Should the provisions be combined by, for example, moving § 196-9 into this Article II? Or should each of the provisions reference the other?

Pick one option from list below

- Move § 196-9 out of Chapter 196 and include in this Article II.
- Add a new Subsection D to § 196-9 as follows: *D. Vehicles parked in violation of this section may be removed in accordance with the provisions of Chapter 209, Article II, of the Town Code.*
- Add the following new section to **this Article II**: *Vehicles parked in violation of § 196-9 of the Town Code may also be removed in accordance with the provisions of this article.*
- Revise as follows:

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

Question 209-003

[Chapter 209 Vehicles](#)

[Article III Traffic Signs and Signals](#)

For codification purposes, this article could be revised to read as follows:

*The [~~Town voted unanimously to authorize the~~] Board of Selectmen **are hereby authorized** to erect traffic signs for the safety and convenience of persons traveling on a municipal public way in the Town of Erving.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 209-004

[Chapter 209 Vehicles](#)

[Article IV Heavy Commercial Vehicle Restrictions](#)

This article restricts heavy vehicle traffic on the listed residential streets and appears to be generally sufficient as written, although the Town may wish to consider increasing the \$20 fine. MGL c. 85, § 10 permits a fine of up to \$100.

Pick one option from list below

Increase fine to **\$100**.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 217-001

[Chapter 217 Water Use](#)

[Article I Water Supply and Distribution System](#)

This article authorizes the establishment of the water system and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 217-002

[Chapter 217 Water Use](#)
[Article II Water Use Restrictions](#)

This article appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-001

[Chapter 230 Zoning](#)

[Article I Purpose and Administration](#)

[§ 230-1.4 Filing fees and hiring of outside consultants.](#)

This section was enacted in accordance with MGL c. 44, § 53G. That section of state law requires that rules established "shall provide for an administrative appeal from the selection of the outside consultant to the city council or town board of selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by a municipal permit granting board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the city council or the town board of selectmen within one month following the filing of the appeal, the selection made by the municipal permit granting authority shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section."

Should a new subsection on appeals be added to § 230-1.4B? For example:

(4) The applicant may appeal the selection of the outside consultant to the Board of Selectmen, which may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Board of Selectmen so as to be received within 10 days of the date of the notice of the selection of the consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within 30 business days following the filing of the appeal, the selection made by the Board shall be final.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-002

[Chapter 230 Zoning](#)

[Article I Purpose and Administration](#)

[§ 230-1.6 Special permit granting authority.](#)

Code Content:

[\[§ 230-1.6B\]](#) Associate members of the Planning Board. Under Massachusetts General Law, Chapter 40A, Section 9, the Selectmen shall appoint one associate member for a term of one year annually so that the Chairman of the Planning Board may designate an associate member to sit on the Board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy **of the Board.**

It appears that the above-highlighted "of the Board" should be changed to "**on** the Board."

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-003

[Chapter 230 Zoning](#)

[Article II General Regulations](#)

[§ 230-2.1 Preexisting uses, structures, and lots.](#)

Code Content:

[\[§ 230-2.1C\(2\)\]](#) For Common Lot exemptions for Single and Two Family Use see **M.G.L. Chapter 40 Section 6.**

The above-highlighted citation is incomplete and should refer to MGL c. 40A, § 6.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-004

[Chapter 230 Zoning](#)

[Article III Districts](#)

[§ 230-3.3 Location of Districts.](#)

Code Content:

[\[§ 230-3.3\]](#) *The boundaries of the said districts are hereby established as defined in this section, and as depicted on the map entitled "Official Zoning Map, Erving, Massachusetts" Dated June 6, 2005. The Zoning Map, with all explanations thereon, is hereby made a part of this Bylaw.*

Does this section include the most current Zoning Map date? If not the Town could revise this section to:

(1) Include the current date; OR

(2) Read as follows: *The boundaries of the said districts are hereby established as defined in this section, and as depicted on the **most recently adopted** map entitled "Official Zoning Map, Erving, Massachusetts". [~~Dated June 6, 2005.~~] The Zoning Map, with all explanations thereon, is hereby made a part of this bylaw.*

Pick one option from list below

Revise as suggested in (1) above; current date is: _____

Revise as suggested in (2) above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-005

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.1 General regulations.](#)

Code Content:

[\[§ 230-4.1\]](#) No building or structure shall be constructed, and no building, structure or land, **or** **plan thereof** shall be used for any purpose or in any manner other than for one or more uses hereinafter set forth as permissible. Any uses not listed in the Use Regulations Schedule, § 230-4.2, shall be considered prohibited.

In the context of this section, is the above-highlighted phrase "or plan thereof" correct or should it be changed to "or **part** thereof"?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-006

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.2 Use regulations schedule.](#)

In the Schedule of Use Regulations, under the "Business Uses" category, the table lists retail store(s) "greater than 2,500 sq. ft. but less than 5,000 sq. ft." and then retail store(s) "greater than 5,000 sq. ft." A store of exactly 5,000 square feet is omitted. Therefore, the table could be revised in one of the following ways:

- (1) Revise first entry to: *greater than 2,500 sq. ft. but [less] **not more** than 5,000 sq. ft.*; OR
- (2) Revise second entry to: *[greater than] 5,000 sq. ft. **or greater**.*

Pick one option from list below

- Revise as suggested in (1) above.
- Revise as suggested in (2) above.
- Revise as follows:

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

Question 230-007

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.2 Use regulations schedule.](#)

For ease of access, the Town may wish to revise the use table in this section so that uses are listed alphabetically under each category.

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 230-008

[Chapter 230 Zoning](#)

Code Content:

[Art. IV Use Regulations § 230-4.2 Use regulations schedule.](#)

[\[§ 230-4.2A\]](#) No building, structure or land shall be erected or used except as permitted in this section and all other sections of this Zoning Bylaw. **No more than one principal structure or dwelling may be erected on a lot.**

[Art. V Intensity Regulations § 230-5.1 Dimensional requirements.](#)

[\[§ 230-5.1\]](#) A structure or accessory structure, shall be erected or used, or a lot shall be changed in size or shape, only in conformity with the following requirements, and **not more than one dwelling shall be built upon any such lot.**

Both of the above-noted sections limit construction to one principal structure/dwelling per lot. To make the provisions more consistent the Town could:

- (1) Revise the text so that both sections have the text currently highlighted in § 230-4.2A; OR
- (2) Revise the text so that both sections have the text currently highlighted in § 230-5.1; OR
- (3) Delete the highlighted text from both of the sections noted and add a **new § 230-2.3** to Article II, General Provisions: *No more than one principal structure or dwelling may be erected on any lot.*

Pick one option from list below

Revise as suggested above in _____.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-009

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.4 Wireless Communication Overlay District.](#)

Code Content:

[\[WIRELESS COMMUNICATION FACILITIES OVERLAY DISTRICT\]](#) All lands within the Town of Erving designated as the "Wireless Communications District," as depicted on the map entitled "[Official Zoning](#)" for Erving, Massachusetts.

In this definition should the above-highlighted "Official Zoning" be changed to "Official Zoning **Map**"?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-010

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.4 Wireless Communication Overlay District.](#)

Code Content:

[\[§ 230-4.4F\(5\)\]](#) *A certification that the proposed facility complies with, or is exempt from, all applicable federal and state requirements, including regulations administered by the Federal Aviation Administration, Federal Communication Commission, and the **Massachusetts Aeronautics Commission**, and the Massachusetts Department of Public Health;*

According to our research, as of 11-1-2009 the former Massachusetts Aeronautics Commission was replaced by the Aeronautics Division within MassDOT. This Subsection F(5) could therefore be revised to change "Massachusetts Aeronautics Commission" to one of the following:

- (1) Massachusetts Aeronautics Division; OR
- (2) MassDOT, Aeronautics Division; OR
- (3) Aeronautics Division within MassDOT.

Pick one option from list below

Revise as suggested in _____ above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-011

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.4 Wireless Communication Overlay District.](#)

Code Content:

[\[§ 230-4.4F\(7\)\]](#) *In the event the SPGA, determines that circumstances necessitate expert technical review, that expense shall be paid by the applicant.*

If the professional consultant provisions of MGL c. 44, § 53G apply to this subsection it could be revised in one of the following ways:

(1) Reference provisions elsewhere in this bylaw: *In the event the SPGA, determines that circumstances necessitate expert technical review, that expense shall be paid by the applicant **in accordance with § 230-1.4B of this bylaw.***

(2) Reference the statute: *In the event the SPGA, determines that circumstances necessitate expert technical review, that expense shall be paid by the applicant **in accordance with MGL c. 44, § 53G.***

Pick one option from list below

Revise as suggested in (1) above.

Revise as suggested in (2) above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-012

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.4 Wireless Communication Overlay District.](#)

Code Content:

[\[§ 230-4.4G\(6\)\]](#) Any restriction previously **posed** in any section of this Bylaw.

Should "posed" be changed to "imposed" in this subsection as follows?

(6) Any restriction previously [~~posed~~] **imposed** in any section of this bylaw.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-013

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.5 Parking and loading requirements.](#)

Code Content:

[\[§ 230-4.5B\]](#) Requirements.

For the sake of clarity a lead-in statement could be added to this Subsection B as follows:

*B. Requirements. **Off-road parking shall be provided as follows:** . . .*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-014

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.5 Parking and loading requirements.](#)

Code Content:

[\[§ 230-4.5B\(5\)\]](#) *Industrial Use: one space per employee per shift.*

It may not be clear from this parking requirement whether the amount requires that all shifts be added to determined required parking or whether the largest shift should be used as the calculator. For the sake of clarity, then, this subsection could be revised to read: *one space per employee [~~per~~] **on the largest** shift.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-015

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.5 Parking and loading requirements.](#)

Code Content:

[\[§ 230-4.5C\]](#) *Parking areas for 10 or more vehicles. The following shall apply:*

In this Subsection C, Subsections (3) and (5) may be unnecessarily redundant in regard to screening of parking areas next to residential uses.

Pick one option from list below

- Delete Subsection C(3).
- Revise as follows:

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

Question 230-016

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.6 Sign regulations.](#)

In general, the sign regulations in this section should be reviewed against the 2015 United States Supreme Court case, *Reid v. Town of Gilbert*, which made suspect any municipal sign regulations that could be considered to be "content-based." Regulations that address types of signs are permissible; regulations that make distinctions based on the content of signs will be constitutionally suspect. Please consult with your Town Counsel in this regard.

Pick one option from list below

- Revise as follows:

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

Question 230-017

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.6 Sign regulations.](#)

Code Content:

[§ 230-4.6C(1)(a)] Any residential dwelling is allowed one sign for each family/household residing on the premises, indicating the name of the owner or occupant or the name of the building, or other non-commercial message. Such sign may pertain to a permitted accessory use. In special instances, the Zoning Board of Appeals may issue a special permit for a larger or second sign for a residential dwelling. In determining whether to grant an increase in signage under this subsection, the Zoning Board of Appeals shall consider the respective interests of the applicant, the adjacent property owners, and the interests of Town at large.

Is there a size restriction for the residential sign permitted by this subsection? See § 230-4.7D, which references a home occupation sign "of not more than two square feet."

If that home occupation sign size limitation applies to residential signs in general this Subsection (a) could be revised as follows:

*(a) Any residential dwelling is allowed one sign for each family/household residing on the premises, indicating the name of the owner or occupant or the name of the building, or other non-commercial message. **Such sign may be no larger than two square feet.** Such sign may pertain to a permitted accessory use.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-018

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.6 Sign regulations.](#)

Code Content:

[\[§ 230-4.6C\(2\)\(a\)\[1\]\]](#) "Tourist Oriented Directional Signs" and associated "trailblazing signs," as defined by [Mass Highway in the Rules and Standards for Tourist Oriented Directional Signing on Conventional Roads](#). Such signs shall conform to both Mass Highway regulations and the following local regulation.

We found the above-highlighted policy in the MassDOT, Highway Division, Supplemental Sign Policy, "Policy for Tourist Oriented Directional Signing on Conventional Roads" (2017). Should the above title be revised to reflect this current location?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-019

[Chapter 230 Zoning](#)
[Article IV Use Regulations](#)
[§ 230-4.9 \(Reserved\)](#)

The sections in the bylaw provided for this project skipped from 4.8 to 4.10. Therefore, we have included 4.9 as "Reserved" in order to preserve as much of the original section numbering as possible.

Question 230-020

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.10 Large-scale ground-mounted photovoltaic installations.](#)

Code Content:

[AS-OF-RIGHT SITING] As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the inspector of buildings, building Commissioner, local inspector, or if there is none in a Town, the Board of selectmen, or person or board designated by local ordinance or bylaw.

This definition could be revised as follows to more specifically apply to Erving:

*AS-OF-RIGHT SITING - As-of-right siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with ~~[local zoning ordinances or bylaws]~~ **this bylaw**. Projects cannot be prohibited, but can be reasonably regulated by the ~~[inspector of buildings, building Commissioner, local inspector, or if there is none in a Town, the Board of selectmen, or person or board designated by local ordinance or bylaw.]~~ **Building Inspector or _____.***

Pick one option from list below

- Revise as suggested (Town to insert additional regulatory authorities in the blank above, if any).
- Revise as follows:

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

Question 230-021

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.10 Large-scale ground-mounted photovoltaic installations.](#)

Code Content:

[\[BUILDING INSPECTOR\]](#) The inspector of buildings, building Commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.

Since the Building Inspector is already identified in § 230-1.2 as the enforcement authority for this chapter, is it necessary to include this definition?

Pick one option from list below

Delete definition of "building inspector."

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-022

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.10 Large-scale ground-mounted photovoltaic installations.](#)

Code Content:

[\[ZONING ENFORCEMENT AUTHORITY\]](#) *The person or board charged with enforcing the zoning ordinances or bylaws.*

This defined term is not used elsewhere in this section of Chapter 230.

Pick one option from list below

- Delete definition of "zoning enforcement authority."
- Revise as follows:

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

Question 230-023

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.10 Large-scale ground-mounted photovoltaic installations.](#)

Code Content:

*[§ 230-4.10F] Site plan review. Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Erving Planning Board acting as the Site Plan Review Authority (SPRA) and obtain approval there from prior to construction, installation or modification as provided in this section. **No large scale solar photovoltaic installation shall be added to, modified or changed without additional site plan review and approval from the SPRA without first obtaining a building permit.***

Should "and" be added to the last sentence of this subsection as follows?

*. . . No large-scale solar photovoltaic installation shall be added to, modified or changed without additional site plan review and approval from the SPRA **and** without first obtaining a building permit.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-024

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.10 Large-scale ground-mounted photovoltaic installations.](#)

Code Content:

[\[§ 230-4.10K\(4\)\]](#) *If in the SPRA deems additional time or information is required in the review of a waiver request, the SPRA may continue the request for a waiver until such time as the SPRA deems it is ready to vote on said request.*

This Subsection (4) could be revised to delete "in" as follows:

(4) If ~~it~~ the SPRA deems additional time or information is required in the review of a waiver request, the SPRA may continue the request for a waiver until such time as the SPRA deems it is ready to vote on said request.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-025

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.11 Community bylaw for floodplain Districts.](#)

This section references both "B, C, D, E communities" and "b, c, d, e communities." Should the reference be uppercase or lowercase?

Pick one option from list below

- UPPERCASE
- lowercase
- Delete all instances of the phrase "(B, C, D, E Communities)" or "(b, c, d, e communities)"
- Revise as follows:

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

Question 230-026

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.11 Community bylaw for floodplain Districts.](#)

Code Content:

[\[§ 230-4.11B\(1\)\(a\)\]](#) *For communities with "Community-Based" FIRMs and FIS: The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Erving's Flood Insurance Rate Maps (FIRM's) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 5, 1982 as Zone A and A1-A30, and the FEMA Flood Boundary and Floodway Maps dated July 5, 1982, both sets of maps which indicate the one-hundred-year regulatory floodplain. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated July 5, 1982. The FIRM, Flood Boundary and Floodway Map, and FIS report are incorporated herein by reference and are on file with the Planning Board, Conservation Commission and the Franklin County Cooperative Inspection Program.*

This section appears to have been based on a model and some text may not be necessary to include in the codified section. Should the above-highlighted phrase be deleted?

Pick one option from list below

- Delete highlighted phrase as suggested.
- Revise as follows:

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

Question 230-027

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.11 Community bylaw for floodplain Districts.](#)

Code Content:

[\[§ 230-4.11F\]](#) *Definitions.*

The following terms are defined in this subsection but do not appear elsewhere in this section:

- ____ AREA OF SPECIAL FLOOD HAZARD
- ____ LOWEST FLOOR
- ____ MANUFACTURED HOME
- ____ MANUFACTURED HOME PARK OR SUBDIVISION
- ____ NEW CONSTRUCTION
- ____ SUBSTANTIAL IMPROVEMENT
- ____ ZONE AH AND ZONE AO
- ____ ZONE A99
- ____ ZONES B, C, AND X
- ____ ZONE V
- ____ ZONE V1-30 AND ZONE VE

Pick one option from list below

Delete the term(s) checked above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-028

[Chapter 230 Zoning](#)

[Article IV Use Regulations](#)

[§ 230-4.12 Marijuana establishments.](#)

Code Content:

[\[§ 230-4.12E\(4\)\]](#) Marijuana Establishments may request a waiver from the site screening standard of: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by a fence that is 3 1/2 feet tall within five feet of the street and six feet tall elsewhere on the property and/or a six-foot-wide vegetated planting of hardy evergreens and deciduous trees and shrubs no less than five feet in height required by Subsection A(4)(c). Such waiver may be granted in the Planning Board's sole discretion.

Rather than duplicating the text of Subsection E(3), this Subsection (4) could be revised as follows:

(4) Marijuana establishments may request a waiver from the site screening standard [~~of: Rear and side property lines shall be screened from any neighboring residential, educational, childcare or recreational uses or properties. Screening shall be by a fence that is 3 1/2 feet tall within five feet of the street and six feet tall elsewhere on the property and/or a six-foot-wide vegetated planting of hardy evergreens and deciduous trees and shrubs no less than five feet in height~~] required by Subsection A(4)(c). Such waiver may be granted in the Planning Board's sole discretion.

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 230-029

[Chapter 230 Zoning](#)

[Article VI Special Permit and Site Plan Review](#)

[§ 230-6.1 Special permits.](#)

Code Content:

[\[§ 230-6.1F\]](#) *Impact statement. Except as waived under Subsection E, above, the Special Permit application must be accompanied by an impact statement. The Impact Statement shall detail the probable effects of the **subdivision or development** on the following aspects of concern to the Town:*

In the context of this section on special permits, is the above-highlighted phrase "subdivision or development" correct? Compare Subsection A, which puts special permits in the context of "certain uses and structures." Should this Subsection F be revised as follows?

*F. Impact statement. Except as waived under Subsection E, above, the special permit application must be accompanied by an impact statement. The impact statement shall detail the probable effects of the [~~subdivision or development~~] **use or structure** on the following aspects of concern to the Town: . . .*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-030

[Chapter 230 Zoning](#)

[Article VI Special Permit and Site Plan Review](#)

[§ 230-6.1 Special permits.](#)

Code Content:

[\[§ 230-6.1G\]](#) Review process. The Planning Board will review the Impact Statement, giving weight to the factors outlined above as they affect the future of the Town and of the neighborhood adjacent to the site. It may ask for further information where necessary to review the application adequately, and may make recommendations for modifications to the development as is appropriate to protect the Town. For large or complex projects, the Planning Board shall have the right to retain outside consultants, such as registered engineers, planners, designers, legal counsel, or other professionals, to advise the Board regarding any or all aspects of the special permit application. **The applicant shall be responsible for the costs of such advice.** The Board may also require the posting of a Bond, or other security satisfactory to the Board, to assure compliance with the approved special permit and stated conditions for approval.

