



Town of Stow
General Bylaw Review Committee

380 Great Road
Stow, Massachusetts 01775-2127
(978) 897-4514 x 1
FAX (978) 897-4534

February 12, 2007

Legal Notice

The General Bylaw Review Committee will hold a public hearing on March 7, at 7:30 PM, in the Stow Town Building, on proposed amendments to the Stow General Bylaw by:

- Amending Article 3, Section 17(c) Community Preservation Committee membership
- Amending Article 6. Police Regulations
- Amending Article 6, Section 7. Animal Control
- Amending Article 6, Section 28. Weights and Measures
- Amending Article 10. Fire Prevention and Protection Code
- Amending Article 11, Section 17. Personnel Administration Grievance Procedure

A copy of the proposed amendments may be inspected at the Office of the Town Clerk.

Stow General Bylaw Committee
Kathleen Pavelchek, Chairman

2X Stow Paper, February 16, 2007 and February 23, 2007

02-12-07 – Emailed to Stow Paper

02-12-07 - Posted in the Office of the Town Clerk and Town Bulletin Board

Stow General Bylaws proposed amendments

Article 3.

SECTION 17. Community Preservation Committee

(a) Authority

In accordance with Mass. General Laws Chapter 44B, Section 5(a) through Section 5(e) inclusive, a Community Preservation Committee shall be created upon acceptance of the Community Preservation Act, Mass. General Laws Chapter 44B, Sections 3 through 7 inclusive.

(b) Purpose

The purpose of the Committee is to administer the Community Preservation Fund in accordance with the provisions and requirements set forth in MGL Chapter 44B. This shall include making recommendations to Town Meeting for the appropriation of funds to be collected through the Community Preservation surcharge and matched by the Commonwealth. Funds raised or received by the Town as a match from the Commonwealth may only be used for the purpose of acquiring and preserving open space, historical preservation, affordable housing, and related expenses.

(c) Membership

Said committee shall consist of nine (9) members. Each of the following shall appoint one of its members or associate members to serve on the Community Preservation Committee:

Conservation Commission, Historical Commission, Planning Board, Housing Authority, Recreation Commission (performing like duties of a Board of Park Commissioners), Finance Committee, Council on Aging, Open Space Committee and Board of Assessors. In the absence of such an appointment(s), a member(s) at large shall be appointed by the Board of Selectmen. ~~Each member's term shall expire upon expiration of that member's term of service on his/her appointing agency, or one (1) year, whichever comes first. Each member's term shall be from the first day of July until the last day of the following June, however each member's term shall not extend beyond that member's term of service on his/her appointing agency.~~ Committee members shall hold office until successors are designated. The Committee shall elect a chairman annually from among its membership. The Committee may appoint clerks and other employees as it may require.

(adopted 5/8/2001)

Comments on the two proposed changes:

- This sets the normal term of service.

- The CPC had no general problems with the selectmen appointing members to empty positions, but upon research, it appears that provision conflicts with the Stow Charter, section 7-8 (f).

The CPC did not recommend any other changes.

**EXCERPT FROM STOW GENERAL BYLAWS
ARTICLE 6. POLICE REGULATIONS**

SECTION 7. Animal Control

a. Definitions

Adoption: The delivery of a cat, dog, or other animal to any person eighteen (18) years of age or older for the purpose of harboring the animal as a pet.

Animal: Every nonhuman ~~species~~ species of animal, both domestic and wild, living or deceased.

Animal Control Officer: Any officer appointed by the Board of Health to enforce this bylaw.

Animal Shelter: Any facility or kennel operated by a humane society, the Town, or its authorized agents for the purpose of impounding animals under the authority of this bylaw or state law for care, confinement, return to owner, adoption, or euthanasia.

At Large: Any dog shall be deemed to be at large when it is off the premises of its owner or keeper, and not under the direct ~~care and~~ control of a person demonstrating the ability to properly care and control the dog.

Commercial Kennel: A kennel maintained as a business established for, or to include, the boarding or grooming of dogs.

Keeper: Any person, corporation, or society, other than the owner, harboring or having in his possession any dog.

Kennel: More than three (3) dogs six (6) months of age or older on a single private premise.

License Period: The time between January first of any year to December thirty-first of the same year, both dates inclusive.