If the consultant provisions of MGL c. 44, § 53G apply in the context of the sentence highlighted above, this sentence could be revised in one of the following ways:

- (1) *The applicant shall be responsible for the costs of such advice **in accordance with MGL c. 44, § 53G.***
- (2) *The applicant shall be responsible for the costs of such advice **in accordance with § 230-1.4B of this bylaw.***

Pick one option from list below

- Revise as suggested in (1) above.
- Revise as suggested in (2) above.
- Revise as follows:

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

Question 230-031

[Chapter 230 Zoning](#)

[Article VI Special Permit and Site Plan Review](#)

[§ 230-6.1 Special permits.](#)

Code Content:

[\[§ 230-6.1K\]](#) *Conformance with bylaw amendments. When subsequent amendments to the Bylaw are made, operations or construction under a Special Permit shall conform to the Amendments unless use or construction is commenced within six months after issuance of the permit.*

The above-highlighted phrase could be compared with similar nonconforming use provisions in § 230-2.1D, which reads as follows:

D. Conformance. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

If the conditions found in § 230-2.1D also apply to these special permit conditions, this Subsection K could be revised as follows:

*K. Conformance with bylaw amendments. When subsequent amendments to the bylaw are made, operations or construction under a special permit shall conform to the amendments unless use or construction is commenced within six months after issuance of the permit **and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.***

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-032

[Chapter 230 Zoning](#)

[Article VI Special Permit and Site Plan Review](#)

[§ 230-6.2 Site plan review.](#)

Code Content:

[\[§ 230-6.2B\]](#) *Applicability. A Site Plan Review shall be required:*

Since there are instances in this chapter that require site plan review that are not specifically listed in this Subsection B, a new Subsection (3) could be added as follows:

B. Applicability. [A] Site plan review shall be required: . . .

(3) In any instance where site plan review is required by other provisions of this bylaw.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-033

[Chapter 230 Zoning](#)

[Article VIII Optimal Development Methods](#)

Is the title "Optimal Development Methods" of this article correct, or should it be changed to "**Optional** Development Methods"?

Pick one option from list below

Change Article VIII title to "**Optional** Development Methods"

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-034

[Chapter 230 Zoning](#)

[Article VIII Optimal Development Methods](#)

[§ 230-8.1 Flexible development for small projects.](#)

Code Content:

[\[§ 230-8.1B\]](#) Method. Any parcel in the Rural Residential District may be divided into not more than three lots, whether a subdivision or not, and built upon under the following alternative area and frontage requirements.

It appears that the above-highlighted phrase "than three lots" should be changed to "**than** three lots."

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-035

[Chapter 230 Zoning](#)

[Article VIII Optimal Development Methods](#)

[§ 230-8.2 Conservation development.](#)

Code Content:

[\[§ 230-8.2C\]](#) *Criteria for approval. The Planning Board may grant a Special Permit under this section only if it finds that the applicant has demonstrated the following:*

For the sake of clarity, this Subsection C could be revised as follows:

*C. Criteria for approval. The Planning Board may grant a special permit under this section only if it finds that the applicant has demonstrated [the following **regarding the conservation development plan**]:*

*(1) That [~~the Conservation Development plan~~] **it** will be in harmony with the general purpose of the bylaw and the requirements of MGL c. 40A, and the Master Plan of the Town;*

(2) That it will not have a detrimental impact on the neighborhood; . . .

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-036

[Chapter 230 Zoning](#)
[Article IX Definitions](#)
[§ 230-9.1 Terms defined.](#)

The following terms are defined in this section, but the terms are not used in this chapter:

_____ CAMPGROUND

_____ DISPOSAL FACILITY

_____ LUMBER OR WOOD PROCESSING PLANT

Pick one option from list below

Delete term(s) checked above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-037

[Chapter 230 Zoning](#)
[Article IX Definitions](#)
[§ 230-9.1 Terms defined.](#)

Code Content:

[COMMERCIAL KENNEL] A structure or parcel of land used for the harboring or care of more than 15 dogs that are more than six months old. There may be retail sales to pet stores or puppy brokers or boarding for a fee. **Commercial Kennels must be located on a lot five acres or greater. In addition, the location on the parcel where the dogs are harbored or exercised must be set back 200 feet from each lot line to minimize the impacts to neighbors from noise and odors.**

[HOBBY KENNEL] A structure or parcel of land used for the harboring or care of five to 15 dogs that are more than six months old, with no retail sales to pet stores or puppy brokers or boarding for a fee. **Hobby Kennels must be located on a lot two acres or greater. The harboring or care of four dogs or less is not considered a Kennel for the purposes of Erving's Zoning Bylaw.**

The above-noted definitions include provisions that are more regulatory than defining. The Town may wish to consider removing the highlighted regulations and including them in a new § 230-4.13, Kennels.

Pick one option from list below

Revise to add new section as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-038

[Chapter 230 Zoning](#)
[Article IX Definitions](#)
[§ 230-9.1 Terms defined.](#)

Code Content:

[FAMILY] *One or more persons, all of whom are related by birth, marriage or adoption, living as a unit, or not more than five persons not legally related, living together as a single housekeeping unit. Any unrelated individual over five shall constitute another family.*

The definition of “family” limits the number of unrelated persons living together to “no more than five,” without limiting the number of related people living together. Some case law has found that the rights of a municipality to regulate the number of unrelated persons living together is restricted. Because defining a “family” of unrelated individuals is a factual decision, a municipality desiring to limit the number of unrelated individuals in its definition should do so in a way that does not exclude unrelated individuals who function as the equivalent of a traditional family, despite exceeding the limit. Some municipalities provide for discretionary review of groups of unrelated individuals greater than a specified number to ensure that they are the functional equivalent of a traditional family by providing criteria for when a group functions as the equivalent of a traditional family, which the zoning official uses in his/her review and determination. For this reason, the Town may wish to revise the definition of “family” to match one of the sample definitions below:

#1: FAMILY – *Any number of individuals residing together on the premises as a single housekeeping unit.*

#2: FAMILY -- *One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.*

#3: FAMILY – *One or more persons who live together in one dwelling unit and maintain a common household, which may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption, and may also include domestic servants and gratuitous guests.*

#4: FAMILY -- *One person or two or more persons, related by blood, foster relationship, marriage or adoption, and, in addition, any domestic servants or gratuitous guests thereof; or one or more persons who need not be so related, and, in addition, domestic servants or gratuitous guests thereof, who are living together in a single, nonprofit dwelling unit and maintaining a common household with single cooking facilities. A roomer, boarder or lodger shall not be considered a member of the family.*

#5: FAMILY – *One or more persons living together as a single, permanent, not transitory, housekeeping unit, and sharing common kitchen facilities and access to all parts of a dwelling unit. A “family” shall not consist of a club, fraternity, sorority, or a group occupying a boardinghouse.*

#6: FAMILY -- *One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that more than five persons living together in a single dwelling unit, who are not related by blood, adoption, or marriage, do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present:*

- 1. The group shares the entire dwelling unit.*
- 2. The group lives and cooks together as a single housekeeping unit.*
- 3. The group shares expenses for food, rent, utilities or other household expenses.*
- 4. The group is permanent and stable, and not transient or temporary in nature.*
- 5. Any other factor reasonably related to whether the group is the functional equivalent of a family.*

Pick one option from list below

Replace existing "family" definition with #_____ above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-039

[Chapter 230 Zoning](#)

[Article IX Definitions](#)

[§ 230-9.1 Terms defined.](#)

Code Content:

[\[FLOODWAY\]](#) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

This phrase is defined in -- and only used in -- the flood damage prevention provisions found in § 230-4.11.

Pick one option from list below

Delete this definition of "floodway."

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 230-040

[Chapter 230 Zoning](#)
[Article X Maps](#)

This Article X includes a reference statement to the maps included in Attachment 1 to this chapter.

(1) Does the Town wish to retain the maps as an attachment to the chapter? If the most up-to-date maps are available on the Town website the Town could remove this Article X and the Attachment 1 maps entirely OR remove this Article X and the Attachment 1 maps and revise § 230-3.3 to note that the current maps are available in the Town offices and on the Town website.

(2) If the Town wishes to retain the maps as Attachment 1, please confirm that the maps are current or provide copies of the most up-to-date maps.

Pick one option from list below

- Remove Article X and Attachment 1 maps from this chapter in their entirety.
- Remove Article X and Attachment 1 maps and revise § 230-3.3 to state that the maps are available in the Town offices and on the Town website.
- Remove Attachment 1 maps and revise Article X to state that the maps are available in the Town offices and on the Town website.
- Current maps enclosed for inclusion in Attachment 1; delete Article X and revise § 230-3.3 to state that the maps are available in the Town offices and on the Town website.
- Current maps enclosed for inclusion in Attachment 1; retain Article X as it currently appears.
- Revise as follows:

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

Question 305-001

[Chapter 305 Board of Health Regulations](#)
[Article I Floodplain Regulations](#)

Have these regulations been superseded by [§ 230-4.11](#) of the Zoning Bylaw?

Pick one option from list below

- Remove this Article I from the Code.
- Revise as follows:

- Retain Article I in the Code.
- Defer decision until after Code publication.

Question 305-002

[Chapter 305 Board of Health Regulations](#)
[Article II Food Carts and Food Vendors](#)

Is there an adoption date that should be included for these regulations?

Pick one option from list below

- Regulations were adopted on the following date: _____
- Revise as follows:

- Include regulations without adoption date.
- Defer decision until after Code publication.

Question 305-003

[Chapter 305 Board of Health Regulations](#)
[Article II Food Carts and Food Vendors](#)

This Article II requires local licenses for mobile food carts, vendors and bakery and catering establishments and appears to be generally sufficient as written, although the Town may wish to review the \$25 license fees in §§ 305-11 and 305-12 to ensure they are current.

Pick one option from list below

- Remove fee amounts and replace with "*amount set from time to time by the Board of Health.*"
- Revise as follows:

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

Question 305-004

[Chapter 305 Board of Health Regulations](#)
[Article III Outdoor Wood-Burning Boilers](#)

Is there an adoption date that should be included for these regulations?

Pick one option from list below

- Regulations were adopted on the following date: _____
- Revise as follows:

- Include regulations without adoption date.
- Defer decision until after Code publication.

Question 305-005

[Chapter 305 Board of Health Regulations](#)
[Article III Outdoor Wood-Burning Boilers](#)

In general, these regulations should be reviewed against current state regulations, which were amended and made more restrictive at the end of 2008. The state [DEP website](#) includes helpful information.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 305-006

[Chapter 305 Board of Health Regulations](#)
[Article IV Private Wells](#)
[§ 305-25 Registration of well diggers and drillers.](#)

Code Content:

[\[§ 305-25\]](#) No person shall construct or destroy a private well within the boundaries of Erving unless registered with the Division of Water Resources as required by [State Regulation 313 CMR 3.00](#). A copy of the well driller's certificate of registration must accompany the application or permit.

We were unable to confirm this citation. Chapter 3.00 is currently "Reserved" in the state regulations. It appears that current regulations are in 310 CMR 46.00, Certification of Well Drillers.

Pick one option from list below

Update citation as noted above.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 305-007

[Chapter 305 Board of Health Regulations](#)
[Article IV Private Wells](#)
[§ 305-27 Application procedure.](#)

Code Content:

[\[§ 305-27E\]](#) *The Board of Health will charge a fee of \$25 for a construction permit or a well destruction permit.*

The Town could review the fee in this subsection and in § 305-29 to determine whether they are current.

Pick one option from list below

Remove fee amounts and replace with text indicating that fees are "*set from time to time by the Board of Health.*"

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 305-008

[Chapter 305 Board of Health Regulations](#)
[Article IV Private Wells](#)
[§ 305-31 Adoption of guidelines.](#)

Code Content:

[\[§ 305-31\]](#) *The Board of Health incorporates by reference and makes a part hereof as part of their regulations, the **DEP Private Well Guidelines, October 1989.***

Are the above-highlighted guidelines the currently effective guidelines? According to our research, the [current guidelines](#) were last amended in 2018.

See also the same reference in § 305-30.

Pick one option from list below

- Revise to change "October 1989" to "as amended."
- Revise as follows:

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

Question 305-009

[Chapter 305 Board of Health Regulations](#)
[Article V Public Swimming Pools](#)

Is there an adoption date that should be included for these regulations?

Pick one option from list below

- Regulations were adopted on the following date: _____
- Revise as follows:

- Include regulations without adoption date.
- Defer decision until after Code publication.

Question 305-010

[Chapter 305 Board of Health Regulations](#)
[Article V Public Swimming Pools](#)

This article requires a license for public swimming pools and appears to be sufficient as written, although the Town could review the fee in § 305-37 to ensure that it is current.

Pick one option from list below

- Remove fee amount and replace with "*as set from time to time by the Board of Health.*"
- Revise as follows:

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

Question 305-011

[Chapter 305 Board of Health Regulations](#)
[Article VI Shared Wells](#)

This article requires regular testing of shared wells and appears to be sufficient as written.

Pick one option from list below

- Revise as follows:

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

Question 305-012

[Chapter 305 Board of Health Regulations](#)
[Article VII Tanning Facilities](#)

This article requires a license for tanning facilities and appears to be generally sufficient as written, although the Town may wish to consider the following:

- (1) Is there an adoption date that should be included for these regulations?
- (2) Is the \$25 fee in § 305-44 current?

Pick one or more options from list below

- Regulations were adopted on the following date: _____
- Remove fee and replace with "*as set from time to time by the Board of Health.*"
- Revise as follows:

- Include regulations without adoption date.
- Defer decision until after Code publication.

Question 310-001

[Chapter 310 Board of Selectmen](#)

This chapter includes the Selectmen's 1942 authorization for Police Department mutual aid and appears to be sufficient as written.

Pick one option from list below

- Revise as follows:

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

Question 315-001

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-3 Definitions.](#)

Code Content:

*[\[MONUMENT\]](#) A large memorial placed at the head of a lot, centered upon deeded graves. Some regulations may apply to size and location of monument. Check with the **Town Board** before installing any monument.*

In the context of these regulations is "Town Board" the correct term or should it be changed to:

- (1) "Board of Selectmen"; OR
- (2) "Board of Cemetery Commissioners"?

Pick one option from list below

- Revise as suggested in (1) above.
- Revise as suggested in (2) above.
- Revise as follows:

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

Question 315-002

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-4 General rules.](#)

Code Content:

[\[§ 315-4B\]](#) *Picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant is prohibited. Writing upon, defacing, or injuring any memorials, fences, or other structures within the Cemetery grounds is prohibited. Violation of this rule is also a violation of state laws (MGL c.272, sects. 73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines and/or imprisonment.*

Should MGL c. 272, § 73B, Sale of or attempt to sell stolen commemorative grave marker; receipt, retention or disposal of stolen commemorative grave marker, added to state law in 2015, also be referenced in this Subsection B?

Pick one option from list below

- Add "73B" to the list of citations highlighted above.
- Revise as follows:

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

Question 315-003

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-4 General rules.](#)

Code Content:

[\[§ 315-4H\]](#) *The Town Board reserves the right to add to, amend, alter, or repeal these Rules and Regulations pursuant to **MGL c. 144, sec. 23.***

The highlighted statute dealt with tenement houses in cities and was repealed in 1976. It appears that the citation should be to MGL c. **114**, § 23, regarding the powers and duties of cemetery commissioners.

Pick one option from list below

Update citation as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 315-004

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-9 Interments.](#)

Code Content:

[\[§ 315-9B\]](#) *Where immediate burial is required by state law or under the Rules and Regulations of the Erving Board of Health, interments may be made on Sundays and holidays, but an additional fee of \$250 will be added to the regular interment charge and entrance to the Cemetery will be allowed only to the hearse and vehicles in the funeral procession.*

Should the \$250 fee remain in this subsection? We note that the 2013 amendment to Subsection A of this section removed the fee from that subsection. This Subsection B could be similarly revised as follows:

B. Where immediate burial is required by state law or under the Rules and Regulations of the Erving Board of Health, interments may be made on Sundays and holidays, but an additional fee [~~of \$250~~] will be added to the regular interment charge and entrance to the Cemetery will be allowed only to the hearse and vehicles in the funeral procession.

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 315-005

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-9 Interments.](#)

Code Content:

[§ 315-9J] In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, it is required that all traditional burials are made inside a vault. The "outside" width of such vaults shall not exceed 42 inches. In such cases where an oversized vault is needed to accommodate an oversized casket, the lot owner will need to use two deeded graves. Burial vaults may be procured from any source provided they meet the established specifications. When Cemetery employees handle or install such containers, a reasonable charge will be made for such service.

This Subsection J duplicates some restrictions found earlier in the definition of "vault" in § 315-3. To eliminate this redundancy one of the following revisions could be made:

Option #1: Revise this Subsection J. *In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, it is required that all traditional burials are made inside a vault **as defined in § 315-3 of these regulations.** [~~The "outside" width of such vaults shall not exceed 42 inches. In such cases where an oversized vault is needed to accommodate an oversized casket, the lot owner will need to use two deeded graves.]~~ Burial vaults may be procured from any source, provided they meet the established specifications. When Cemetery employees handle or install such containers, a reasonable charge will be made for such service.*

Option #2: Revise definition of "vault." *VAULT - A reinforced concrete grave liner box. [~~No vault over 42 inches in exterior width will be accepted for a single grave. If a lot owner needs to use a vault larger than 42 inches in exterior width, two graves will be required for interment.]~~*

Pick one option from list below

- Revise as suggested in Option #1.
- Revise as suggested in Option #2.
- Revise as follows:

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

Question 315-006

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-9 Interments.](#)

Code Content:

[\[§ 315-9Q\]](#) The Town will not be **liable to the interment permit** nor for the identity of the person sought to be interred.

Is text missing from this Subsection Q? The above-highlighted phrase is unclear.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 315-007

[Chapter 315 Cemetery Rules and Regulations](#)
[§ 315-12 Fees and charges.](#)

The fees and charges in this section could be retained as is or replaced with a general statement: *Fees and charges for sale of lots and interments shall be set by the Board of Selectmen.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 340-001

[Chapter 340 Recycling Regulations](#)

This chapter outlines basic recycling requirements and appears to be sufficient as written.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 345-001

[Chapter 345 Sewer Use Regulations](#)

[Article I General Provisions](#)

[§ 345-1.2 Definitions.](#)

Code Content:

*[\[DOMESTIC SOURCE\]](#) Any residence, building, structure, facility, or installation from which there is or may be discharged to a POTW only, sanitary sewage, in an amount less than 2,000 gallons per day, as determined in accordance with the Sewage Flow Estimate published at **314 C.M.R. § 7.15**, which is incorporated herein by reference.*

We were unable to confirm the above-highlighted citation.

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 345-002

[Chapter 345 Sewer Use Regulations](#)
[Article I General Provisions](#)
[§ 345-1.2 Definitions.](#)

Code Content:

[INTERFERENCE] *A discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the Town of Erving's NPDES Permits (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal by a POTW in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 C.F.R. § 403.3(i).*

The above-highlighted regulation defines "indirect discharge." Is that correct? The definition of "interference" is found in 40 CFR 403.3(k).