Livestock or Fowl: Animals or fowl kept or propagated by the owner for food or as means of livelihood; also deer, elk, cottontail rabbits, northern hares, pheasants, quail, partridge and other birds, and quadrupeds determined by the Department of Fisheries and Wildlife and Environmental Law Enforcement to be wild, and kept by or under a permit from said department(s) in proper housing and/or suitably enclosed yards. Such definition shall not include dogs, cats, or other pets.

~~**Multiple Dog Household:** More than three dogs over the age of six months of age on a single private premise.~~

Owner: Any person, partnership, or corporation in whom is vested the ownership, dominion, or title of one or more animals.

Public Nuisance: /~~Dangerous Dog:~~ Any dog that unreasonably annoys humans, endangers the life or health of other animals or person(s), or substantially interferes with the rights of citizens, other than its owner(s), to the enjoyment of life or property. The term “public nuisance” ~~dangerous dog~~ shall mean and include, but is not limited to, any dog that:

1. Is found at large between the hours of 7:00 AM and 8:00 PM;
2. Damages the property of anyone other than its owner or keeper;
3. ~~Molests or intimidates pedestrians or passersby;~~
- 3-4. Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbances, or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored;
5. ~~Has bitten or attacked any person;~~
6. ~~Has bitten or attacked other domestic animals;~~
- 4-7. Is found at large in a school yard, public or private recreation area, store, or shopping area; *except for those dogs certified to assist the visually or hearing impaired, which shall be deemed to be exempt from this provision*
8. ~~Has been found by the Board of Selectmen, after notice to its owner or keeper and a public hearing, to be a public nuisance/dangerous dog by virtue of being a menace to public health, safety, or welfare.~~
5. Is found off the owners property and not wearing a current tag.

Dangerous/Vicious Dog: Any dog that attacks, bites, or injures, or kills humans or domesticated animals without provocation; or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure, or kills humans or domestic animals.

1. Molests, and/or intimidates pedestrians or passersby;
2. Has bitten and/or attacked any person;
3. Has bitten, attacked, or killed other domestic animals;
4. Has been found by the Board of Selectmen, after notice to its owner or keeper and a public hearing to be a dangerous/vicious dog by virtue of being a menace to public health, safety, or welfare.

b. Licenses and Tags

A person residing in the Town of Stow who at the beginning of the license period is, or who during a license period becomes, the owner or keeper of a dog six (6) months old or over, will cause the dog to be licensed within thirty (30) days. The Town Clerk shall issue dog licenses and tags on a form. The Town shall permit licensing through the mail.

Any owner or keeper of a dog who moves into the Town of Stow, and has a valid current dog license from another municipality in the Commonwealth of Massachusetts ~~may~~ **shall** **within thirty (30) days** obtain a dog license upon the forfeiture of the old license and a fee of one dollar (\$1.00).

On the license form the Town Clerk shall record the name, address, and telephone number of the owner or keeper of the dog and the name, breed, color, gender, and age of the dog. Each tag issued will be valid for the specific animal described on the form and is not transferable. The tag will include the license number, the phrase "Town of Stow" and the year of issue. (amended 5/20/98)

The owner or keeper of a dog shall cause each dog, when off the premises of such owner or keeper, to wear around its neck or body a collar or harness to which he/she shall securely attach the license tag. In the event of loss of tag, a substitute tag will be issued by the Town Clerk for a fee of two dollars (\$2.00).

The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying the dog is currently vaccinated against rabies.

The fee for each dog licensed shall be ten dollars (\$10.00), either male or female, neutered or spayed. (amended 5/20/98) The Town Clerk shall charge a late fee of twenty-five dollars (\$25.00) for every dog license issued after the fifteenth of April as defined in the General Bylaws Article 3 Section 10. (amended 5/20/98) **The late fee for a kennel license is 2.5 times the license fee.**