Pick one option from list below

- Update citation as noted above.
- Change citation to: **40 CFR 403.3.**
- Revise as follows:

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

Question 345-003

[Chapter 345 Sewer Use Regulations](#)

[Article III Permits](#)

[§ 345-3.2 Permit application requirements.](#)

Code Content:

*[\[§ 345-3.2A\]](#) All Users required to obtain a Sewer Connection Permit or an Industrial Discharge Permit shall complete and file with the Director an application in the form prescribed by the Director, and accompanied by the appropriate fee as indicated on the application and on the fee schedule annexed hereto as **Schedule B**. In support of the application for an Industrial Discharge Permit, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:*

Schedule B, referenced in this section, was not included with the regulations submitted for this project.

(1) If the Town would like Schedule B included with this chapter, please provide a current copy.

(2) If it is not necessary to include Schedule B in the Code, we will insert a footnote indicating that Schedule B is on file in the Town offices.

Pick one option from list below

- Revise as suggested in (1) above (copy of Schedule B enclosed).
- Add footnote as suggested in (2) above.
- Revise as follows:

- Do not revise; do not add schedule or footnote.
- Defer decision until after Code publication.

Question 345-004

[Chapter 345 Sewer Use Regulations](#)
[Article IV Reporting Requirements Monitoring, and Inspections](#)
[§ 345-4.1 Reporting requirements.](#)

Code Content:

[\[§ 345-4.1C\]](#) *Compliance deadline report. Within 90 days following the date for final compliance with any applicable Pretreatment Standards or Requirements or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any see subject to Pretreatment Standards or Requirements shall submit to the Director a report as prescribed under **40 C.F.R. § 5403-12(d)**, indicating the nature and concentration of all pollutants in the discharge which are limited by Pretreatment Standards or Requirements, and the average and maximum daily flow of the wastewater containing such pollutants. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This report shall be signed by an Authorized Representative of the User, and be certified by a qualified professional engineer. The Director may require such follow-up reports as he seems necessary to monitor the actions taken by the User to come into compliance with the applicable Pretreatment Standards or Requirements.*

The above-highlighted citation appears to be incorrect and should probably be changed to: 40 CFR 403.12(d).

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 345-005

[Chapter 345 Sewer Use Regulations](#)
[Article IV Reporting Requirements Monitoring, and Inspections](#)
[§ 345-4.5 Confidential information.](#)

Code Content:

[\[§ 345-4.5B\]](#) *Notwithstanding any claim of confidentiality, any information and data provided to the Director which is effluent data, as defined at 40 C.F.R. § 2.303, (including, but not limited to, wastewater constituents and characteristics), shall be available to the public without restriction. All other information and data shall be available to the public at least to the extent provided by 40 C.F.R. § 2.302.*

This citation is incorrect and should instead reference 40 CFR 2.**302**.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 345-006

[Chapter 345 Sewer Use Regulations](#)
[Article VI Enforcement](#)
[§ 345-6.5 Review by Select Board.](#)

Code Content:

[\[§ 345-6.5B\(4\)\]](#) *Take any further necessary action as permitted by these Regulations or by the Town's By-Laws and Ordinances.*

This Subsection B(4) could be revised as follows: *Take any further necessary action as permitted by these Regulations or by the Town's bylaws [~~and Ordinances~~].*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-001

[Chapter 350 Subdivision Regulations](#)

Forms. Various sections in these regulations refer to forms appended or applicable to these regulations. We did not receive the forms with the materials for this project.

(1) If the Town would like the forms included in the Code as attachments to this chapter, please provide current copies.

(2) Alternatively, whenever a form is referenced, we could include a footnote indicating that the forms are available from the Town offices or on the Town website.

Pick one option from list below

- Revise as suggested in (1) above (copies attached).
- Revise as suggested in (2) above.
- Revise as follows:

- Do not revise; do not include forms or footnotes.
- Defer decision until after Code publication.

Question 350-002

[Chapter 350 Subdivision Regulations](#)

Fees. The Town should review the fees in the following sections to ensure they are current. (Any changes can be noted under "Revise as follows" below.) If fees are changed by the Planning Board from time to time, the Town may wish to consider removing fee amounts from the sections and replacing them with "*as set from time to time by the Planning Board.*"

Fees appear in the following sections: §§ 350-4A(2) and 350-6B(1)(c).

Pick one option from list below

- Remove fees and replace with "as set from time to time" language.
- Revise as follows:

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

Question 350-003

[Chapter 350 Subdivision Regulations](#)
[§ 350-1 Authority and purpose.](#)

Code Content:

[§ 350-1B] Purpose. The Subdivision Rules and Regulations have been enacted for the purpose of protecting the safety, convenience, and the general welfare of the inhabitants of the Town of Erving by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions, and in proper cases parks and open areas. The powers of the Planning Board under the Subdivision Control Law and under these Regulations shall be a subdivision by ways that will be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; controlling congestion in such ways and in the adjacent public ways; reducing danger to life and limb in the operation of motor vehicle; securing safety in the case of emergency situations; insuring compliance with the applicable protective (zoning) bylaws; securing adequate provision for water, sewage, drainage, underground utility services, fire, police, ambulance services, and other similar municipal equipment, streetlighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other, with the public ways in the Town, and with the ways in neighboring subdivisions.

This Subsection B could be revised as follows:

*B. Purpose. The Subdivision Rules and Regulations have been enacted for the purpose of protecting the safety, convenience, and the general welfare of the inhabitants of the Town of Erving by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions, and in proper cases parks and open areas. The powers of the Planning Board under the Subdivision Control Law and under these Regulations shall be **exercised with due regard for the adequate access to all of the lots in** a subdivision by ways that will be [~~exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be~~] safe and convenient for travel; [~~controlling~~] **for lessening** congestion in such ways and in the adjacent public ways; **for** reducing danger to life and limb in the operation of motor vehicles; **for** securing safety in the case of emergency situations; **for** insuring compliance with the applicable protective (zoning) bylaws; **for** securing adequate provision for water, sewage, drainage, underground utility services, fire, police, ambulance services, and other similar municipal equipment, street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other, with the public ways in the Town, and with the ways in neighboring subdivisions.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-004

[Chapter 350 Subdivision Regulations](#)
[§ 350-3 Definitions.](#)

The following terms are defined in this section but the terms are not used elsewhere in these regulations:

_____ METRIC EQUIVALENT MEASURE

Pick one option from list below

- Delete term(s) checked above.
- Revise as follows:

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

Question 350-005

[Chapter 350 Subdivision Regulations](#)
[§ 350-3 Definitions.](#)

Code Content:

*[DEFINITIVE PLAN] At least five copies of the map of the proposed subdivision, an acetate overlay, a development impact statement, together with all other documents, drawings, information, filling fees paid, and reimbursement of all consultants retained by the Planning Board that were needed to reach a decision **of the application**.*

Should the above-highlighted "of the application" be changed to "**on** the application"?

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-006

[Chapter 350 Subdivision Regulations](#)
[§ 350-3 Definitions.](#)

Code Content:

*[STATE CONSTRUCTION STANDARDS, MASS DPW CONSTRUCTION STANDARDS] These specifications are published by the **Massachusetts Department of Public Works**. They are entitled *Standard Specifications for Highway and Bridges*, and include all supplements, updates, revisions, or future editions covering substantially the same subject matter. All matters left open or undetermined by these specifications shall be specified by the Planning Board on a case by case basis.*

Should "Department of Public Works" be changed to its current title "Department of **Transportation**"?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-007

[Chapter 350 Subdivision Regulations](#)
[§ 350-4 Plan believed not to require approval.](#)

Code Content:

[\[§ 350-4A\(2\)\]](#) *Written evidence that a filing fee in the amount of \$65 for a single lot, or \$35 per lot for all plans including two or more lots, made payable to the Town of Erving, Massachusetts.*

This subsection could be revised as follows to be made grammatically correct: *Written evidence that a filing fee **has been paid** in the amount of \$65 for a single lot, or \$35 per lot for all plans including two or more lots, made payable to the Town of Erving, Massachusetts.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-008

[Chapter 350 Subdivision Regulations](#)
[§ 350-4 Plan believed not to require approval.](#)

Code Content:

[\[§ 350-4A\(3\)\]](#) *An application for hearing (Form A) **upended** hereto, signed by the applicant/s and providing all information requested;*

The above-highlighted "upended" should be changed to "appended."

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-009

[Chapter 350 Subdivision Regulations](#)
[§ 350-5 Preliminary plans.](#)

Code Content:

[\[§ 350-5A\]](#) General. Prior to the submission of a Preliminary Plan, a developer is encouraged to discuss their intentions with the Board. A Preliminary Plan of a Subdivision may be submitted by the sub divider for discussion and approval by the Board. The submission by the sub divider for discussion and approval by the Board. The submission of such a plan would enable the sub divider, the Planning Board, other municipal agencies and owners of abutting properties to the proposed subdivision to discuss and clarify the problems of such a subdivision before a Definitive Plan is prepared. Such a plan must be filed to allow the Board 45 days in which to study and make recommendations toward the preparation of a Definitive Plan. It is strongly recommended that a Preliminary Plan be filed in every case, especially where the developer intends to submit a series of Definitive Plans over a period of time, or where a developer intends to develop only part of the total contiguous parcel. In these cases, the Preliminary Plan shall show the future intended use or alternate uses for the part of the parcel not presently being developed. In either case, the Preliminary Plan will show all divisions, uses, and other improvements of the entire contiguous parcel. Prior to the submission of Preliminary Plan to the Planning Board and the Board of Health for approval, the sub divider should meet with the Board of Selectmen, Assessors, Conservation Commission, School Committee, Police and Fire Departments and the Highway Superintendent to obtain their recommendations. These recommendations may be incorporated into the Preliminary Plan, in addition to any changes or additions suggested by the Planning Board.

In MGL c. 41, § 81-S, the Subdivision Control Law provides that a preliminary plan for a residential subdivision is optional but for a nonresidential subdivision is mandatory. Therefore, this Subsection A could be revised as follows:

*. . . Prior to the submission of a preliminary plan, a developer is encouraged to discuss their intentions with the Board. A preliminary plan of a **residential** subdivision may be, **and of a nonresidential subdivision shall be,** submitted by the subdivider for discussion and approval by the Board. . . .*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-010

[Chapter 350 Subdivision Regulations](#)
[§ 350-5 Preliminary plans.](#)

Code Content:

[\[§ 350-5C\(1\)\]](#) *The Preliminary Plan shall show the following:*

Subsections (l) and (m) in this Subsection C(1) are identical.

Pick one option from list below

Delete one of the duplicate subsections.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-011

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[\[§ 350-6B\(1\)\(i\)\]](#) *A signed covenant stating that the subdivisions homeowners' association that shall be set up by the developers.*

This Subsection (i) should be revised as follows:

(1) . . . Any person who submits a definitive plan to the Planning Board for approval shall file with the Board the following:

(i) A signed covenant stating that the subdivisions homeowners' association [~~that~~] shall be set up by the developer.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-012

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[\[§ 350-6B\(2\)\]](#) The applicants file their application in its entirety with the Town Clerk. The Clerk shall write the date and time in the appropriate place on the Form C, make three copies of the document and return it to the applicant/s. The Town Clerk shall then remove one set of plans and one copy of the Form C for the Board of Health and the rest to the Planning Board. The Town Clerk shall then notify the Board of Health and the Planning Board of the submission within 10 days.

This subsection should be as follows: *The applicant[s] **shall** file their application in its entirety with the Town Clerk. . . . The Town Clerk shall then remove one set of plans and one copy of the Form C for the Board of Health and **shall retain** the rest [†] **for** the Planning Board. . . .*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-013

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[\[§ 350-6C\(7\)\]](#) Existing and proposed topography at two-foot contour intervals for gentle slopes (less than 25%) and five-foot contour intervals for steep slopes (greater than 25%) with elevations, shall be provided at ten foot intervals;

This definitive plan requirement does not cover slopes of exactly 25%. Subsection C(7) could be revised in one of the following ways:

Option #1: Existing and proposed topography at two-foot contour intervals for gentle slopes (***equal to or*** less than 25%) and five-foot contour intervals for steep slopes (greater than 25%) with elevations, shall be provided at ten foot intervals;

Option #2: Existing and proposed topography at two-foot contour intervals for gentle slopes (less than 25%) and five-foot contour intervals for steep slopes (***equal to or*** greater than 25%) with elevations, shall be provided at ten foot intervals;

Pick one option from list below

- Revise as suggested in Option #1.
- Revise as suggested in Option #2.
- Revise as follows:

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

Question 350-014

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[§ 350-6C(10)] *Subsurface conditions on the tract, location and results of all tests made to ascertain subsurface soil, rock and water conditions, depth to ground water, and on the a separate sheet, the location nad results of all soil percolation tests if individual sewage disposal systems are proposed. These percolation tests shall be:*

This subsection should be revised as follows: *Subsurface conditions on the tract, location and results of all tests made to ascertain subsurface soil, rock and water conditions, depth to groundwater, and on [~~the~~] a separate sheet, the location [~~nad~~] **and** results of all soil percolation tests if individual sewage disposal systems are proposed. . . .*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-015

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[\[§ 350-6E\]](#) Review by the Board of health. The Board of Health shall, within 45 days of submission, review the plan and report to the Planning Board and the Applicant/s in writing, the approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any of the lots shown on the plan, cannot be used as building sites without injury to public health and safety, and include such specific findings and the reasons for the adjustments thereof. **Every lot so located that it will be serviced by the municipal water and sewer systems.** If such utilities are not available, these lots must be able to be serviced by private wells and septic systems that are satisfactory to the Board of Health.

The above-highlighted sentence should be revised as follows: *Every lot **shall be** so located that it will be serviced by the municipal water and sewer systems.*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-016

[Chapter 350 Subdivision Regulations](#)
[§ 350-6 Definitive plan.](#)

Code Content:

[\[§ 350-6H\(2\)\(b\)\]](#) Determination that development at this location, as proposed in the Definitive Plan, does not present unwarranted hazard to the health, safety, or welfare to future residents or to others because of possible natural disasters, traffic hazard, or environmental degradation;

This subsection should be revised as follows: *Determination that development at this location, as proposed in the Definitive Plan, does not present unwarranted hazard to the health, safety, or welfare ~~[to]~~ **of** future residents or ~~[to]~~ others because of possible natural disasters, traffic hazard, or environmental degradation;*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-017

[Chapter 350 Subdivision Regulations](#)
[§ 350-8 Design standards.](#)

Code Content:

[\[§ 350-8A\(3\)\(b\)\]](#) *Streets shall be laid out so as to intersect as nearly as possible to right angles;*

This subsection should be revised as follows: *Streets shall be laid out so as to intersect as nearly as possible [~~to~~] **at** right angles;*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-018

[Chapter 350 Subdivision Regulations](#)
[§ 350-8 Design standards.](#)

Code Content:

*[\[§ 350-8D\]](#) Lot sizes and shapes. All lots within the subdivision shall conform to provisions set forth in the Town of Erving zoning bylaws and the lot shapes shown in the **appendix** section of these regulations;*

In addition to the forms addressed earlier in these comments, the appendix referenced in this Subsection D was not included with the materials for this project.

Pick one option from list below

- Appendix enclosed for inclusion in project.
- Add a footnote noting that the appendix is available from the Town offices or on the Town website.
- Revise as follows:

- Do not revise; do not include appendix or footnote.
- Defer decision until after Code publication.

Question 350-019

[Chapter 350 Subdivision Regulations](#)
[§ 350-8 Design standards.](#)

Code Content:

[\[§ 350-8E\]](#) Open spaces. Before approval of a plan, the Board may also, in proper cases, require the plan to show a park or parks suitably located for a playground or recreational purposes, or for providing light and air. The park/s shall not be unreasonable in area in relation to the land to be subdivided and to the prospective uses of such land. **The Board may be appropriate endorsement on the plan, that no building may be built on such a park without its approval;**

The last sentence of this subsection should be revised as follows: *The Board may, **by** [~~be~~] appropriate endorsement on the plan, **require** that no building may be built on such a park without its approval;*

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-020

[Chapter 350 Subdivision Regulations](#)
[§ 350-9 Required improvements.](#)

Code Content:

*[§ 350-9A(4)(b)] After the sub base has been inspected, a surface coat must be applied using the same methods and thickness as the sub base. Under no circumstances shall any surface coat be applied until the sub base has been inspected and approved. All paving must conform with **Mass. Dept. of Public Works** specifications for Type I-1 bituminous concrete, in materials, quality standards, and methods of application.*

Should the above-highlighted text be changed to refer to the current department: Department of **Transportation**?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-021

[Chapter 350 Subdivision Regulations](#)
[§ 350-9 Required improvements.](#)

Code Content:

[\[§ 350-9C\(3\)\]](#) Any sidewalk that travels on one side of a street that terminates and resumes or connects to a sidewalk on the opposite side of the street must do so via a crosswalk permanently marked on the roadway and by road signs and comply with the **American Disability Administration's** regulations.

This Subsection C(3) could be revised as follows:

*(3) Any sidewalk that travels on one side of a street that terminates and resumes or connects to a sidewalk on the opposite side of the street must do so via a crosswalk permanently marked on the roadway and by road signs and comply with the [~~American Disability Administration's~~] regulations **of the Americans with Disabilities Act.***

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 350-022

[Chapter 350 Subdivision Regulations](#)
[§ 350-9 Required improvements.](#)

Code Content:

[§ 350-9E(5)] *Provisions of streetlighting shall be provided as determined by the Planning Board, in accordance with from recommendations from the Chief of Police and the Chief of the Fire Department.*

This Subsection (5) should be revised as follows: *Provisions of streetlighting shall be provided as determined by the Planning Board, in accordance with ~~from~~ recommendations from the Chief of Police and the Chief of the Fire Department.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 350-023

[Chapter 350 Subdivision Regulations](#)
[§ 350-10 Administration.](#)

Code Content:

[\[§ 350-10B\]](#) For matters not covered by these rules and regulations, reference is made to MGL Sections 81-K to **81-G**.

The above-highlighted citation is incomplete and should instead reference § 81-**GG**.

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 360-001

[Chapter 360 Traffic Regulations](#)

Nomenclature. Throughout this Chapter 360, "Massachusetts Department of Public Works" should be changed to "Massachusetts Department of **Transportation**."

Pick one option from list below

- Revise as suggested.
- Revise as follows:

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

Question 360-002

[Chapter 360 Traffic Regulations](#)

Some specific comments are included below, but the Town should review this Chapter 360 in general to determine whether there are additional traffic restrictions that should be included. Are there stop signs that are not documented in § 360-10B? Are there other parking restrictions to be included in § 360-9?

Pick one option from list below

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 360-003

[Chapter 360 Traffic Regulations](#)

[Article I Definitions](#)

[§ 360-1 Terms defined.](#)

Code Content:

[OFFICER] Any officer, any constable or special officer, provided he is conspicuously displaying his badge of office.

Should this definition be revised as follows?

*OFFICER - Any **police** officer, any constable or special officer, provided he is conspicuously displaying his badge of office.*

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 360-004

[Chapter 360 Traffic Regulations](#)
[Article V Operation of Vehicles](#)
[§ 360-10 Obedience to isolated stop signs.](#)

Code Content:

[\[§ 360-10A\]](#) Every driver of a vehicle, or other conveyance, approaching an intersection of ways where there exists facing him an official sign, bearing the word "Stop" and authorized by this section, said sign having apart from this regulation, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall before proceeding through the intersection, bring such vehicle, or other conveyance, to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at a place between the said "Stop" sign and the nearer line of the street intersection. In the case of a line of two or more vehicles approaching such "Stop" sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device.