Upon presentation to the Town Clerk of a certificate of training, no fee shall be charged for a dog specially trained **to assist lead, or serve a visually or hearing impaired person a physically or mentally challenged person.**

c. Vaccination of Dogs and Cats Against Rabies

Under Section 145B of Chapter 150 of the Massachusetts General Laws, the owner or keeper of a dog or cat six (6) months of age or older shall cause the dog or cat to be properly vaccinated against rabies by a licensed veterinarian. Upon vaccination the veterinarian shall issue a tag which shall show the year the vaccination was given, a rabies tag number, and the name of the veterinary clinic or hospital. The owner/keeper of

unvaccinated dogs or cats living in or brought into the Town of Stow shall be punished by a fine to be determined by the Animal Control Officer of not more than fifty dollars (\$50.00), which shall be paid to the Town of Stow.

d. Enforcement/Impoundment

It shall be the duty of the Animal Control Officer, or any other person appointed by the Board of Health, to apprehend any dog found running at large ~~between the hours of 7:00 AM to 8:00 PM~~ or any dog that is a public nuisance, and impound such animal at an authorized animal shelter, such animal to be held, adopted, or euthanized as described in Chapter 140, Section 151A of the Massachusetts General Laws. The Officer that so impounds any animal shall keep a record of each animal so impounded which shall contain the following information: breed, color, and sex of the animal, distinctive markings or characteristics of the animal; name and address of the owner (if known) along with the license number; the final disposition of the animal, the name, address, phone number of any person adopting such dog; and if destroyed, method and name of technician who administered euthanasia. Such records shall be kept by the Animal Control Officer for a period of twelve (12) months from date of impoundment. A copy shall be forwarded to the Town Clerk upon disposition of the animal, and the Town Clerk shall retain copies as provided by law.

e. Violations/Penalties

The Animal Control Officer, any police officer of the Town of Stow, or any other person so appointed by the Board of Health, may impose a fine upon the owner or keeper of a dog so found to be at large ~~between the hours of 7:00 AM to 8:00 PM~~ or any dog so found to be a public nuisance. Such fines shall not be more than twenty-five dollars (\$25.00) for the first offense, nor more than fifty dollars (\$50.00) for the second and/or subsequent offense(s). Fines shall be paid to the Town of Stow before redemption of the dog, if impounded or within fourteen (14) days of issuance of the imposed fine when impoundment has not occurred. (amended 10/8/96)

f. Boarding Fees

An owner or keeper of any dog so impounded for violation of this bylaw shall, in addition to any applicable fees and penalties, pay to the Town of Stow a pick up fee of ten dollars (\$10.00) per dog and a boarding charge of not less than ten dollars (\$10.00) fifteen dollars (\$15.00) per day while such dog is impounded, nor more than the actual cost to the Town of Stow for the boarding and care of such animal in any commercial kennel or animal hospital.

g. Redemption of Dogs

The owner or keeper of a dog so impounded may claim the dog as provided by law upon the occurrence of the following:

1. The owner or keeper presents a valid dog license and certificate of rabies vaccination;
2. The owner or keeper pays all fines, boarding and other fees;
3. The owner or keeper gives his/her name & address; ~~and date of birth~~
4. If the dog does not have a current rabies vaccination, the owner or keeper must present a receipt from a licensed veterinarian showing prepayment of a rabies vaccination.
5. If the dog is unlicensed the owner must secure a license before redemption.

h. Commercial Kennel License

A kennel maintained as a business for the boarding, grooming, breeding, and sale of dogs shall ~~obtain~~ **be subject to the provisions of the Zoning Bylaw, section 3.2.2.5.**

~~a-~~**A commercial kennel license may then be obtained** upon written application to the Town Clerk. The fee for such kennel license shall be thirty-five dollars (\$35.00) for no more than four (4) dogs, sixty dollars (\$60.00) for five (5) to ten (10) dogs, and one hundred dollars (\$100.00) for more than ten (10) dogs, as provided in Section 137A of Chapter 140 of the General Laws. Each kennel shall be available for inspection by the Animal Control Officer, a police officer, or the Stow Board of Health at any time to ascertain compliance with all state, county, and local laws and bylaws. (amended 5/19/99)

The Town Clerk shall issue a kennel license without charge to any charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect, or abuse and for the relief of suffering animals.

A veterinary clinic within the Town of Stow shall not be considered a commercial kennel unless it contains an area for grooming or selling of dogs or for boarding of dogs for other than medical purpose.

Any person or corporation maintaining a kennel for thirty (30) days without the proper license shall be in violation of this provision.

Whoever violates any *provision of this provision section 7h* shall be punished by a fine of fifty dollars (\$50.00)- payable to the Town of Stow. (amended 10/8/96)

i. Vicious or Barking Dogs; Other Applicable Sections of General Laws

The provisions of Massachusetts General Laws Chapter 140, Sections 157 and 158 shall be applicable to vicious or barking dogs and all other applicable sections of Chapter 140 or other sections of the General Laws or rules and regulations adopted there under

pertaining to dogs, or to any animals as may be regulated by law, shall apply and be enforceable by the Town, as if said sections were fully set forth herein.

j. Emergency fees for Dogs and Cats Injured on Public Ways

Any veterinarian who renders emergency care or treatment to, or disposes of any dog or cat injured on any public way in the Town of Stow shall receive payment of reasonable costs from the owner of such dog or cat, if known, or, if not known, shall receive the sum of ~~forty dollars (\$40.00)~~ **sixty dollars (\$60.00)** from the Town of Stow for such care, treatment, and/or disposal.

Care, treatment, and/or disposal shall be for the purpose of maintaining life, stabilizing the animal, or alleviating pain or suffering until the owner of such dog or cat is identified, or for a period of twenty-four (24) hours, whichever is sooner. Any veterinarian who renders such emergency care or treatment to, or euthanizes, or disposes of such dog or cat shall notify the Animal Control Officer of Stow and, upon notification, the Animal Control Officer shall assume control of such dog or cat.

(Section 7 adopted 6/12/96)

Deletions are strikethroughs
Additions are underlined.

ARTICLE 6. POLICE REGULATIONS
SECTION 19.

(a) No person shall fire or discharge any firearms on any private property except with the written consent of the owner or legal occupant thereof. In no event shall firearms be discharged within five hundred feet of a dwelling.

Rationale; The current bylaw does not impose any restrictions on the discharge of firearms on private property so long as the owner or legal occupant of the property consents. There are many neighborhoods in Stow where, because of the proximity of dwellings, this could result in injury to persons or damage to properties on adjacent lots. The proposed change would not allow discharge of firearms within five hundred feet of any dwelling unless the conditions stated in the following paragraph (b), were applicable.

(b) This bylaw shall not apply to lawful defense of life or property nor any law enforcement officer acting in the discharge of his duties.

(c) The penalty for violation of this Section 19 shall be a fine of ~~fifty dollars, (\$50.00)~~ two hundred dollars (\$200.00).

Rationale A fine of fifty dollars is considered to be inadequate to deter violators.

SECTION 20. Any person who shall violate any provision of these bylaws shall, in cases not otherwise provided for, forfeit and pay for each offense a fine not exceeding ~~fifty dollars~~ one hundred dollars (\$100.00).

Rationale: A fine of fifty dollars is considered to be inadequate.

SECTION 25. No person shall keep, use, consume or have in his or her possession any alcoholic beverages as defined in Chapter 138, Section 1 of the General Laws, in any building, or part thereof, owned or occupied by the Town of Stow, except the Police Department for evidentiary purposes, without the permission of the person or board in control of such premises, and being duly licensed by the licensing authority when required by law; nor shall any person consume any alcoholic beverages while on, in or upon any public way or upon any way to which the public has right of access, or any town common, public park or playground, or any land or place to which members of the public have access as invitees or licensees, or any private land or place, without the consent of the owner or person in control of such public or private land or place, and being duly licensed by the licensing authority when required by law. The penalty for any violation of this bylaw shall be a fine not exceeding ~~fifty dollars (\$50.00)~~ five hundred dollars (\$500.00) for each offense. Persons violating this bylaw shall be subject to arrest without a warrant by Stow police officers.

Rationale: A fine of fifty dollars is considered to be inadequate.

Deletions are strikethroughs
Additions are underlined.