Based on the text of and amendments to state law provisions in MGL c. 89, § 9, this Subsection A could be revised in one of the following ways:

Option #1: Every driver of a vehicle, or other conveyance, approaching an intersection of ways where there exists facing him an official sign, bearing the word "Stop" and authorized by this section, said sign having apart from this regulation, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall before proceeding through the intersection, bring such vehicle, or other conveyance, to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at a place between the said "Stop" sign and the nearer line of the street intersection. [~~In the case of a line of two or more vehicles approaching such "Stop" sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection.~~] This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device.

Option #2: Every driver of a vehicle, or other conveyance, approaching an intersection of ways where there exists facing him an official sign, bearing the word "Stop" and authorized by this section, said sign having apart from this regulation, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall before proceeding through the intersection, bring such vehicle, or other conveyance, to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then **before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.** [~~at a place between the said "Stop" sign and the nearer line of the street intersection. In the case of a line of two or more vehicles approaching such "Stop" sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection.~~] This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device.

Pick one option from list below

- Revise as suggested in Option #1.
- Revise as suggested in Option #2.
- Revise as follows:

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

Question 360-005

[Chapter 360 Traffic Regulations](#)
[Article VI Responsibility, Penalties and Repeals](#)
[§ 360-12 Penalties.](#)

Code Content:

*[\[§ 360-12\]](#) Any person convicted of a violation of any rule, regulation or order made hereunder; except as otherwise provided, shall be punished by a **fine not exceeding \$20** for each offense.*

Is the \$20 penalty for violations still current?

Pick one option from list below

- Change penalty to \$_____.
- Revise as follows:

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

Question 380-001

[Chapter 380 Water Department Regulations](#)

Code Content:

[\[Ch 380\]](#) *The following regulations shall be considered a part of the contract with every person who receives the water and every such person by receiving the water shall be considered to express their assent to be bound thereby. **Whenever the building or place of such violation,** although two or more parties may receive the Water through the same pipe, water shall not be turned on again, except by order of the Board of Water Commissioners.*

In the above-highlighted phrase, is "Whenever" the correct term or should it be changed to "**Whatever** the building or place of such violation . . ."?

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question 380-002

[Chapter 380 Water Department Regulations](#)

Fees. The Town should review the fees in the following sections to determine whether they are current. If the charges are set by the Water Department or Board of Selectmen, the Town may wish to remove the fee amounts and replace them with "*as set from time to time by the Water Department (or Board of Selectmen).*"

See the fees in [§ 380-15](#), [§ 380-20](#), [§ 380-26](#), [§ 380-30B](#), [§ 380-34B](#), [§ 380-42](#) (Note that [§ 380-46](#) also includes a hydrant fee that differs from the hydrant fee in this § 380-42) and [Article VI](#).

Pick one option from list below

- Remove fees and change to "as set from time to time by the . . .

Pick one option from list below

- Water Department

- Board of Selectmen

- Other:

- Revise as follows:

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

Question 380-003

[Chapter 380 Water Department Regulations](#)

Attachment 1: Application for New Water Service. Attachment 1 to this chapter includes the Application for New Water Service. If the Town maintains this form in its offices, is it necessary to also include the form in the Code?

Pick one option from list below

- Retain form in Code.
- Remove form from Code.
- Revise as follows:

- Defer decision until after Code publication.

Question 380-004

[Chapter 380 Water Department Regulations](#)

Code Content:

[Art. II Meters § 380-8 All services must be metered.](#)

[\[§ 380-8C\]](#) Meters larger than one inch will be tested by the owner and results shall be submitted to the Water Department annually. If the meter is incorrect it shall be replaced or repaired within 30 days at the owners' expense. The Water Department will be notified to inspect replacement and record serial numbers.

[Art. IV Abatements § 380-34 Special provisions.](#)

[\[§ 380-34B\]](#) Meters over one inch, which are the property of the owner. These meters shall be checked annually in order to insure fair billing. Since these large meters are owned by the property owner, they can be privately checked, with Water Department coordination, and the results should be submitted to the Water Department for appropriate adjustment. The Water Department, may of course, at the discretion of the Water Commissioners, perform tests on the large water meters if they feel it is necessary. All costs shall be assessed to the owner of the device.

The subsections above both address testing of meters larger than one inch, which are owned by the property owner rather than the Town. Section 380-8C says that the testing results shall be submitted to the Water Department, while § 380-34B says that the testing results should be submitted to the Water Department.

Is this reporting mandatory (§ 380-8) or just recommended (§ 380-34)?

Pick one option from list below

- Reporting is mandatory; revise § 380-34B to change "should be submitted" to "**shall** be submitted."
- Reporting is recommended; revise § 380-8C to change "shall be submitted" to "**should** be submitted."
- Revise as follows:

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

Question 395-001

[Chapter 395 Zoning Board of Appeals Rules](#)

Is there an adoption date that should be included for these regulations?

Pick one option from list below

Regulations were adopted on the following date: _____

Revise as follows:

Do not include adoption date.

Defer decision until after Code publication.

Question 395-002

[Chapter 395 Zoning Board of Appeals Rules](#)

Attachment forms. Attachment 1, 2 and 3 to this chapter includes forms relevant to Zoning Board of Appeals actions. If the Town maintains these forms in its offices, is it necessary to also include the forms in the Code?

Pick one option from list below

Retain forms in Code.

Remove forms from Code.

Revise as follows:

Defer decision until after Code publication.

Question 395-003

[Chapter 395 Zoning Board of Appeals Rules](#)
[§ 395-2 Function I: Appeals.](#)

Code Content:

[\[§ 395-2D\]](#) Within 65 days from date of filing an appeal application or petition with the Town Clerk, the Board must make its decision. Appeal can be made in accord with [Section 21, Chapter 40A, of Massachusetts General Laws](#).

The above-highlighted citation appears to be incorrect and should probably be changed to MGL c. 40A, [§ 17](#), Judicial review.

Pick one option from list below

Revise as suggested.

Revise as follows:

Do not revise.

Defer decision until after Code publication.

Question A400-001

[Chapter A400 General Law Acceptances](#)

This chapter lists General Laws accepted at Town Meeting and other relevant votes of the Town.

Town Comments (if any):

Question A400-002

[Chapter A400 General Law Acceptances](#)

The first “Town Bylaws” document that we received for this project included the following acceptance, which was not included in the second document submitted in August 2019. Was the exclusion intentional or should the following be included in the list of acceptances in this Chapter A400?

February 8, 1936 – Article 30 Voted to accept the provisions of Sections 126 and 127, Chapter 111 of the General Laws regarding Public Health nuisances created by privy vaults and house drainage on streets or roads where common sewers are maintained.

Pick one option from list below

- Include above acceptance in this chapter.
- Do not revise.
- Defer decision until after Code publication.

Question A401-001

[Chapter A401 Special Acts](#)

This chapter includes the text of State Special Acts applicable to the Town of Erving. In order to get the material into our automated publication software we had to assign section numbers to the material. Those numbers are for organizational purposes only and do not affect the content of the Special Acts.

Town Comments (if any):

Meeting Minutes

Board: Select Board / Water Commissioner's Meeting
Date: Wednesday, July 06, 2022
Location: Senior & Community Center, 1 Care Drive, Erving, MA 01344

Select Board Present: Jacob Smith, William Bembury, Scott Bastarache
Also, Present: Bryan Smith, James Loynd, Kelly Loynd, Peter Sanders, Mark Blatchley
Press: Otis Wheeler, BNCTV; Julian Mendoza, Greenfield Recorder

At 6:46 PM **Selectman Bembury** called the meeting to order.

Executive Session

Selectman Bembury explained that the Select Board would be entering Executive Session and would return to Regular Session.

At 6:46 PM **Selectman Bastarache** made a motion to enter Executive Session pursuant to MGL Chapter 30A, Section 21 (a) (2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel (Chief of Police, Fire Chief, Town Administrator). **Selectman Bembury** seconded. **Roll Call Vote:**

Selectman Bembury Aye
Selectman Bastarache Aye

The Select Board returned to Regular Session at 7:40 PM. **Chairman Smith** announced that the Select Board has ratified amendments to the Police Chief, Fire Chief, and Town Administrator contracts.

Discussion Regarding Town Response to COVID-19

The Select Board members reviewed the recent report regarding COVID-19 cases for Franklin County from the Cooperative Public Health Program. **Chairman Smith** explained that Erving has had two (2) new case counts for each of the past two (2) weeks. **Selectman Bastarache** discussed the new report format, noting that Franklin County is categorized as low risk. The Select Board members had no further concerns.

Review of Renewal Agreement for Co-Responder Clinician Services with Clinical Support Options & Intermunicipal Agreement

The Select Board passed over this agenda item.

Discussion Regarding Hiring of Patrol Officers

Chairman Smith explained that William Kimball has accepted the part-time Patrol Officer appointment and is going through the pre-employment screening process. **Chairman Smith** explained that Officer Laura Gordon accepted the full-time Patrol Officer position and began field training this week.

Review of Sexual Harassment Prevention Policy- 2nd Reading

The Select Board conducted a second reading of the draft Sexual Harassment Prevention Policy. The Select Board members discussed having no concerns with the policy as presented. The Select Board will conduct a third reading at the next meeting.

Review of Protected Class Harassment Prevention Policy- 2nd Reading

The Select Board conducted a second reading of the draft Protected Class Harassment Prevention Policy. **Selectman Bastarache** noted some grammar corrections in section .5 that need revision. The Select Board will conduct a third reading at the next meeting.

Review of Meeting Minutes for June 14, 2021

The Select Board reviewed meeting minutes for Monday, June 14, 2021. **Selectman Bembury** made a motion to approve the meeting minutes of June 14, 2021, as written. **Selectman Bastarache** seconded. **Vote:** **Selectman Bastarache** abstained. Passed by majority.

Review of Meeting Minutes for June 21, 2022

The Select Board passed over this agenda item.

Review of Meeting Minutes for June 22, 2022

The Select Board reviewed meeting minutes for Wednesday, June 22, 2022. **Selectman Bembury** made a motion to approve the meeting minutes of June 22, 2022, as written. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

FY2022 Reserve Fund Transfer Requests

The Select Board reviewed a memorandum from Bryan Smith, Town Administrator, explaining the request for Fiscal Year 2022 Reserve Fund transfer requests. **Chairman Smith** provided an overview of the requests, explaining that the first is for the Fiscal Year 2021 financial audit in the amount of \$15,000, the second is for the Arch Street Force Sewer Main project interest in the amount of \$11,180.15, and the third is for repairs to the UV equipment at POTW1 in the amount of \$17,073.52. **Selectman Bastarache** asked for an explanation of the overage in the Wastewater maintenance line-item. Bryan explained that the current overage in the maintenance includes the cost associated with the \$17,073.52 request for the UV equipment as well as costs associated with the rental emergency generator for POTW1. **Selectman Bastarache** made a motion to approve the FY 2022 Reserve Fund transfer requests in the amount of \$15,000, \$11,180.15, and \$17,073.52. **Chairman Smith** seconded. **Vote:** Unanimously approved.

Review of Decorative Lighting Repair Procurement

The Select Board members reviewed a procurement memorandum from Bryan regarding the repair of the decorative streetlights on East & West Main Streets, that recommends the use of State contract TRD01. **Chairman Smith** reviewed the procurement process noting that the request for quotes was sent to four (4) vendors on the contract and the Town was informed by one (1) vendor that they declined to submit a quote and received one (1) quote. The received quote was from Amp Electric, Inc. of West Springfield, MA in the amount of \$17,872.00. **Chairman Smith** asked about the recently damaged lighting fixture on East Main Street. Bryan explained that the fixture was damaged in a car accident and is outside of the current scope of work. Bryan also explained that the Town is having difficulty finding replacement parts for the lights and may have to repurpose a fixture. Kelly Lyond asked if there is an anticipated timeline for the repair work. Bryan explained that the Town is eager to have them fixed but out of recognition of the challenges in the supply market, the contract award will have until October 2022 for repair. The Select Board members discussed support for proceeding with the procurement. **Selectman Bastarache** made a motion to award the electrician services for streetlight repair to Amp Electric, Inc. of West Springfield, MA in the amount of \$17,872.00. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Review of Select Board Meeting Participation Guidance Draft

The Select Board members reviewed draft guidance for meeting participation. **Chairman Smith** explained that the intention of the guidance document is to add structure to meetings and guidance as meetings are now broadcast. **Chairman Smith** explained that the draft is being presented as a first read. **Selectman Bastarache** explained that he has reviewed the draft and has no concerns, noting that it incorporates existing principles. **Selectman Bembury** expressed support for approving the guidance and asked to have

Meeting Minutes

the final draft posted online and in the Around Town Newsletter. **Selectman Bastarache** asked that the final draft is printed on the second page of the agenda. **Chairman Smith** discussed setting deadline for Thursday by noon to receive supporting documentation. Bryan asked about amending the agenda to include unanticipated business. The Select Board members expressed agreement. The Select Board agreed to approve the meeting participation guide as amended.

Discussion Regarding Town Bylaw Codification Project

The Select Board members reviewed a memorandum from Bryan regarding the status of the Town bylaw codification project. **Chairman Smith** provided an overview, explaining that the process began over a year ago, and that the vendor has worked with the Town Clerk and has provided list of recommended edits. **Selectman Bastarache** asked for an explanation of the final Town Code. Bryan explained that the Town is in the drafting phase that will result in a track changes version, accompanied by a draft Code in chapters and sections to present at Town Meeting for adoption. The Select Board agreed to begin reviewing the draft editorial analysis at the next meeting. Bryan will send materials in advance of the meeting for review.

Review of Draft Sewer System Evaluation Survey

Peter Sanders, Wastewater & Water Superintendent, joined the meeting to review the draft Sewer System Evaluation Survey report prepared by Tighe & Bond. **Chairman Smith** explained that the evaluation report is the result of the findings of the smoke and dye testing project that the Town conducted, that was required by the Massachusetts Department of Environmental Protection (MassDEP). The study was meant to explore and identify the sources of inflow and infiltration (I&I) in the sanitary sewer system. **Selectman Bastarache** asked for an explanation of the sewer system areas for that were studied. Peter explained that the study focused on the two (2) larger sewer collection systems in Town but not the Farley system. **Selectman Bembury** asked if the Farley system would be included in a future study. Peter agreed that yes, the Farley system would be studied for I&I in a future phase. **Selectman Bastarache** asked how the Town plans to work to address identified areas of I&I. Peter discussed efforts to work with property owners. **Selectman Bembury** asked how the Town would notify residents of the deficiencies. Peter discussed direct communications with the residents. Bryan explained the approach would be to complete the study by filing the report with MassDEP and then to work with property owners of identified I&I. Bryan discussed the potential for educating the public on the concerns related to I&I and the need to separate from the system. **Selectman Bastarache** asked if the Town was making a commitment to fund future phases of the study as drafted in the report but filing the report. Bryan explained that the Town is responsible for making reasonable progress on I&I. How the Town achieves that progress will be dictated by findings in the field and outreach efforts to property owners. The Select Board discussed support for filing the report submission. **Selectman Bastarache** made a motion to file with MassDEP the Town of Erving Sewer System Evaluation Survey, completed by Tighe & Bond dated June 17, 2022. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

Miscellaneous

POTW1 AC system

Chairman Smith provided an overview of the request to consider a proposal to repair the air conditioning system at the Wastewater Treatment Plant #1. Peter explained that the air conditioning unit was originally installed during the renovation in 2009, noting that it is serviced annually before starting up. Peter explained that a vendor came to start the unit and it is not functioning, noting that the control board, wiring, and condenser are all damaged. Peter explained that he would recommend removing the equipment from the ground and mounting it to the wall of the Treatment Plant. Peter discussed the importance of the equipment to keep lab temperatures to an acceptable level. The Select Board discussed potential cost of replacement. **Chairman Smith** asked about the potential timeline for repair. Peter

Meeting Minutes

explained that the vendor is sourcing parts and knows that it is a priority repair issue. **Selectman Bastarache** discussed strategies for deterring rodent activity. Peter discussed the efforts to deter rodent work. James Lyond discussed a recommendation on pest management service. Bryan will research. **Selectman Bastarache** made a motion to approve the condenser replacement and award the contract to Jamrog HVAC in the amount of \$7,695.000. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

FY2023 Select Board Reorganization

Chairman Smith invited other members to serve as Chairman of the Select Board for Fiscal Year 2023. **Selectman Bastarache** and **Selectman Bembury** both expressed support for **Chairman Smith** to continue to serve in the role for Fiscal Year 2023. **Selectman Bastarache** made a motion to nominate Jacob Smith as Chairman of the Select Board. **Selectman Bembury** seconded. **Vote:** Unanimously approved.

FY2023 Select Board Liaison Assignments

The Select Board members discussed liaison assignments for Fiscal Year 2023. **Selectman Bastarache** asked about the future of the Personnel Relations Review Board. Bryan explained that there had been intentions to update the Town bylaws regarding the Board and suggested that the bylaw codification process may provide the opportunity to do that work. **Selectman Bembury** asked about the function of the Cable Advisory Committee until the cable franchise agreement needs to be negotiated. Bryan discussed the idea of revisiting the mission of the Cable Advisory Committee to work with the Community Access TV service in the years between franchise agreement negotiations. The Select Board discussed general support for researching that option. The Select Board members agreed to maintain liaison assignments for Fiscal Year 2023 as presented in the following:

JACOB SMITH	WILLIAM BEMBURY	SCOTT BASTARACHE
Tree Warden	Planning Board	School Committee
Treatment Plant/Hwy	Finance Committee	Board of Health
Tax Collector	Recreation Commission	Assessors
Veteran's Agent	Council on Aging/Senior Dir	Town Moderator
Fire Department / EMD	FRCOG/FCCIP	ZBA/Con Com
Accountant	Library	Historical Commission
Treasurer	Cable Advisory	Town Clerk
Police Department	Senior Housing	Personnel Relations Board

Adjournment

At 8:51 PM **Chairman Smith** made a motion to adjourn. **Selectman Bastarache** seconded. **Vote:** Unanimously approved.

Respectfully submitted,

Bryan Smith
Town Administrator

Richard Newton

From: masstownclerks@googlegroups.com on behalf of Christina Slocum-Wysk <townclerk@townofbernardston.org>
Sent: Tuesday, June 28, 2022 1:35 PM
To: masstownclerks@googlegroups.com
Subject: [EXTERNAL]Fwd: VOTES Act is signed!

CAUTION: This email originated from outside of the Town of Erving. Do not click links or open attachments unless you recognize the sender and know the content is safe. When in doubt, please contact the Erving IT Department

I'm sending Michelle's answer to my question about Constables and Police Officers to all since so many small towns requested the answer.

----- Forwarded message from "Tassinari, Michelle (SEC)" <michelle.tassinari@state.ma.us> -----
Date: Tue, 28 Jun 2022 17:31:47 +0000
From: "Tassinari, Michelle (SEC)" <michelle.tassinari@state.ma.us>
Subject: RE: VOTES Act is signed!
To: Christina Slocum-Wysk <townclerk@townofbernardston.org>

Cities and towns can still use constables—but it's up to the select board in consultation with you.

The new law specifically states:

Section 72. The select board, board of selectmen, town council or city council of each city and town, in consultation with its election officers and registrars, shall detail a sufficient number of police officers or constables for each building that contains the polling place for 1 or more precincts at every election therein to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections.

From: Christina Slocum-Wysk <townclerk@townofbernardston.org>
Sent: Tuesday, June 28, 2022 1:21 PM
To: Tassinari, Michelle (SEC) <Michelle.Tassinari@sec.state.ma.us>
Subject: Re: VOTES Act is signed!

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon Michelle,

There are several of us town clerks from small towns that currently use constables only for elections. Do we need to use Police Officers or may we continue to use just our Constables. Would you please clarify this for us? Thank you so much for all your guidance!

----- Message from "Tassinari, Michelle (SEC)" <michelle.tassinari@state.ma.us<mailto:michelle.tassinari@state.ma.us>>

Date: Thu, 23 Jun 2022 16:57:50 +0000
From: "Tassinari, Michelle (SEC)"
<michelle.tassinari@state.ma.us<mailto:michelle.tassinari@state.ma.us>>
Subject: VOTES Act is signed!
To: All Clerks
<AllClerks@sec.state.ma.us<mailto:AllClerks@sec.state.ma.us>>
Good Afternoon-

As you may be aware, yesterday Governor Baker signed chapter 92 of the Acts of 2022, which you may know as the VOTES Act. This new law changes some existing laws and makes permanent many of the procedures used in 2020. As such, we are pleased to present you with our first Election Advisory for 2022.

Here's a high-level overview of the new law:

- Changes the voter registration deadline to 5pm on the 10th day before any election;
- Makes early voting by mail permanent for all presidential primaries, state primaries and state elections;
- Makes early voting by mail consistent with absentee voting (family members can apply and return ballots);
- Changes deadline to apply for vote by mail ballot from 4 days to 5 business days;
- Allows mail-in ballots postmarked on or before the biennial state election and received within 3 days to be counted;

- Requires early voting in person for presidential primaries, state primaries and state elections;
- Allows for advance removal and advance deposit of early and absentee ballots.

There are a couple of timing issues that you won't enjoy (but they weren't our idea so don't blame us!). The first issue is that the voter registration deadline for any Tuesday election will always be on a Saturday. While some of you may have accepted section 110A of chapter 41 of the General Laws, for the state primary and state election this year, you will have to remain open on the Saturday deadline for voter registration. Since it falls in the early voting period, you'll have to be open for early voting in person anyway. The second issue is the deadline for returning ballots by mail for the November 8th election. Under the new law, ballots that are postmarked on or before election day can be received up to three days after to still be counted. The problem this year is that the 3rd day after the election is Veteran's Day, so you are closed as is the post office.

Under the provisions of section 2 of chapter 50 of the General Laws, the deadline date moves to the next day, which would be Saturday, November 12th, which would require coordination with the post office to get mail delivery on that Saturday and delay your ability to process those ballots. We are looking at possible solutions to this date for this year and will let you know once we have any additional information.

You'll notice some additional parts of the advisory that will require us to follow up with you—the online application portal and accessible vote by mail. Once we have something useful to pass along, we will let you know.

Other parts of the law that won't affect the upcoming election are regarding jail-based voting and automatic voter registration. Those don't take effect until next year, so more to come after November 2022...

And, finally, expect an email soon with some upcoming training dates.

Like we did in 2020, we will be offering more detailed trainings via Zoom, which will include entering EV applications and UOCAVA voters.

Let the good times roll!

Michelle K. Tassinari

General Counsel

Director, Elections Division

Office of the Secretary of the Commonwealth

One Ashburton Place, Room 1705

Boston, MA 02108

617-727-2828

----- End message from "Tassinari, Michelle (SEC)"
<michelle.tassinari@state.ma.us<mailto:michelle.tassinari@state.ma.us>>

Christina Slocum-Wysk

Bernardston Town Clerk
Burial Agent
Notary Public
413-648-5408
Office Hours Tues, Thurs 9am to 1pm, Wed 3pm to 6pm Oher times by appointment.
P.O. Box 504
Bernardston, MA 01337

----- End forwarded message -----

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The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

Election Advisory #22-01

Changes to State Election Laws

June 23, 2022

The purpose of this Advisory is to familiarize local election officials with changes to state election laws that will impact the 2022 State Primaries and State Election, as well as upcoming local elections.

This Advisory includes a first-glance summary of changes that will directly affect how you, as a local election official, will carry out your duties. Additional information and specifics will be provided in the coming weeks and months, as different aspects of the new law go into effect and as new regulations are promulgated.

The VOTES Act

On June 22, 2022, an election reform law titled “The VOTES Act” was signed into law. Among other things, the VOTES Act makes several of the temporary changes from the pandemic permanent, so many of these policies and procedures will be familiar to those of you administering elections in 2020. The new law also makes the absentee voting process and early voting by mail processes consistent.

Voter Registration Deadlines

Beginning July 22, 2022, the voter registration deadline for all elections and town meetings will be 10 calendar days before the date of the meeting or election.

Local election officials will still be required to hold in-person registration sessions on the last day to register to vote, which for any Tuesday election will now be a Saturday, but the registration session will end at 5 p.m. instead of 8 p.m.

For cities and towns with more than 1,500 voters, the registration session must be held from 9 a.m. until 5 p.m. For towns with fewer than 1,500 voters, the registration session must be held from 9 a.m. until 11 a.m. and from 3 p.m. until 5 p.m.

Poll Worker Appointments

Effectively immediately, there is additional flexibility for the appointment of poll workers.

If, six weeks before an election, it is determined that there are not enough election officers appointed, the appointing authority (board of selectmen, city council, board of election commissioners) may appoint poll workers without regard to political party affiliation, voter registration status, residence, or inclusion on a list from a local party committee.

If, three weeks before an election, there are still not enough poll workers appointed, the clerk will be able to fill vacancies by appointing any competent person, without regard to party, residence, or a list from a local party committee.

Further, you now have the option to eliminate the use of a check-out table if you choose to do so. If you do not use a check-out table, however, you must still have a poll worker stationed at the ballot box.

If poll workers are appointed without regard to party affiliation, the inspectors at the check-in table (and check-out, if used) cannot be of the same political party. If poll workers are appointed from lists from the parties, the inspectors must be of different political parties.

Police Officer Assignments

Effective immediately, the law regarding assignment of police officers at polling places is amended to require the board of selectmen, town council, or city council to assign police officers and constables to polling places. Previously, this was the responsibility of the chief of police.

Since this change is taking effect before the primaries, you will need to communicate with your selectmen or council to make sure they detail officers at a summer meeting before September.

Vote by Mail

Effective immediately, early voting by mail must be available for all state elections, state primaries, and presidential primaries.

Early voting by mail is also required for all local elections and preliminaries, unless the city or town opts out. In order to opt out of Vote by Mail for a local election, the selectmen, city council, or town council must hold a public hearing and public roll call vote to NOT allow Vote by Mail no later than 45 days before the date of the election. Cities and towns cannot opt out of Vote by Mail for a local election if the election is happening on the same day as a state election, state primary, or presidential primary.

Applications

As in 2020, the Elections Division will be mailing Vote by Mail applications at least 45 days before every regular state primary, state election, and presidential primary. The applications will be sent to everyone registered to vote by the 60th day before the election who has not

already applied for a ballot. The applications will be pre-addressed to the local election office and postage pre-paid.

Unlike previous years, family members are now allowed to request an early Vote by Mail ballot on a voter's behalf, as they currently can with absentee ballots. Similarly, family members are now permitted to return an early Vote by Mail ballot for the voter as well.

Applications to Vote by Mail must be posted every city and town website, as well as on the Secretary of the Commonwealth's website.

Any form of written communication requesting a ballot is sufficient. Applications may be signed electronically, as long as the signature is written in substantially the same manner as a hand-written signature.

Effective immediately, you are required to include Vote by Mail applications with all acknowledgement notices sent to any new voter or anyone who has changed their address. Note that unlike 2020, these applications must be sent all year round, and not only to voters who register or move after the statewide application mailing has been sent.

Online Portals

The Elections Division will also be required to establish an online ballot request portal for voters to use to request their ballots online. The law states that a wet signature cannot be required for this portal. Additional information on the portal will be provided after the Secretary's Information Technology Division is able to examine the requirements in the law.

A portal for UOCAVA voters to request their ballots and submit ballots electronically will also be required, though that part of the law does not go into effect this year. More information on that will be provided after the 2022 elections.

Application Deadlines

The deadline to receive a request for any ballot (early or absentee) to be mailed is now 5 business days before the election. A business day is any weekday that is not a legal holiday, so this will typically fall one week before Election Day.

For the September 6th State Primary, because Labor Day is not a business day, the deadline for you to receive vote by mail applications is 5 p.m. Monday, August 29th.

For the November 8th State Election, the deadline for you to receive vote by mail applications is 5 p.m. Tuesday, November 1st.

No ballots can be mailed to any voter whose application has not been received by 5 p.m. on the 5th business day before the election. Remember, however, that in-person early voting is still available until the Friday before the election for applicable elections and in-person absentee voting is still available until noon on the day before the election (if that day isn't a holiday).

Additionally, voters admitted to a health care facility after 12pm on the 7th day before the election can request a hand-delivered absentee ballot up until the close of polls.

Accessible Vote by Mail

Effective immediately, voters who have a disability which prevents them from being able to independently mark a paper ballot are allowed to request a reasonable accommodation. Additional information on accessible voting by mail will be forthcoming.

Ballot Envelopes

Return ballot envelopes (AV-8s) for state primaries, state elections, and presidential primaries are now pre-addressed and postage pre-paid.

This means that any AV-8 return ballot envelopes provided by this office need to be printed specifically for your community. It will be very important for you to be aware of your inventory and provide as much notice as possible to the Elections Division if you are running low.

Ballot Return

For most elections, all ballots will still have to be returned by close of polls on Election Day. Beginning with the 2022 State Election, ballots will be able to arrive up to 3 days after Election Day for biennial state elections only. This means that ballots mailed from inside the country can be counted if they are postmarked by Election Day and received by 5 p.m. on the Friday after Election Day. Again, this is only for biennial state elections, which are the November federal elections held in even-numbered years.

This year, because the Friday after the election is a holiday, the deadline for ballots to be received is 5 p.m. on Saturday, November 12th. We realize this deadline creates logistical issues and we are in the process of exploring our options. More information will be provided as soon as we have it.

Ballots returned by hand, to a drop box, or electronically still need to be received by your office by close of polls on Election Day for all elections.

Ballot Processing

Similar to 2020, you now have the option of advance removing ballots from their envelopes and advance depositing ballots into the tabulator or ballot box ahead of Election Day. All ballot removal and depositing before Election Day will still need to happen in public sessions. The Elections Division will be issuing regulations, likely similar to those used in 2020, on advance processing and more information will be provided when that happens.

Deceased Voters

Since ballots will begin to be processed before Election Day, the law prohibiting counting the ballot of anyone who dies before Election Day has been repealed. A voter's ballot can be counted as long as the voter was alive when it was cast, which means as of the postmark date or when it was hand-delivered or deposited into a drop box.

In-Person Early Voting

In-person early voting must now be offered for all regular state primaries, state elections, and presidential primaries. It must also be offered for special elections and primaries to fill vacancies for U.S. Senate or Congress. In-person early voting must also be held for any municipal elections being held on the same day as one of the above listed elections.

In-Person Early Voting Dates

In-person early voting for biennial state elections must be held from the 17th day through the 4th day before the election. In 2022, the early voting period for the November 8th State Election will begin on Saturday, October 22nd and end on Friday, November 4th.

Early voting for state and presidential primaries will begin on the 10th day before the primary and end on the 4th day before the primary. Early voting for the September 6th State Primary will begin on Saturday, August 27th (the same day as the voter registration deadline) and end on Friday, September 2nd.

In-Person Early Voting Hours

The requirements for early voting hours have changed to require weekend hours and set standards for weekday hours. Please note that these are minimum hours and you can always increase the in-person early voting hours.

On weekends, the number of hours you must be open depends on the number of registered voters in your community. The required minimum hours for weekends are:

Number of Voters	Required Weekend Early Voting Hours
0 - 4,999	At least 1 day per weekend At least 2 hours each day you are open At least 4 hours total each weekend
5,000 – 24,999	At least 1 day per weekend At least 3 hours per day you are open At least 6 hours total each weekend
25,000 – 39,999	At least 4 hours each weekend day
40,000 – 74,999	At least 6 hours each weekend day
75,000+	At least 8 hours each weekend day

For weekdays, the required minimum early voting hours will vary depending on the size of your community and at what point it is during the in-person early voting period. By default, the early voting hours are during your regular business hours; however, your city council, board of selectmen, or town council may have the option to limit early voting hours on certain days, if your community is small enough.

The required weekday early voting hours are:

Number of Voters	Required Weekday Early Voting Hours
0 - 4,999	At least 25% of regular business hours
5,000 – 39,999	Primary: Regular business hours State Election: Week 1: at least 50% of regular business hours Week 2: Regular business hours
40,000+	During your regular business hours

In order to limit your early voting hours, your board of selectmen, city council, or town council will need to vote to do so at a public meeting held no later than 20 days before early voting begins. For the November 8, 2022 State Election, the deadline to take that vote is Sunday, October 2, 2022.

Early Voting Locations

Minor changes have been made to the law regarding the designation of early voting sites. As has been the case previously, your local election office is the default early voting site in your community. If your office is determined to be unsuitable or inaccessible, the registrars must vote to hold early voting in a different location. You can also designate additional early voting locations, which must also be accessible.

When assigning early voting sites, your city or town must now consider, to the extent feasible, diverse geographic locations and whether the sites would have an impact on access to the polls on the basis of race, national origin, disability, income, or age. Unlike the assignment of polling places in 2020, no written report on the impact of the early voting locations is required.

Your early voting sites must be designated no later than 2 weeks before early voting begins.

Notice Requirements

You will also need to publish notice of the locations and schedule for early voting at least 5 business days before early voting begins and at least once during the early voting period.

Notice must be posted: in your office or on the city/town bulletin board; in any other public building considered necessary; on the city/town's website; and on the Secretary's website. Remember, you need to enter your hours and locations into VRIS (or notify the Elections Division by email, if that VRIS screen is locked) for them to be posted on our website.

The deadlines for early voting posting for 2022 are:

State Primary

Designate Early Voting sites & schedule: Saturday, August 13, 2022

Post 1st Notice: Monday, August 22, 2022

Post 2nd Notice: August 27 – September 2

State Election

Designate Early Voting sites & schedule: Saturday, October 8, 2022

Post 1st Notice: Monday, October 17, 2022

Post 2nd Notice: October 22 – November 4

Local Elections

For local elections, cities and towns may choose to have in-person early voting. To opt-in to early voting for local elections, at least two registrars need to recommend it, and the board of selectmen, town council, or city council must then vote to authorize in-person early voting.

The vote to opt-in to early voting must take place no later than 5 days before early voting would begin, and must include the early voting schedule. Early voting can begin no earlier than the 17th day before the election or preliminary and can end no later than 2 business days before the election. Early voting for local elections default to your usual business hours, unless the vote specifies otherwise.

Sites for early voting for local elections will be designated by the clerk. The location(s) and early voting schedule must be posted no less than 48 weekday hours before early voting begins.

150 Foot Rule

Beginning with early voting for the September 6th State Primary, the 150 foot rule prohibiting campaigning around polling places will be extended to early voting sites as well. This means that there shall be no campaigning for or against a candidate or question on the ballot for that election within 150 feet of the entrance to the early voting site during voting hours. Signature gathering of any kind will also be prohibited during the voting hours.

Jail-Based Voting

While voters who are incarcerated for a reason other than a felony conviction can already vote by absentee ballot, the new law contains provisions to make voting easier for those who are incarcerated, including adding requirements to correctional facilities to distribute information. Changes to jail-based voting take effect at the beginning of 2023 and more information will be provided after the 2022 elections.

Automatic Voter Registration

Beginning on January 1, 2023, applicants at the RMV will no longer have the option to opt out of automatic voter registration. Instead, the RMV will be required to transmit the names and

addresses of all ***eligible citizen*** applicants to local election officials for voter registration purposes.

Applicants who are automatically registered to vote will now be allowed to decline registration only after receiving the acknowledgment notice you send to them.



**FRANKLIN COUNTY REGIONAL HOUSING &
REDEVELOPMENT AUTHORITY**

241 Millers Falls Road • Turners Falls, MA 01376
Telephone: (413) 863-9781 • Facsimile: (413) 863-9289

July 6, 2022

Bryan Smith
Administrator Coordinator
Erving Town Hall
12 East Main Street
Erving, MA 01344

Dear Bryan Smith-

Enclosed you will find a report narrative regarding **CDF-G-2021-ERVING (Lead), Northfield and Warwick** Program Activities for the quarter ending 06.30.22.

The town of Erving has executed a contract with DHCD and with Franklin County Regional Housing and Redevelopment Authority (who will administer grant activities), and start-up activities for the FY21 grant have begun.

The grant will provide funding for a minimum of 17 units of Housing Rehabilitation. Program Income funds in the amount of \$87,796.20 have been added to the grant and will be used to benefit households in the towns where the funds originated (\$62,814.22 from Town of Erving, \$23,262.25 from Town of Northfield, \$1,719.63 from Town of Warwick).

Applications have been mailed to all households on the mailing list and lead inspection firms have been contracted to provide initial and final inspections for homes which may contain lead paint. Applications are being processed in order to income qualify projects and lead inspections are being scheduled.

If you have questions or need clarification on any item, I may be contacted at 413-863-9781 x 156 or spleasant@fcrhra.org

Sincerely,

Sharon L. Pleasant
CD Program Manager

QUARTERLY PROGRESS REPORT 2021
QPR #2 – 2021 – Erving (lead), Northfield, Warwick – 00923
06.30.22

1. Management/Administrative Issues: Management/Administrative Issues: The Town of Erving has executed a DHCD-approved Professional Services Contract with the Franklin County Regional Housing and Redevelopment Authority to administer grant activities.

2. Project Status/Accomplishments:

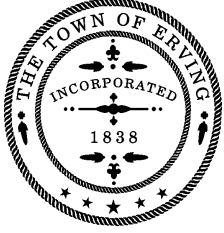
4C HOUSING REHABILITATION ACTIVITY: The unit goal for this activity is to complete at least 17 units of housing rehabilitation. Applications have been mailed to all residents on the active waitlist, an RFQ was issued to contract the services of lead paint inspection services, and two qualifying agents have been awarded contracts.

Due to the addition of \$87,796.20 in Program Income funds from the three towns in this regional grant activity, program income funds must be expensed prior to any grant funds being drawn. It is anticipated that the applications currently in process will be inspected and out to bid by the end of the next quarter (09.30.22) and that at least 9 of those applications will begin and/or complete construction by the end of the year (12.31.22).

	ERVING	NORTHFIELD	WARWICK	Totals
APPLICATION in Process	5	5	2	12
INSPECTIONS/BIDDING				
CONTRACTS				

3. PUBLIC BENEFIT: N/A

4. PROGRAM INCOME: None received this quarter.



TOWN OF ERVING

SELECT BOARD

12 East Main Street
ERVING, MASSACHUSETTS 01344

Tel. 413-422-2800
Fax 413-422-2808
Email: administrator@erving-ma.gov

Jacob A. Smith, Chair
William A. Bembury
Scott Bastarache
Select Board

Bryan Smith
Town Administrator

July 15, 2022

To: Select Board
From: Bryan Smith, Town Administrator
CC: Jan Ameen, Executive Director of FCSWMD

RE: Waste Ban for Textiles and Potential Recycling

Effective November 2022, the Commonwealth has issued revised regulations that will ban the disposal of textiles in household trash programs. This means that as of November 1, 2022 the Town must ensure that we are not collecting and disposing of textiles in our curbside collection program at the transfer station. The regulations do not require the Town to provide an alternative option for residents to dispose of textiles, but that seems short sighted to me. If we are responsible for diverting it from the traditional waste stream, I believe we should inform our residents of options and consider providing at least one option in Town.