ARTICLE 6. POLICE REGULATIONS

SECTION 26. Regulation and Licensing of Solicitors and Canvassers

- a. It shall be unlawful for any solicitor or canvasser as defined in this bylaw to engage in such business within the town of Stow without first obtaining a license therefor in compliance with the provisions of this bylaw. The provisions of this bylaw shall not apply to any person engaged in the soliciting for charitable, benevolent, fraternal, religious or political activities, nor any person exempt under Chapter 101 of the Mass. General Laws, nor to any person duly licensed under Chapter 101 of the Mass. General Laws, nor to any person exempt by any other General Law, nor shall this bylaw be construed to prevent route salesmen or other persons having established customers, to whom they make periodic deliveries, from calling upon such customers or from making calls upon prospective customers to solicit an order for future deliveries. Persons engaged in unlawful solicitation and canvassing may be subject to arrest without a warrant. A fine not to exceed two hundred dollars (\$200.00) may be assessed for violations.

Rationale: It has been the experience of the police department that this bylaw does not adequately protect the public from solicitors and canvassers who ignore the requirement to obtain a license prior to solicitation. There are some instances in which repeated violations by solicitors cannot be effectively dealt with by the police because the bylaw does not specifically authorize arrest without a warrant. The current bylaw does not impose a fine for violations. A fine of two hundred dollars is proposed in the change to section 26.

Deletions are strikethroughs
Additions are underlined.

ARTICLE 10. FIRE PREVENTION AND PROTECTION CODE

SECTION 3. The ~~Board of Fire Engineers~~ Stow Fire Department shall have the authority to establish rules and orders from time to time pertaining to fire prevention and protection.

SECTION 4. New buildings, except residential dwelling buildings of three dwelling units or less, shall have an automatic fire and/or smoke detection and alarm system. Such system shall alert all persons within the building and shall automatically alert the Stow Fire Department by transmittal of a signal to the fire station alarm system or to a central station alarm. All such detection and alarm systems must be approved by the ~~Board of Fire Engineers~~ Stow Fire Department.

All ~~municipal~~ business and commercial buildings not in compliance with this section at the time of adoption of this code shall comply with said requirements by July 1, ~~1976~~ 2008.

Rationale: It has been over thirty years since the code requiring automatic fire and smoke detection alarm systems became a requirement for new buildings as stated in section 4. The existing bylaw should be changed to include all buildings existing prior to the adoption of the alarm system code which are not specifically exempted in section 4. Some examples of buildings not currently meeting the code are (fill in examples). The Board of Fire Engineers has been replaced by the Stow Fire Department as the organization responsible for fire protection.

SECTION 5. Standpipes, sprinkler systems, internal or external fire hydrant systems which shall include the water supply mains and pumps for said systems to be installed, altered or changed within the Town of Stow must be approved by the ~~Board of Fire Engineers~~ Stow Fire Department. A permit must be obtained for the installation, alteration or change of these systems from the ~~Board of Fire Engineers~~ Stow Fire Department, and the application for the permit must be accompanied by the specifications of the building in which it is to be installed, altered or changed, and specifications of the system itself, whether an internal or external system, according to the rules, orders and regulations of the ~~Board of Fire Engineers~~ Stow Fire Department.

Rationale: The Board of Fire Engineers has been replaced by the Stow Fire Department as the organization responsible for fire protection.

SECTION 6. No person or persons shall block, obstruct or otherwise make unusable any access to a natural water supply that may be used for fire fighting without approval of the ~~Board of Fire Engineers~~ Stow Fire Department.

Rationale: The Board of Fire Engineers has been replaced by the Stow Fire Department as the organization responsible for fire protection

Deletions are strikethroughs
Additions are underlined.

ARTICLE 10. FIRE PREVENTION AND PROTECTION CODE

SECTION 7. All public buildings and others herein described, which shall include schools, churches, municipal buildings, commercial and industrial buildings, shall maintain a fire access Lane of fifteen (15) feet minimum width, where designated by the ~~Board of Fire Engineers~~ Stow Fire Department, which shall not be obstructed for an unreasonable length of time by commercial vehicles which have need of access to said buildings and provided that the operators of other vehicles, or those responsible for any other obstruction, are immediately available to remove said vehicle or obstruction upon orders of the. ~~Fire Department of the Town of Stow~~ Stow Fire Department.