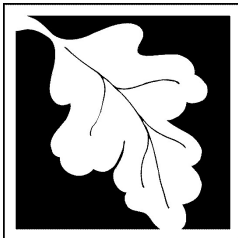
With that stated, I have been working with Jan Ameen, Executive Director of the Franklin County Solid Waste Management District, to research the services available in Massachusetts to collect, sort, recycling and potentially reuse textiles. As you can imagine there is no clear standard of how these services operate. These are some of the questions that I am looking for potential vendors to provide answers to:

- Can you please describe your business model and explain how exactly the mission or identified charity will benefit?
- Can you please specifically describe what the revenue benefit proposal is available to the Town?
- Your literature discusses both pre-scheduled collection and collection bins. Are you offering both options to the Town or would the Town have to choose one?
 - Regarding pre-scheduled pickup, what would a typical scheduled pickup timeline look like for resident that has called to schedule?
 - Regarding the collection bins, how often does your company come to empty the bins? The Town would certainly be considered about overflowing bins and delayed collection.
- Where are the materials sent for reuse and recycling?
- If the Select Board was to proceed with your company, what kind of contractual commitment would you be seeking from us?
- Can you provide me with any other municipalities that you are working with?

I am presenting this information to the Select Board to begin the conversation of how you want to address this new waste ban requirement. Do you want the Town to provide an alternative for residents? If so, what type of service are you looking for? Additionally, do the questions above seem sufficient or is there additional information you would like to know? If you do not want to provide an in-Town solution, I would recommend that we inform residents of service options in the surrounding area.

Regardless of how we proceed, effective November 1, 2022 Casella Waste Management will be directed to not collect household trash that clearly includes textiles. These bags will be stickered and left curbside. As such, I would like to proactively inform citizens and work with our departments to communicate options as soon as possible to minimize confusion and frustration.

Attached, please find some helpful guidance documents from the State about what the waste ban means as well as what textiles can be recycled and reused.



Massachusetts
Department
of
ENVIRONMENTAL
PROTECTION

Massachusetts
Department of
Environmental
Protection
One Winter Street
Boston, MA 02108

Commonwealth of
Massachusetts
Executive Office of
Environmental Affairs

Department of
Environmental
Protection

Produced by the
Bureau of Air & Waste
November 2021.

This information is
available in alternate
format by calling our
ADA Coordinator at
(617) 574-6872.



f a c t s h e e t

What are Massachusetts Waste Bans?

Why does Massachusetts have waste bans?

Waste bans help to increase recycling and support the recycling economy, which provides thousands of jobs and millions of dollars in economic activity in Massachusetts. By reducing the disposal of banned materials, we also capture valuable resources, reduce greenhouse gas emissions, save energy, and reduce our need for landfills and incinerators.



What materials are banned from disposal?

- Glass, metal, and plastic containers (bottles, cans, jars, jugs and tubs)
- Paper, paperboard, and cardboard
- Leaves, grass and brush (less than 1 inch in diameter)
- Large appliances such as refrigerators, freezers, stoves, washers, and dryers
- Tires
- Cathode ray tubes (older televisions and computer monitors)
- Vehicle batteries
- Construction materials including asphalt pavement, brick, concrete, metal, wood, and clean gypsum wallboard
- Mattresses (effective Nov. 1, 2022)
- Textiles (effective Nov. 1, 2022)
- Food material (only from businesses or institutions that dispose of one ton or more per week. (Will drop to ½ ton per week effective Nov. 1, 2022.)

What does this mean for residents?

Most waste ban materials are collected through regular municipal collection or drop-off programs. In some cases, particularly with larger items such as cathode ray tubes or appliances, materials are collected through separate collections or drop-off events. In other cases, materials such as vehicle batteries, tires, and cathode ray tubes may be collected by retailers.

For residents who receive private collection services (not through your city or town), ask your service provider for recycling options. You can also check for other recycling options here: <http://www.mass.gov/eea/agencies/massdep/recycle/reduce/>.

For more information on the waste bans see:

<http://www.mass.gov/eea/agencies/massdep/recycle/solid/massachusetts-waste-disposal-bans.html>



fact sheet

Used Textiles: A Valuable Resource

Every year Massachusetts residents and businesses throw away about 230,000 tons of usable textiles, including clothing, footwear, belts, hats, handbags, throw rugs, drapes, towels, sheets and other linens.¹ Ninety-five percent of this material can be reused as clothing, converted to wiping cloths, or recycled into new fiber-based products.

An Economic Resource:

- Massachusetts is home to more than 25 businesses, manufacturers and non-profit organizations that sort, reuse, “upcycle” or convert used textiles into new products
- Dozens more businesses are involved in the resale of clothing, locally and overseas, which in turn supports cottage industries in developing nations.
- Donating used textiles supports local charitable organizations that provide jobs and job training to Massachusetts residents.
- Donated textiles provide low-cost quality clothing and household linens to residents with a limited budget.
- Keeping used textiles out of the trash reduces disposal costs for local government, businesses and residents.

Environmental Benefits:

- Textile recycling decreases the amount of trash we bury in landfills or burn in municipal waste combustors
- Cotton is the most pesticide-dependent crop in the world. It takes 1/3 of a pound of pesticides to make one t-shirt.²
- Production of synthetic (petroleum-based) fibers like polyester and nylon produce volatile organic compounds, nitrous oxide (a greenhouse gas) and consumer large amounts of water.³

Donate, don't judge

Contrary to popular belief, donations in any condition are welcomed by for-profit and non-profit textile collectors alike. This includes items with stains, rips, missing buttons or broken zippers. Why? Textiles are a valuable commodity! Items that don't sell in a thrift store are baled and sold to brokers or graders who sell to overseas markets. In developing nations, used clothing and textiles supply local enterprises with materials to repair and resell.

The only UNACCEPTABLE donations are:

- wet/moldy items
- items contaminated with oil or hazardous substances.

What to donate:

Clothing: Shirts, pants, jackets, suits, hats, belts, ties, gloves, scarves, socks (even single ones) undergarments, handbags, backpacks in any style, age or condition.

Footwear: Shoes, sandals, sneakers, cleats, boots, flip-flops, and slippers

Household textiles (even stained and torn items): Curtains, drapes, sheets, blankets, comforters, towels, table linens, throw rugs, pillows, stuffed dolls and animals

¹Based on data from Municipal Waste Combustor Class II Recycling Program Waste Characterization Studies, February & March 2011, available at <http://www.mass.gov/eea/agencies/massdep/recycle/reports/waste-reduction-and-recycling.html>

² Secondary Materials and Recycled Textiles Assn: <http://www.smartasn.org/consumers/index.cfm#>

³ Secondary Materials and Recycled Textiles Assn: <http://www.smartasn.org/consumers/index.cfm#>

Massachusetts Department of
Environmental Protection
One Winter Street
Boston, MA 02108-4746

Commonwealth of
Massachusetts
Deval L. Patrick, Governor

Executive Office of
Environmental Affairs
Richard K. Sullivan Jr., Secretary

Department of
Environmental Protection
Kenneth L. Kimmell, Commissioner

Produced by the
Bureau of Waste Prevention
July 2013
Printed on recycled paper

This information is available in
alternate format by calling our ADA
Coordinator at
(617) 574-6872.



What Happens to My Donated Textiles?

- About 45% of donated textiles are sold as second hand apparel, either through charitable organizations or for-profit exporters that sell baled clothing to developing countries.
- Organizations such as [Goodwill](#) and [Salvation Army](#) operate retail stores where donated clothing and household items are sold. Clothing and textiles that don't sell in the stores are baled and sold to textile brokers. Both activities generate revenue to support their core missions.
- For profit textile recyclers sort, grade and bale textiles and sell them to export markets. Clothing exports from North America supply high quality product to local entrepreneurs who in Africa, where 95% of the population wears used clothing.
- Another 30% is turned into industrial wiping cloths. [ERC Wiping Products](#) (Lynn, MA) cuts used clothing and other textiles into rags and sells them to commercial garages and public works operations.
- The remaining 20% is sent to fiber converters like [Millbury Textile Recycling](#) (Millbury, MA) where textiles are broken down into their basic fiber components to be re-manufactured into insulation for autos and homes, carpet padding or sound-proofing materials.
- Companies like Boston-based [Project Repat](#) make custom quilts and blankets out of old t-shirts. These "upcycled" products are sewn at factories in Woburn, Lawrence and New Bedford that pay workers a fair and living wage.

Where to Donate:

Locate textile recyclers in their area by visiting the following websites or check with your municipal recycling coordinator:

- SMART (Secondary Materials and Recycled Textiles): www.SMARTasn.org
- Council for Textile Recycling: <http://www.weardonaterecycle.org/index.html>
- Businesses only: Recycling Works (MA): <http://www.recyclingworksma.com/listingtype/textiles-fabrics/>

For more information:

- Contact Brooke Nash, Municipal Recycling Branch Chief at (617) 292-5984 or brooke.nash@state.ma.us



LIST OF ACCEPTABLE MATERIALS

Textile Recovery Initiative

Acceptable Textile Items

Contrary to popular belief, textile donations in any condition are welcome by most for-profit and nonprofit textile collectors alike. This includes items with stains, rips, missing buttons or broken zippers. Why? Textiles are a valuable commodity! Items that don't sell in thrift stores are baled and sold to brokers or graders who sell to overseas markets. In developing nations, used clothing and textiles supply local enterprises with materials to repair and resell. Other textiles can be converted to their original fibers and manufactured into other materials, such as wiping cloths or insulation.

The only **unacceptable** donations are wet/moldy items or items contaminated with oil or hazardous substances. The items below can be donated in **any condition** as long as they are **clean, dry** and **odorless**. Check with your local textile collector for further information about what is accepted.

Clothing

- Tops (t-shirts, blouses, shirts, tank tops)
- Sweaters
- Sweatshirts
- Dresses
- Outerwear (coats, jackets, blazers)
- Bottoms (pants, jeans, sweatpants, skirts, shorts)
- Suits
- Socks
- Pajamas
- Bras & Underwear

Footwear

- Shoes
- Heels
- Flats
- Sandals
- Boots
- Sneakers
- Cleats
- Slippers

Accessories

- Hats
- Bags (purses, backpacks, duffle bags, totes)
- Belts
- Gloves
- Ties
- Scarves
- Bathrobes

Linens

- Sheets
- Blankets
- Towels
- Curtains
- Aprons
- Dish cloths
- Table linens
- Comforters
- Throw rugs
- Placemats
- Pillows
- Canvas
- Rags

Other

- Stuffed animals
- Halloween costumes
- Pet beds and clothing

LAYOUT OF POPLAR MOUNTAIN ROAD

Pursuant to the provisions of Massachusetts General Laws, Chapter 82, Sections 21 through 24, the Select Board members having given proper notice of the layout of Poplar Mountain Road pursuant to Massachusetts General Laws, Chapter 82, Section 22, the Select Board members hereby vote and thereby layout of Poplar Mountain Road, more particularly bounded and described as follows:

NORTH SIDE

Beginning at bound number 0 on the east side of Northfield Road (Route 63 a 1929 Mass. State highway layout) and on the north side of Poplar Mountain Road. Said bound 0 being 700.19 feet south of the Northfield Town Line.

Thence running S34°41'54"E a distance of 416.79 to bound point 1; thence S41°41'56"E a distance of 78.37 feet to bound point 2; thence S46°45'52"E a distance of 59.91 feet to bound point 3; thence S58°05'04"E a distance of 115.30 feet to bound point 4; thence S68°08'02"E a distance of 73.63 feet to bound point 5; thence on a curve to the right having a radius of 99.75 feet, a curve distance of 127.12 feet to bound point 6; thence S04°51'50"E a distance of 108.16 feet to bound point 7; thence on a curve to the left having a radius of 200.25 feet, a curve distance of 108.86 feet to bound point 8; thence S26°17'19"W a distance of 103.40 feet to bound point 9; thence S21°30'30"E a distance of 164.50 feet to bound point 10; thence S19°59'33"E a distance of 178.09 feet to bound point 11; thence S29°40'31"E a distance of 92.29 feet to bound point 12; thence S41°07'49"E a distance of 91.56 feet to bound point 13; thence S53°37'01"E a distance of 60.67 feet to bound point 14; thence S61°03'57"E a distance of 122.58 feet to bound point 15; thence S60°27'31"E a distance of 158.24 feet to bound 16; thence S57°52'38"E a distance of 75.22 feet to bound point 17; thence S46°25'52"E a distance of 175.03 feet to bound point 18; thence N86°21'38"E a distance of 151.04 feet to bound point 19; thence N88°32'45"E a distance of 191.46 feet to bound point 20; thence S78°23'54'E a distance of 256.17 feet to bound point 21; thence S55°31'39"E a distance of 88.92 feet to bound point 22; thence S27°03'01"E a distance of 61.05 feet to bound point 23; thence N75°05'59"E a distance of 35.00 feet to bound point 24; thence S14°54'01"E a distance of 103.70 feet to bound point 25; thence S71°35'14"W a distance of 64.68 feet to bound point 26 at the end of the layout.

SOUTH SIDE

Beginning at a point on the east side of Northfield Road (Route 63 a 1929 Mass. State highway layout) and on the south line of Poplar Mountain Road. Said point being 775.68 feet south of the Northfield Town Line.

Thence S34°41'54"E, a distance of 40.16 feet to a concrete bound #0A. Thence continuing S34°41'54"E, a distance of 322.63 feet to bound point 1A. Thence S41°41'56"E, a distance of 83.58 feet to bound point 2A. Thence S46°45'52"E, a distance of 67.01 feet to bound point 3A. Thence S58°05'04"E, a distance of 124.56 feet to bound point 4A. Thence S68°08'02"E, a distance of 77.99 feet to bound point 5A. Thence on a curve to the right having a radius of 50.25 feet a curve distance of 64.04 feet to bound point 6A. Thence S04°51'50"W, a distance of 108.16 feet to bound point 7A. Thence on a curve to the left having a radius of 249.75 feet a curve distance of 135.77 feet to bound point 8A. Thence S26°17'19"E, a distance of 101.33 feet to bound point 9A. Thence S21°30'30"E a distance of 161.78 feet to bound point 10A.

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

Town of Erving
March 2022

Thence S19°59'33"E, a distance of 181.63 feet to bound point 11A. Thence S29°40'31"E, a distance of 101.45 feet to bound point 12A. Thence S41°07'49"E, a distance of 101.94 feet to bound point 13A. Thence S53°37'01"E, a distance of 69.31 feet to bound point 14A. Thence S61°03'57"E, a distance of 125.54 feet to bound point 15A. Thence S60°27'31"E, a distance of 156.86 feet to bound point 16A. Thence S57°52'38"E, a distance of 64.09 feet to bound point 17A. Thence N43°34'12"E, a distance of 0.50 feet to bound point 17B. Thence S46°26'38"E, a distance of 196.64 feet to bound point 18A. Thence N86°21'38"E, a distance of 171.95 feet to bound point 19A. Thence N88°32'45"E, a distance of 184.79 feet to bound point 20A. Thence S78°23'54"E, a distance of 240.34 feet to bound point 21A. Thence S55°31'39"E, a distance of 66.12 to bound point 22A. Thence S27°03'01"E, a distance of 37.87 feet to bound point 23A. Thence S75°05'59"W, a distance of 33.85 feet to bound point 24A. Thence S14°54'01"E, a distance of 112.64 feet to bound point 25A. Thence N69°55'21"E, a distance of 55.67 feet to bound point 26.

Said highway layout being 49.50 feet wide from bound point 0 to bound point 17 and 50 feet wide from bound point 17 to bound point 23 and 118.85 feet wide from bound point 24 to bound point 25.

Being more particularly shown on a plan entitled "Proposed Layout Plan of Poplar Mountain Road, Town of Erving, Massachusetts" dated March 14, 2022, by Edward C. Muszynski, PLS, and filed in the office of the Town Clerk.

All trees, if any, upon the land taken and all structures affixed thereon are included in the taking.

Witness our hands on this 28th day of March 2022.

Jacob A. Smith, Chairman

William A. Bembury

Scott Bastarache

Commonwealth of Massachusetts

Office of the Sheriff

FRANKLIN COUNTY

CHRISTOPHER J. DONELAN
SHERIFF



LORI M. STREETER
SUPERINTENDENT

Agreement by and between the Franklin County Sheriff's Office and the Town of _____

Regional Dog Shelter Services

This agreement, by and between the **Franklin County Sheriff's Office** (hereafter the "**Sheriff's Office**") and the Town of _____ (hereafter the "**Municipality**"), covers the provision of dog control services as detailed in the following agreement for the period of **FY 23 through FY 26** for the Municipality. Collectively, the Sheriff's Office and the Municipality are referred to as the "**Parties**".

Section 1A Regional Dog Shelter Services – Responsibilities of the Sheriff's Office

The Sheriff's Office shall provide the following general administrative and support services for the purpose of dog control in the municipalities:

- A. Employ a Regional Dog Shelter Director. Said Director must be a Deputy Sheriff and certified as an Animal Control Officer by the Animal Control Officers Association of Massachusetts. The program Director will, among other duties, work with Animal Control Officers and other Law Enforcement entities, maintain safety and wellbeing of the Shelter dogs, recruit volunteers, work with minimum security prisoners, conduct community outreach, place dogs needing adoption, return stray dogs to owners, seek grants, and solicit food and other material donations;
- B. Follow the provisions of applicable laws and regulations, as they may be amended from time to time, in the provision of such dog control services and in provision of all other services set forth herein;
- C. Employ, train, and supervise all necessary personnel to perform the services required by this Agreement;
- D. Maintain an office and provide a well-maintained kennel, food, water, and exercise for dogs in the kennel. Such office shall be open to the public. The Sheriff's Office shall maintain all field equipment necessary for its dog control functions in good repair and maintain all current licenses and registrations required by State law;
- E. Provide adoption services for dogs unclaimed after seven days in the Shelter to place in a good home. Adoption fees will be set by the Sheriff's Office;
- F. Collect and track fees from dog owners, and number of dogs from each municipality;
- G. Collect an annual assessment from each municipality;
- H. Provide the Municipality with annual reports concerning the Sheriff's Office's performance

under this Agreement and hold annual meeting for all interested parties.

Section 1B Regional Dog Shelter Services – Law Enforcement and Legal Cases

- A. Dogs that enter the Shelter deemed by the town or court as ‘dangerous dog’ or quarantine cases will be transferred to an appropriate facility on a case-by-case basis. The contracted town(s) and the Shelter will work together to place the dog in the appropriate setting;
- B. Dogs that enter the Shelter as a result of an animal cruelty case will be assessed on a case-by-case basis and be placed in a setting based on the needs of the dog(s). **(See Attachment #1)**;
- C. For ‘cruelty’ cases, the Shelter will work with the arresting authority to petition the court for a security bond as established in MGL chapter 272, Sec 104;
- D. The daily fee for case dog(s) shall not be more then \$50.00 per day, per dog.

Section 2A Regional Dog Shelter Services – Responsibilities of Each Municipality

The Municipality shall provide dog-related services not provided by the Franklin County Sheriff’s Office that include, but are not limited to, the following:

- A. Handle dead dogs;
- B. Handle neighborhood disputes involving dog complaints;
- C. Investigate and enforce any dog cruelty, abandonment, or protective custody cases in the Municipality;
- D. Provide all documentation including, but not limited to, Court Orders and Police Reports for each court ordered, cruelty or incarcerated owner case. The Shelter will be updated on any and all legal activity by the Law Enforcement entity involved;
- E. All reported bites will be investigated by Law Enforcement; Municipal Animal Inspectors will order quarantine of biting dogs pursuant to State guidelines;
- F. Appear in court in connection with any criminal enforcement or civil hearing;
- G. Provide and administer municipal dog licenses and collect related fees and fines;
- H. Other duties not provided by the Sheriff’s Office.