Rationale: The Board of Fire Engineers has been replaced by the Stow Fire Department as the organization responsible for fire protection

EXHIBIT F
PROPOSED GENERAL BYLAWS AMENDMENTS
ARTICLE 11; SECTION 17 – GRIEVANCE PROCEDURE
(Recommended by the General Bylaws Review Committee)

SECTION 17. GRIEVANCE PROCEDURE

- a. Any dispute arising in connection with wages, hours of work and other conditions of employment, or out of the interpretation of application of the provisions set forth in the town Personnel Administration Bylaws is grievable.
- b. Any grievance that may arise will be discussed promptly and the parties will diligently cooperate in an effort to adjust said grievance at the earliest possible time.
- c. Any grievance must be filed within fourteen (14) calendar days of the event upon which the grievance is based or from the date when the employee should have had knowledge of the event or shall be deemed null and void.
- d. Steps

Step 1. Grievance filed in writing with department head who shall hear the grievance and shall answer in writing within five (5) working days. This shall not preclude oral discussion or informal conferences between the supervisor and the employee.

Step 2. If the employee is not satisfied with the results of Step 1, he or she may file in writing with the Board of Selectmen within five (5) working days after completion of Step 1. The Board of Selectmen, or its designee, shall hear the grievance as presented by the aggrieved employee within fourteen (14) calendar days following receipt of the grievance and shall answer the grievance within five (5) working days following the conclusion of the hearing. The Selectmen's decision is final.

PROPOSED AMENDMENTS

Delete current paragraph (d).

Insert new paragraph (d), (e), and (f) as follows:

d. General Process

An employee grievance shall be filed in writing with the department head or the appropriate grievance hearing officer.

A hearing will take place within 10 working days from the hearing officer's receipt of the grievance, *unless circumstances or conditions reasonably warrant an extension of the grievance hearing date, as determined by the hearing officer.* This hearing process encourages the

EXHIBIT F
PROPOSED GENERAL BYLAWS AMENDMENTS
ARTICLE 11; SECTION 17 – GRIEVANCE PROCEDURE
(Recommended by the General Bylaws Review Committee)

department head to conduct an informal review and investigation of a grievance when appropriate and practicable.

The hearing officer will issue a written decision to the grievance within 10 working days from the date that the grievance hearing has been completed.

e. Hearing Officers

1. General Case: The head of the employee's department shall be the hearing officer.

2. Department Head:

A grievance claim against a department head reporting to another board or commission shall be filed with that board or commission. The chairperson of that board or commission will adjudicate the grievance as the hearing officer.

A grievance against a department head appointed by the Board of Selectmen, not reporting to another board or commission, shall be filed with and heard by Town Administrator.

3. Board or Commission Members: A grievance claim filed against a member of a board or commission member shall be filed with that board or commission. The chairperson of the board or commission shall be the hearing officer. If circumstances reasonably warrant, the board or commission chairperson may request that the Town Administrator adjudicate the grievance. A grievance filed against the chairperson of a board or commission shall be adjudicated by the Town Administrator.

4. Board of Selectmen: A grievance claim filed against a member of the Board of Selectmen shall be adjudicated by the Chairperson of the Selectmen. A grievance filed against the Chairperson of the Selectmen will be adjudicated by another Selectman voted by the Board of Selectman. If circumstances reasonably warrant, the Board of Selectmen may appoint an outside independent third party to adjudicate a grievance against a member of the Board of Selectmen. No paid employee of the Town, or any person appointed by the Selectmen, shall be appointed to adjudicate a grievance filed against an individual Selectman.

f. Appeals: An employee may appeal a grievance decision. The appeal must be made in writing within 10 working days of receipt of the written grievance decision and filed with the appeal hearing officer. The appeal shall be heard within 10 working days of receipt and a written decision of the appeal shall be issued within 10 working days from the date that the appeal hearing has been completed. A grievance shall be deemed waived and settled unless such grievance decision is appealed within the time limits prescribed.

EXHIBIT F
PROPOSED GENERAL BYLAWS AMENDMENTS
ARTICLE 11; SECTION 17 – GREIVANCE PROCEDURE
(Recommended by the General Bylaws Review Committee)

1. A grievance hearing decision issued by a department head or by a board or commission chairman, excluding the Board of Selectmen, may be appealed to the Town Administrator.
2. A grievance hearing decision issued by the Town Administrator may be appealed to the Chairperson of the Board of Selectmen.
3. Employee grievance hearing decisions issued by the Selectmen are final.