Section 2B Regional Dog Shelter Services – Law Enforcement and Legal Cases

- A. Dogs that enter the Shelter deemed by the town or court as ‘dangerous dog’ or quarantine cases will be transferred to an appropriate facility on a case-by-case basis. The contracted town(s) and the Shelter will work together to place the dog in the appropriate setting;
- B. Dogs that enter the Shelter as a result of an animal cruelty case will be assessed on a case-by-case basis and be placed in a setting based on the needs of the dog(s). **(See Attachment #1)**;
- C. For ‘cruelty’ cases, the Shelter will work with the arresting authority to petition the court for a security bond as established in MGL chapter 272, Sec 104;
- D. The daily fee for dog(s) shall not be more than \$50.00 per day, per dog;
- E. In the event that the arresting authority needs to place a dog(s) at the Shelter as a result of an arrest an owner, the authority will provide the owner with the Shelter’s information to reclaim the dog(s). **(See Attachments # 2a & 2b)**.
- F. The FCSO Regional Dog Shelter is a short-term holding facility. After ten (10) Days, the town shall be responsible for finding alternative housing for the dog(s). Following the conclusion of day 10, the town may be invoiced for the daily care of the dog(s) at an amount of not more

than \$50.00 per day, per dog.

Section 3 Consideration

- A. In consideration for the Sheriff's Office performance of the duties listed herein, the Sheriff's Office will retain all fees paid directly to the Regional Dog Shelter. Dog retrieval fees and dog kenneling fees will be set by the Sheriff's Office.
- B. An annual assessment based on the most recent US Census population figures will be paid by each Municipality to the Sheriff's Office for capital and operating needs of the Regional Shelter. The annual municipality assessment for the term covered by this agreement will be as follows:
 - I. Population under 2000 - \$350
 - II. Population between 2000 and 4,999 - \$500
 - III. Population between 5000 and 9,999 - \$800
 - IV. Population 10,000 and over - \$1,250

Section 4 Agreement

- A. This agreement may be amended in whole or in part by the Sheriff's Office.
- B. It is the intention of the parties that the relationship of the Sheriff's Office to the Municipality in the course of the performance of its duties pursuant hereto is that of an independent Contractor. Nothing contained in this Agreement shall be construed to constitute the Sheriff's Office as a partner, joint venture, agent or employee of the Municipality. The Sheriff's Office, as an independent Contractor, shall be solely responsible for the hiring, discipline and management of the Sheriff's Office employees, and all costs and expenses related thereto, including the payment (and withholding, if required) of all applicable federal, state and local taxes. The Sheriff's Office and the Municipality shall not be construed as joint ventures or partners of each other and neither shall have the powers to bind or obligate the other except as set forth in this Agreement.
- C. If, at any time during the term of the Agreement, the Sheriff's Office, in the reasonable discretion of the Municipality: (a) has failed materially to provide services required in accordance with this Agreement; (b) has become insolvent; (c) abandons the work; (d) subcontracts, assigns, transfers, conveys or otherwise disposes of its obligations under the Agreement other than as provided herein; or (e) repeatedly or materially fails to comply with any other term or condition contained in the Agreement, the Municipality shall have the right to terminate the Agreement upon written notice to the Sheriff's Office.
- D. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach. No waiver shall be valid unless in writing and signed by the Sheriff and by the Selectboard or mayor, as appropriate.
- E. No part of this Agreement nor any rights or obligations hereunder, shall be assigned or subcontracted without the prior written approval of the Parties. This is intended to be a restriction on both the right and the power to assign, and any purported assignment not consented to by the Parties as herein required shall be void, shall confer no rights on the purported assignee and need not be recognized. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.
- F. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.
- G. This Agreement shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflicts of laws principles.

Section 5 Term

This Agreement shall be in effect for a period of three (3) years subject to the termination rights of each party as provided herein. At the end of term, any successor Agreement must receive the necessary statutory authorizations.

Section 6 Termination and Default

- A. This Agreement shall terminate on the date specified in the Agreement unless terminated or suspended under this section upon prior written notice. A party may terminate or suspend its participation in this Agreement without cause and without penalty if the other party breaches any material term or condition or fails to perform or fulfill any material obligation required by the Agreement, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of the Agreement, or in the event of an unforeseen public emergency mandating immediate action. Upon immediate notification to the other party, neither party shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence.
- B. Any party may be declared in default of this Agreement by a majority of the designated representatives of the remaining parties if that party has materially breached this Agreement and will be deemed terminated as a party to the Agreement.

Section 7 Indemnification

In agreeing to this indemnification paragraph, the Sheriff's Office does not waive statutory and other liability cap protections provided by MGL Chapter 258. To the extent permitted by law, the Sheriff's Office agrees to indemnify and hold harmless the others against any and all liabilities, claims, actions, suits, demands, damages, judgments, losses, costs or expenses, including attorney's fees, arising out of dog control services provided under this Agreement and MGL Chapter 258.

Section 8 Dispute Settlement

In the event any disputes or questions arise between the parties as to the interpretation of the terms of the Agreement or the satisfactory performance by any of the parties of the responsibilities provided for in the Agreement, a meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute. If a resolution to the dispute cannot be reached, both parties shall work with mediation to resolve the conflict. If, following mediation, either party is not satisfied with the outcome that party may choose to go to court.

Section 9 Notices

Any notices, bills, invoices, or reports required by this Agreement shall be sufficient if sent by the parties via United States mail, postage paid, to:

Franklin County Sheriff's Office
ATTN: Gabi Trudeau
10 Sandy Lane
Turners Falls, MA 01376

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Christopher J. Donelan, Sheriff

Town of _____

Address _____

Authorized Signature _____

Printed Name _____

Date _____

Commonwealth of Massachusetts

Office of the Sheriff

FRANKLIN COUNTY

CHRISTOPHER J. DONELAN
SHERIFF



LORI M. STREETER
SUPERINTENDENT

Memorandum of Understanding **_____ Police Department and FCSO Regional Dog Shelter**

1. The dog identified as _____ (herein referred to as “_____” has been placed at the Franklin County Sheriff’s Office Regional Dog Shelter (herein referred to as “FCSO Regional Dog Shelter”) by the _____ Police Department (herein referred to as “Police Department”) as a result of an animal cruelty police/Court case (Case No. _____).
2. The Police Department understands that they are the authority who maintains the responsibility for the dog until the criminal case is resolved through the Judicial Court System.
3. A daily fee of up to \$50.00 per dog shall be assessed for the housing and care of a dog(s) placed in the shelter, as defined in section 2B of the Regional Dog Shelter Services Contract. This fee is in addition to any medical and urgent vet care for the dog may require.
4. The health condition of the seized dog may require emergency or urgent medical care. Additional costs can also include, but not limited to, follow-up medical care, special diet and special care needs.
5. The Shelter recommends that the Town and/or District Attorney’s Office request a security bond from the dog owner at the time of arraignment in District Court to cover the cost of boarding and medical care. In the event that this does not occur, the Town may be required to compensate the Shelter for the expenses which are accrued.
6. At any time, the Town may make alternative arrangements for the care of the seized dog.
7. The Police Department is aware and will assist in the general practice of the FCSO Regional Dog Shelter to place dogs in a foster home setting when the dog’s medical, social and/or behavioral needs would be better met in a home environment.
8. That the Police Department is responsible for placing this dog into a long term charge/care and custody boarding situation or a suitable foster home for the duration of the court case. The FCSO Regional Dog Shelter is a short term stay facility and is not designed for long term charge/care custody cases

9. The FCSO maintains responsibility for the food and daily care of the dog(s) while placed with the Shelter.
10. Nothing in this Memorandum of Understanding shall, in any manner, be considered to alter the existing Regional Dog Control Services Agreement between the _____ and the FCSO Regional Dog Shelter.

The Police Department, of the _____, acknowledges that they are aware of the above understanding of FCSO placement resources and services.

_____ <i>Name/ Title</i> <i>Police Department</i>	_____ <i>Signature</i>	_____ <i>Date</i>
_____ <i>Name/ Title</i> <i>FCSO Regional Dog Shelter</i>	_____ <i>Signature</i>	_____ <i>Date</i>



Transportation of Domestic Animal by Police or ACO

Date: _____ Arrest _____ Medical _____ Other: _____

**NOTICE: Your dog has been transported by the police or Animal Control Officer(ACO) to the FRANKLIN COUNTY REGIONAL DOG SHELTER, 10 Sandy Lane, Turners Falls, MA 01376, Phone (413) 676-9182
Hours of Operation: Mon-Thurs: 9:00 am – 2:00 pm/Fri & Sat: 9:00 am –1:00 pm**

- 1) There is a \$20.00 per day charge for boarding. Extra charges will apply for aggressive or medical needs for the dog.
- 2) All dogs must be up to date on rabies shots and current dog license/registration **before** being picked up by owner. Please bring proof of immunization and license.
- 3) **DOG INFORMATION:**

Name of Dog	Sex	Breed	Color	Weight	

Are there any special concerns about your dog the Shelter needs to know about? (i.e. medical conditions, food allergies, etc.) If so, please explain:

Is the dog aggressive: Yes No Explain: _____

- 4) **DISPOSITION OF UNCLAIMED DOGS:**
Any dog which has been impounded and transported to the Franklin County Regional Dog Shelter by the police officer or Animal Control Officer that **has not been reclaimed within 7 days** will become the property of the Shelter.

Owner of Dog/Caretaker Signature

Name of Officer Requesting Transport

Animal Control Officer



Fact Sheet for Dog Shelter Care for dogs whose owners are incarcerated at the Franklin County Jail

If your dog was transported to the Franklin County Sheriff's Office Regional Dog Shelter by Law Enforcement or the Animal Control Officer, arrangements need to be made for the continued care of the dog.

- There is a \$20.00 per day charge for boarding. Extra charges will apply for aggressive dogs, or to cover the cost of urgent medical needs of the dog.
- All dogs must be up to date on rabies shots and current dog license/registration **before** the dog can be picked up from the Shelter. Proof of immunization and a current dog license needs to be presented to the Shelter.
- If you have identified another person to care for the dog, arrangements need to be made directly with the Shelter Staff so that the dog can be released.
- **Disposition of Unclaimed Dogs:**
Any dog which has been impounded and transported to the Franklin County Sheriff's Office Regional Dog Shelter by a Law Enforcement Officer or Animal Control Officer that has not been reclaimed within 7 days will become the property of the Shelter, unless alternative arrangements are made with the Shelter Director for the care of the dog.

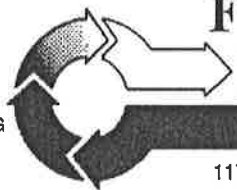
This information was presented to _____

on (date)_____.

Owner of the Dog

FCSO Personnel

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT
AND
THE TOWN OF ERVING
REGARDING HAULING & DISPOSAL OF SLUDGE

This Memorandum of Understanding (MOU), is executed this _____ day of _____, 2022, by and between the Franklin County Solid Waste Management District, hereinafter referred to as the "District", and the Town of Erving, municipal corporation of the Commonwealth of Massachusetts, hereinafter referred to as the "Town."

WITNESS THAT:

WHEREAS, the District issued an Invitation for Bids for hauling and disposal of sludge from municipal treatment plants, and

WHEREAS, the District awarded a contract to Wall Trucking, Inc. for hauling and disposal of sludge from POTW #1, and

WHEREAS, the District is making this contract available to the Town,

THEREFORE, the District and the Town agree to the following terms and conditions regarding said contract:

1. The District shall provide administration of the contract on behalf of the Town. The District shall receive all bills from Wall Trucking, Inc. for services provided by them to the Town. The District will review bills for each facility for accuracy.
2. The contract with Wall Trucking, Inc. includes a fuel adjustment clause which allows for a fuel credit or a fuel surcharge depending on the US DOE retail diesel price for New England.
3. The District shall, within five (5) days of receipt of Wall Trucking's bills, remit to the Town an invoice for the share of the hauling and disposal costs incurred by the Town. The District's invoice will include an administrative fee as detailed in Attachment A, excluding any fuel surcharges. Attachment A lists the Town's per unit costs.
4. Bills from Wall Trucking may include a \$75 per hour demurrage charge if it takes in excess of 45 minutes to load Wall's truck. The charge will be pro-rated per minute. The demurrage charge will not be assessed in situations that are due to equipment failure, an emergency or other unusual circumstance. The District will not charge an administrative fee on any demurrage charges.

5. The facility has the right to submit a bill to the District for overtime costs associated with loading Wall's truck when the Wall Trucking is delayed beyond normal operating hours. The overtime charges will not be assessed in situations due to extreme weather, vehicle failure, or other unusual circumstance.
6. The Town will remit payment to the District for all charges invoiced by the District within thirty (30) days of receipt of the District's invoice. In the event that payment from the Town does not reach the District office within thirty (30) days, the District may charge a 1.5% late fee on the next invoice sent to the Town, only if such late fees are assessed by the Wall Trucking.
7. The District will remedy any problems regarding the performance of Wall Trucking, Inc. If the Town experiences any problems with Wall Trucking it must report them to the District. Any questions or problems concerning the sludge hauling contract shall be directed to Jan Ameen, Executive Director, at 413-772-2438 or fcswmd@crocker.com.
8. The Town has the right to terminate this Agreement at any time, without cause. The District requires no fewer than sixty (60) days written notice prior to the Town terminating this Agreement. If less than sixty (60) days' notice is given, the Town will be financially responsible for the District's lost administrative fees. For example, if a town provides written notice on March 1st to terminate on April 30th, there are no lost administrative fees and no charge to the Town. If a town provides written notice on March 1st to terminate on March 31st, the Town will be responsible to pay the District for lost administrative fees for one month. Lost administrative fees will be calculated using an average administrative fee based upon the previous three months' invoices.
9. The Town has the right to seek alternative hauling and disposal options should Wall Trucking fail to perform, fail to be available for hauling, and/or fail to have a secured disposal facility to haul Erving's sludge to, when needed by the facility. There is no penalty to the Town if this section is enacted but communication with the District is required prior to seeking alternatives.
10. This MOU may be amended by written agreement of both parties.
11. This MOU shall remain in effect beginning July 1, 2022 and ending June 30, 2023.

In witness whereof, the Town of Erving and the Franklin County Solid Waste Management District have respectively caused this memorandum of understanding to be duly signed and executed as of the date and year first written above.

TOWN OF ERVING


Selectboard Member

Selectboard Member

Selectboard Member

Date

FCSWMD


Chris Boutwell, Acting Chair

070722

Date



ATTACHMENT A

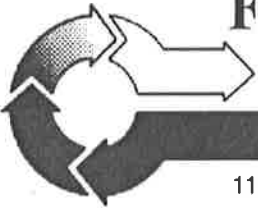
**SLUDGE HAULING AND DISPOSAL COSTS
 JULY 1, 2022 – JUNE 30, 2023**

ERVING

End Disposal Facility	Transportation Cost Per Gallon	Disposal Cost Per Gallon
Lowell Regional Wastewater Facility	\$0.06835	\$0.105*
Admin. Fee	\$500/year annual flat rate fee \$0.0045/gallon	

* Disposal at Lowell is based on percent solids.

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT
AND
THE TOWN OF ERVING
REGARDING HAULING OF RECYCLABLES AND
HAULING AND DISPOSAL OF SOLID WASTE;
HAULING AND DISPOSAL OF BULKY WASTES; AND
HAULING AND DISPOSAL OF SCRAP METAL AND APPLIANCES

This Memorandum of Understanding (MOU), is executed this _____ day of _____, 2022, by and between the Franklin County Solid Waste Management District, hereinafter referred to as the "District", and the Town of Erving, municipal corporation of the Commonwealth of Massachusetts, hereinafter referred to as the "Town."

WITNESSETH THAT:

WHEREAS, the District issued an Invitation for Bids (IFB) for hauling services for recyclables and solid waste from District member municipalities, and
WHEREAS, the District negotiated contracts for hauling and disposal services based upon a review of the IFB responses, and
WHEREAS, the District is making these contracts available to member municipalities, and
WHEREAS, the Town selected the hauler to service member municipalities,

THEREFORE, the District and the Town now agree to the following terms and conditions regarding said contracts:

1. The District shall provide administration of the contract on behalf of the Town.
2. The District shall, on a monthly basis, receive all invoices from the Contractor for provided services. Specific town services are listed in Attachment A.
3. The District shall, within seven (7) days of receipt of said invoices, remit to the Town an invoice for the Town's share of the hauling and disposal costs incurred during the preceding month. The invoice shall be based upon the hauling and disposal costs as itemized in Attachment A. The District's invoice will include an administrative surcharge for each service.
4. The Town will remit payment to the District for all charges invoiced by the District within thirty (30) days of receipt of the District's invoice.

(over)

5. In the event that payment from the Town does not reach the District office within the prescribed 30 days, the District may add an additional 1.5% late fee to the next invoice sent to the Town, if such late fees are assessed by the Contractor.

6. The Town shall contact the hauler directly to arrange for pickup of rolloff boxes. Requests for a pickup must be made no later than 48 hours prior to the desired pickup day.

7. The Town has the right to terminate this Agreement at any time, without cause. The District requires no fewer than sixty (60) days written notice prior to the Town terminating this Agreement. If less than sixty (60) days notice is given, the Town will be financially responsible for the District's lost administrative fees. For example, if a town provides written notice on March 1st to terminate on April 30th, there are no lost administrative fees. If a town provides written notice on March 1st to terminate on March 31st, the Town will be responsible to pay the District for lost administrative fees for one month. Lost administrative fees will be calculated using an average administrative fee based upon the previous three months' invoices.

8. Any questions concerning these hauling and disposal contracts shall be directed to the District Executive Director at 413-772-2438 or at fcswmd@crocker.com. If the Town experiences any problems with the hauler it must report them to the District. The District will pursue all remedies on behalf of the Town.

9. This MOU may be amended by written agreement of both parties.

10. This MOU shall remain in effect from July 1, 2022 to June 30, 2023.

IN WITNESS WHEREOF, THE TOWN OF ERVING AND THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT HAVE RESPECTIVELY CAUSED THIS MEMORANDUM OF UNDERSTANDING TO BE DULY SIGNED AND EXECUTED AS OF THE DATE AND YEAR FIRST WRITTEN ABOVE.

TOWN OF ERVING

Selectboard Member

Selectboard Member

Selectboard Member

Date

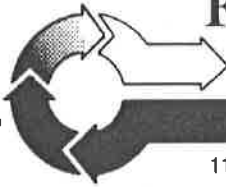
FCSWMD


Chris Boutwell, Acting Chair

070722

Date

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

ATTACHMENT A

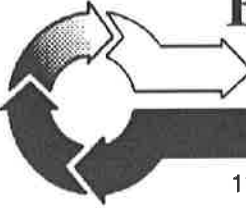
FISCAL YEAR 2023 HAULING AND DISPOSAL PRICES

The pricing below excludes fuel adjustments.

Town	Bulky Waste	Scrap Metal*
Erving	Waste Mgmt. \$217 per haul \$105 per ton \$35 per mattress \$30 per month rolloff rental	Waste Mgmt. \$175 per haul
ADMIN. FEE	\$150/year flat user fee \$4.50/ton	\$150/year flat user fee \$4.50/ton

* Freon removal costs are not included. Town will receive scrap metal revenue.

REDUCTION
RECYCLING
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DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT AND THE TOWN OF ERVING

This MEMORANDUM OF UNDERSTANDING is executed on this _____ day of _____ 2022, by and between the TOWN OF ERVING, municipal corporation of the Commonwealth of Massachusetts, hereinafter referred to as the TOWN, and the Franklin County Solid Waste Management District, hereinafter referred to as the DISTRICT.

WHEREAS, participating towns have appropriated the funds required for a regional household hazardous waste collection event;

THEREFORE, the Town hereby requests that the DISTRICT initiate a collection event with the following conditions:

1. There will be a regional household hazardous waste collection event on Saturday, September 24, 2022.
2. There will be two (2) sites operating concurrently on the collection day at Greenfield Community College and the Orange Transfer Station.
3. The District will be responsible for the coordination and administration of the event.
4. The Town will be charged its proportional share of the costs of the collection, based upon administrative expenses, the number of participants from the town, and the volume of hazardous waste received from town residents.

IN WITNESS WHEREOF, THE TOWN OF ERVING AND THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT, HAVE RESPECTIVELY CAUSED THIS MEMORANDUM OF UNDERSTANDING TO BE DULY SIGNED AND EXECUTED AS OF THE DATE AND YEAR FIRST WRITTEN ABOVE.

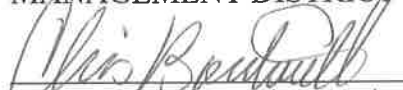
TOWN OF ERVING

Board Member

Board Member

Board Member

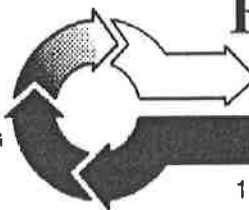
FRANKLIN COUNTY SOLID WASTE
MANAGEMENT DISTRICT


Chris Boutwell, Acting Chair

070722

Date

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

Attachment A

FY23 household hazardous waste budgets

TOWN	HHW Budget
Athol	\$2,200
Bernardston	\$ 900
Buckland	\$ 950
Charlemont	\$ 400
Colrain	\$2,100
Conway	\$ 500
Deerfield	\$4,000
Erving	\$1,000
Gill	\$1,050
Hawley	\$ 156
Heath	\$1,200
Leverett	\$1,015
Montague	\$5,500
New Salem	\$1,000
Northfield	\$3200
Orange	\$2,000
Petersham	\$1,000
Phillipston	\$ 800
Rowe	\$ 500
Royalston	\$ 500
Shelburne	\$2,474
Warwick	\$ 800
Wendell	\$1,000
Whately	\$1,200

COMMONWEALTH OF MASSACHUSETTS
TOWN OF ERVING

OFFICE OF THE BOARD OF WATER COMMISSIONERS
Water Commissioners Warrant to the Collector
Fire Hydrant Charges **1st Commitment**, Fiscal Year 2023

To: Michele Turner, Tax/Water Collector for the Town of Erving in the County of Franklin

Greetings:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby required to levy on and collect Five Thousand Eight Hundred Sixty Dollars and Zero Cents (\$5,860.00) due to final charges at 18 Moore Street (#257).

Said charges are to be paid to Michele Turner, Town of Erving Tax Collector, or to his/her successor in office, at the times and in the manner provided by General Laws, Chapter 60, Section 2. As Collector, you must provide the Treasurer an account of all charges and fees collected by you. In addition, you are to make written return of said water charges and interest with your water charge list and of your doings thereon at such times as the Water Commissioners shall require.

You are to complete and make up an account of the collection of the whole sum hereon, committed to you, with interest, on or before December 31 of the current year.

The owner of the premises shall be responsible for the payment of all charges for water and service furnished to the property. Under the General Laws of Massachusetts Chapter 40 Section 42A as accepted in Article 7 of the Erving Special Town Meeting June 29, 1992, unpaid water bills become a lien on the property immediately following the due date for such rate or charge and collections will be made by the sale of property. Water bills will be mailed semi-annually. Water bill payment will be due thirty (30) days from the postmarked date of the original bill. Overdue notices will go to property owners and "current occupant" forty-five (45) days after the postmarked date of the original bill. Shut off notices will go to property owners and "current occupant" sixty (60) days after the postmarked date of the original bill. The shut off notice will specify that shut off will occur on or after Monday. Shut off will not occur sooner than seventy-five (75) days from the postmarked date of the original billing. The shut off notice will clearly state the earliest date that shut off can occur. There will be no further notice. Service will be restored as soon as possible, upon payment in full of all amounts due.

The levy and collection of the amounts are hereby committed to you. All interest, charges, and fees as provided by law, also apply. You are to have and to exercise all the powers conferred by the laws of this Commonwealth upon collectors of taxes.

Given under our hands this 18th day of July 2022.

WATER COMMISSIONERS OF ERVING

Jacob A. Smith

William A. Bembury, Jr.

Scott Bastarache

Commitment Report

<u>Account Information</u>	<u>Meter Reads And Usage</u>	<u>Usage</u>	<u>Receivable</u>	<u>Amount</u>
257			Hydrants	\$5,860.00
TOWN OF ERVING FIRE STATIK			Total:	\$5,860.00
18 MOORE ST				
Route 1				

Report Totals

<u>1 Account(s)</u>	<u>Receivable Name</u>	<u>Total</u>
	Hydrants	\$5,860.00
	Receivable Totals:	\$5,860.00

Account Debit Verification Report

Account	Owner	Service Location	Receivable	Amount	Usage
257	TOWN OF ERVING FIRE ST	18 MOORE ST	Hydrants	\$5,860.00	
				\$5,860.00	

Report Totals:

1 Account(s): **\$5,860.00**

Receivable Summary Totals

Receivable Name	Total
Water	\$5,860.00
Receivable Totals:	\$5,860.00

Receivable Detail Totals

Receivable Name	Total
Hydrants	\$5,860.00
Receivable Totals:	\$5,860.00

COMMONWEALTH OF MASSACHUSETTS
TOWN OF ERVING

OFFICE OF THE BOARD OF WATER COMMISSIONERS
Water Commissioners Warrant to the Collector
Water Testing Charges **2nd Commitment**, Fiscal Year 2023

To: Michele Turner, Tax/Water Collector for the Town of Erving in the County of Franklin

Greetings:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby required to levy on and collect Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) due to final charges at 12 East Main Street (#273).

Said charges are to be paid to Michele Turner, Town of Erving Tax Collector, or to his/her successor in office, at the times and in the manner provided by General Laws, Chapter 60, Section 2. As Collector, you must provide the Treasurer an account of all charges and fees collected by you. In addition, you are to make written return of said water charges and interest with your water charge list and of your doings thereon at such times as the Water Commissioners shall require.

You are to complete and make up an account of the collection of the whole sum hereon, committed to you, with interest, on or before December 31 of the current year.

The owner of the premises shall be responsible for the payment of all charges for water and service furnished to the property. Under the General Laws of Massachusetts Chapter 40 Section 42A as accepted in Article 7 of the Erving Special Town Meeting June 29, 1992, unpaid water bills become a lien on the property immediately following the due date for such rate or charge and collections will be made by the sale of property. Water bills will be mailed semi-annually. Water bill payment will be due thirty (30) days from the postmarked date of the original bill. Overdue notices will go to property owners and "current occupant" forty-five (45) days after the postmarked date of the original bill. Shut off notices will go to property owners and "current occupant" sixty (60) days after the postmarked date of the original bill. The shut off notice will specify that shut off will occur on or after Monday. Shut off will not occur sooner than seventy-five (75) days from the postmarked date of the original billing. The shut off notice will clearly state the earliest date that shut off can occur. There will be no further notice. Service will be restored as soon as possible, upon payment in full of all amounts due.

The levy and collection of the amounts are hereby committed to you. All interest, charges, and fees as provided by law, also apply. You are to have and to exercise all the powers conferred by the laws of this Commonwealth upon collectors of taxes.

Given under our hands this 18th day of July 2022.

WATER COMMISSIONERS OF ERVING

Jacob A. Smith

William A. Bembury, Jr.

Scott Bastarache

Commitment Report

Account Information	Meter Reads And Usage	Usage	Receivable	Amount
273			Water Testing Town Hall	\$3,500.00
TOWN OF ERVING			Total:	\$3,500.00
TESTING				
Route NA				

Report Totals

1 Account(s)	Receivable Name	Total
	Water Testing Town Hall Zilinski	\$3,500.00
	Receivable Totals:	\$3,500.00

Account Debit Verification Report

Account	Owner	Service Location	Receivable	Amount	Usage
273	TOWN OF ERVING	TESTING			
			Water Testing Town Hall Zili	\$3,500.00	
				\$3,500.00	
Report Totals:			1 Account(s):	\$3,500.00	

Receivable Summary Totals

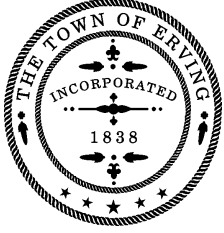
Receivable Name	Total
Water	\$3,500.00
Receivable Totals:	\$3,500.00

Receivable Detail Totals

Receivable Name	Total
Water Testing Town Hall Zilinski	\$3,500.00
Receivable Totals:	\$3,500.00

Title of Legislation	Type	Status	Approving Body	Notes
Stormwater Management Bylaw	Bylaw	Create	Town Meeting	
Traffic Code	Regulations	Edit	Select Board	
Water	Regulations	Edit	Select Board	
Wastewater	Regulations	Edit	Select Board	
Cemetery	Regulations	Edit	Select Board	

Section	Master Plan Initiative - 2002	Progress made prior to 2022	Upcoming Plans
Natural Resources & Open Space	Explore ways of contributing to the clean up of the Millers River and its watershed through water quality monitoring, reductions in non-point source pollution, wastewater treatment facility upgrades, and/or adoption of wetlands protection bylaw		
	Work to develop an active open space conservation program in coordination with the Department of Environmental Management and the Mount Grace Land Conservation Trust, which gives priority conservation to parcels that provide direct access to the Millers and CT Rivers		
	Consider the option of reducing property taxes on land comprising the Northfield Mountain Recreation Area in exchange for placing the area under a permanent conservation restriction		
Community Facilities & Services	Limit the expansion of water and sewer lines to areas suitable for supporting commercial uses or higher density development such as village centers		
	Continue to assist in attracting new businesses to the vacant International Paper Company building site so that the current excess capacity at the wastewater treatment plant in Erving side can be used to support economic development and the redevelopment of existing facilities		
	Increase funding for park and recreation facilities maintenance, and develop recreational programming and facilities for Town residents especially teenagers and adults, including the elderly		
	Erving Recreation Commission should work closely with the Wendell Conservation Commission to explore the feasibility of developing a multi-use recreation trail along the Millers River in Wendell to connect Erving village centers. This project could involve acquiring recreational easements from landowners along the Millers River for the trail which would connect the villages of Farley and Erving side, as well as link to the new Franklin County Bikeway at the East Mineral Road Bridge and River Road. This trail would be a way to encourage the use and appreciation of open space areas along this scenic waterway and would also improve pedestrian and bicycling access between the Town centers.		
	Adopt and Aquifer Protection Overlay District bylaw to protect the community water supply in Erving side from contamination by limiting new land uses storing or utilizing hazardous materials within Zone II recharge area.	Complete	
Housing	Consider actions that will help balance residential growth with the provision of municipal services and the protection of natural resources such as adopting a phased growth bylaw and establishing an active local open space protection program		
	Promote the use of Cluster Zoning in rural areas to protect open space and natural resources and to provide lower cost of single family housing given the smaller lot sizes associated with this type of development. Consider working with the Franklin county regional housing and redevelopment authority to establish an eldering housing complex which will give priority to Erving residents and which will contribute to meeting the state's 10% goal of affordable housing for low and moderate income households		
	Encourage infill of residential dwellings in Erving side and Erving Center and consider the reuse of vacant buildings for residential development		
Historic & Scenic Resources	Apply to Massachusetts Historical Commission for a planning survey grant to complete Erving's historic resources inventory and mhc forms		
	Contact the department of environmental management to pursue grant funding to complete a cemetery preservation plan for the Holston Cemetery and implement recommendations of the plan once it is completed		
	Initiate discussion with Greenfield, Gill, and Orange to pursue formal state designation of the Mohawk Trail east of I-91 in Frankling County as a scenic byway and to apply for federal scenic byway funding to complete a corrido management plan		
	Purchase scenic easements from willing landowners to protect historic landscapes and scenic roads		
Transportation	Request Town Meeting approval to designate local scenic roads pursuant to MA general laws chapter 40 section 15c		
	Investigate measures of devices for slowing vehicle speeds through village centers		
	Continue to provide support and input to the Route 2 Task Force and its effort to improve safety along the Route 2 corridor through Town		
Economic Development	Investigate and implement ways to improve pedestrian connections across Route 2 and between Erving Center, Farley, and Erving side		
	Encourage broader citizen participation in discussions of the Town's economic development potential in order to create consensus around a vision for the future		
	Diversify the Towns employment base to include small and medium sized businesses in a variety of sectors to reduce the dependence on manufacturing and major employers		
	Work with the current owners of the Usher Plant to facilitate and promote the revitalization of the facility		
Land Use & Zoning	Work with existing business owners to address any infrastructure issues that may be compromising their ability to compete and expand		
	Establish a Rural Residential District with a minimum lot size of two acres to limit the level and density of development outside of the Towns villages		
	Create Central Village Districts around Erving Center and Erving side to encourage their historical development patterns including mixed land uses. The Central Village Districts would retain the existing minimum residential lot size of 20,00 square feet with sewer		
	Establish a Planned Industrial Park District once an area has been determined to be desirable for future commercial and industrial development		
	Limit expansions of water and sewer lines to the geographic boundaries established by the Central Village and the Village Residential Districts in Town centers		
	Establish and Aquifer Protection Overlay District to protect the community water supply in Erving side		



TOWN OF ERVING

SELECT BOARD

12 East Main Street
ERVING, MASSACHUSETTS 01344

Tel. 413-422-2800
Fax 413-422-2808
Email: administrator@erving-ma.gov

Jacob A. Smith, Chair
William A. Bembury
Scott Bastarache
Select Board

Bryan Smith
Town Administrator

July 15, 2022

To: Select Board
From: Bryan Smith, Town Administrator
CC: Peter Sanders, Wastewater & Water Superintendent

RE: Ford Transit Connect Van Procurement

At Annual Town Meeting in May 2022 the voters approved a budget of \$33,000 to purchase a new Ford Transit Connect Van for use by the Wastewater Department. For this procurement, the Town would like to use State contract VEH110 for light and medium-duty vehicles. According to the VEH110 contract updated in May 2022, both Marcotte Ford and Colonial Ford can provide quotes for the vehicle.

Using the required quote request form the Town submitted a list of required and preferred features and requested responses by July 13, 2022. Marcotte Ford declined to provide a quote at this time but would be interested in responding in the future if necessary. Colonial Ford responded with a quote with a total price of \$33,815.18. The quoted model meets the requirements. The detailed quote submission is attached.

If the Town wanted to proceed with this purchase, the vehicle could be ready in four (4) weeks. I believe the addition \$815.18 can be sourced from the operating budget of the Wastewater Enterprise Fund.

Suggested Vote Language:

A motion to award the procurement for the Ford Transit Connect to Colonial Ford of Marlboro, MA 01752 in the amount of \$33,815.18 and to authorize Bryan Smith, Town Administrator, to execute all necessary agreements.



VEH110 Quote Form: Buyer Request

Cells which require input are shaded blue and will turn white when filled. Additional cells are optional.

FOR PURCHASING ENTITIES: This (Buyer Request) tab must be completed by the purchasing entity and submitted to vendors. If the purchasing entity would like to submit a separate specification sheet, it must be submitted to the vendor along with this form.

Use one quote form per vehicle specification. Only multiples of the exact same spec'd vehicle can be included on each individual form.

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OTHER TERMS (NOT TO CONFLICT WITH ANY TERM ON VEH110)

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VEH110 Quote Form: Vendor Response

Cells which require input are shaded blue and will turn white when filled. Additional cells are optional.

FOR BIDDING VENDORS: This (Vendor Response) tab must be completed by the bidding vendor and submitted to the purchasing entity. If the bidding vendor would like to submit a separate specification sheet, it must be submitted to the purchasing entity along with this form.

Use one quote form per vehicle specification. Only multiples of the exact same spec'd vehicle can be included on each individual form.
For options/upfits/transferred equipment, each line item must be fully populated.

VENDOR INFORMATION

Legal Name:	Colonial Ford, Inc.
Company Address:	61 Brigham St Marlboro Ma 01752
Name of Company Contact:	Jay Matsiko
Contact Phone:	774-556-2531
Contact Email:	jmatisko@buycmg.com

Date of Quote:	6/30/2022	Quote Number:	ErvingConnect	Order By Date:	7/30/2022
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VEHICLE SPECIFICATIONS / INFORMATION

VEH110 Vehicle #, if Applicable:	Vehicle Being Sourced From:	
Vehicle Offered	Vehicle Offered	If Sourced from Stock, Stock #:
Model Year:	Seating Capacity: 2	
Make & Model: Ford Transit Connect Barn Doors	Exterior Color: Dark Blue UV	
Trim Level: XL	Interior Color and Material: Ebony Vinyl	
Drive Train: FWD		
Body Code & Pkg.: S75		
Engine Details: 2.0 Gas		
Engine Designation: Internal Combustion Engine	Base Vehicle Contract Price: \$24,358.00	Quantity of Vehicle Offered: 1
For Trucks and Vans:	Wheelbase:	Roof Height or Bed Length:

ADDED DISCOUNTS / INCENTIVES / CREDITS (PER VEHICLE)

Grants		Notes:	Total Additional Incentives: \$0.00
Tax Credits/Rebates			
Promo. Discounts			
Volume Discounts			

ORDER & DELIVERY TIME LINE / DELIVERY LOCATION / TRADE-IN INFORMATION

MY Order Bank Status/Open Date:	MY Production Status/Dates:
Lead Time should be referenced in weeks (only use days if less than one week applies):	
Vehicle Lead Time from OEM to Dealer: TBD	Upfit/Transfer Lead Time at Dealer: 2-4 Weeks
Vehicle Lead Time at Sub-Contractor:	TOTAL Order to Delivery Lead Time:
Delivery Location (from Dealer to Purchaser):	
Delivery Fee (may ONLY be applied when delivery location is outside mainland MA):	
Trade-Ins May Be Allowed to Reduce Acquisition Cost, Based on Applicable Procurement Regulations (not allowed for Executive Branch purchasers):	
Trade-In Details (Year, Make, Model):	Trade-In Value:

PRICE SUMMARY

Per Vehicle, Contract Base Price: \$24,358.00	Per Vehicle, as noted in the applicable sections:
Total Additional Incentives: \$0.00	Total Factory Options: \$1,012.18
Trade in Value, if applicable: \$0.00	Total Upfit/Transfer/Delivery: \$8,445.00
TOTAL COST PER VEHICLE: (including all add-ons and incentives) \$33,815.18	QUANTITY: 1

Based on Pricing, Contract Language Requires Three Quotes be Solicited

TOTAL PURCHASE PRICE (if move forward with PO): \$33,815.18

ADDED FACTORY (OEM) OPTIONS AND PACKAGES (PER VEHICLE)

Quantity per Vehicle:	Factory Code:	Option / Accessory Description:	Price Per Unit (Cost Plus):	Total Per Vehicle:
1	76R	Reverse sensing		\$279.76
1	545	Power Adjust Heated Mirrors		\$123.76
1	55A	Rear Door Fixed Glass NO Side glass		\$279.76
1	924	Dark Tinted Glass		\$328.90

