

Chapter 2

Administration

State law reference - As to town officers and employees, generally, G.L. c. 41. Appointment to fill vacancy in town office, G.L. c. 41, Sec. 11.

Cross references - Inspector of wires, Secs. 5-1, 5-2. Zoning, generally, Ch. 15, including Rules and Regulations of the: Board of Appeals, Sec. 7.1; Select Board, Sec. 7.2; Planning Board, Sec. 7.3 and Building Inspector, Sec. 7.5. Retirement Board, Rules and Regulations, Ch. 19. Board of Health, Rules and Regulations, Ch. 20.

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ARTICLE I. IN GENERAL**Sec. 2-1. Reserved. (5-5-03, Art. 11)****ARTICLE II. TOWN MEETINGS**

State law reference—Town meetings, generally, G.L. c. 39, secs. 9-21 and 24.

Sec. 2-2. Annual meeting - Date.

The annual town meeting for the election of town officers shall be held on the first Tuesday in April of each year. (4-10-78, Art. 8)

State law reference - Time of annual meeting, G.L. c. 39, sec. 9.

Sec. 2-3. Annual meeting - Adjourned sessions.

All business of the annual town meeting except the election and the determination of such matters as by law are required to be elected or determined at the first session of such meeting, shall be considered at an adjournment thereof which adjournment shall be held on the first Monday in May at 7:00 P.M. and on the following Thursday at 7:00 P.M. and every consecutive Monday and Thursday thereafter at 7:00 P.M. until the business before the town in the annual meeting warrant is completed. (4-11-83, Art. 12) (5-5-08, Art. 15)

State law reference - Annual meeting, election of officers, times, adjournment, holidays, G.L. c. 39, sec. 9.

Sec. 2-3.1. Schedule Special Town Meeting.

A special Town Meeting shall be held in October of each year on a date to be set by the Select Board. The Warrant for the October Meeting, shall be open for the insertion of articles for a period of not less than fourteen (14) days and shall be closed at least three (3) weeks prior to the scheduled Town Meeting date. Notice of the warrant open and close dates for the October Town Meeting shall be published in some newspaper in the town within seven (7) days after the warrant is open. All other special town meeting warrants shall be closed at least two (2) weeks prior to the scheduled town meeting date with sufficient time to provide 14-days' notice of the meeting. (4-13-78, Art. 44; 4-6-93, Art. 9; 10-23-00, Art. 9; 5-2-16, Art. 18)

State law reference - G.L. c. 39, sec. 9.

Sec. 2-4. Time for opening and closing of polls.

The time for opening and closing of the polls for the election of officers shall be determined by the Select Board member and stated in the warrant, subject however to the provisions of Section 64 of Chapter 54 of the General Laws. (1932 Bylaws, Art. 1, Sec. 3)

Sec. 2-5. Notice.

Notice of every special town meeting shall be given by posting an attested copy of the warrant calling for such meeting in at least ten public places in the town, not less than fourteen days prior to such meeting; and notice of every annual town meeting shall be given by posting an attested copy of the warrant calling such annual meeting not less than seven days prior to such meeting; and by causing such attested copy of the warrant for either the special or annual town meeting to be published in some newspaper in the town or by mailing a notice to each residence at least three days prior to the time of holding such meeting. (1932 Bylaws, Art. 1, Sec. 4; 5-2-77; 4-7-98, Art. 8)

State law reference - G.L. c. 39, sec. 10.

Sec. 2-6. Warrants—Forwarding to finance and advisory board.

Copies of all articles on the warrant for annual or special town meetings involving the expenditures of money shall be forwarded by the Select Board, within two days after the final date fixed for receiving said articles, to the finance and advisory board for its consideration. (1932 Bylaws, Art. 1, Sec. 5; 3-8-43)

State law reference - Warrant, G.L. c. 39, sec. 10. Advisory or finance committees, G.L. c. 39, sec. 16.

Sec. 2-7. Warrants—Final date for receipt of articles for insertion.

The Select Board member shall annually fix the first Monday of March as the final date on which they will receive Articles for insertion in the Warrant for the annual Town Meeting. All Articles must be presented to the Select Board in finished form, typed on plain stationery, 8 ½" x 11", preferably one and one-half spaced. (1932 Bylaws, Art. 1, Sec. 6; 3-8-43, Art. 44; 1-25-82, Art. 1; 5-5-94, Art. 11; 5-2-16, Art. 18)

Sec. 2-8. Same—Copies for distribution at meetings.

A sufficient number of the warrants together with the recommendations of the Finance and Advisory Board and Planning Board shall be printed for distribution at each meeting. (1932 Bylaws, Art. 1, Sec. 7)

Sec. 2-9. Moderator—Presiding officer.

The moderator shall preside and regulate the proceedings, decide all questions of order and make public declaration of all votes. The moderator may take all votes requiring a two-thirds majority in the same manner in which the moderator conducts the taking of a vote when a majority is required. (1932 Bylaws, Art. 1, Sec. 8; 10-25-99, Art. 23)

State law reference - Powers and duties of moderator, G.L. c. 39, sec. 15. Preservation of order, G.L. c. 39, sec. 17. Reception of votes, G.L. c. 39, sec. 18. Oath of office, G.L. c. 41, sec. 107. Town meeting, duties, G.L. c. 39, sec. 10.

Sec. 2-10. Same—Robert's Rules and Order.

The duties of the moderator, not specifically provided for by law or these bylaws, shall be determined by the rules of practice contained in Roberts Rules and Order, revised, so far as such rules are applicable to a Town Meeting. (1932 Bylaws, Art. 1, Sec. 9; 3-13-67)

Sec. 2-11. Speaking—Generally.

Every voter speaking upon a subject in any meeting shall confine his remarks to the question before the meeting, avoid personalities and be seated when he has finished. (1932 Bylaws, Art. 1, Sec. 10)

State law reference - Regulation of town meetings, G.L. c. 39, sec. 15.

Sec. 2-11.1 Maker of motion.

The petitioner of an article of Town Meeting or Special Town Meeting (“Town Meeting”) (which for purposes of this bylaw shall include any person who signed the subject warrant article) shall have the first option to make the main motion before the Town Meeting body. Any main motion by the petitioner, other than a procedural motion (including a motion for indefinite postponement), must be submitted to the Town Clerk (“Clerk”) at the Clerk’s office or to the Clerk’s official e-mail address no later than three (3) business days prior to the first day of the Town Meeting. (In calculating said time period, the first day prior to the day of Town Meeting shall be the first Town Hall business day in such calculation. (5-6-93, Art. 8) (10-21-13, Art. 3)

Sec. 2-12. Same—Attorneys employed by others.

Any voter who is employed as an attorney by another interested in any matter under discussion at a town meeting shall disclose the fact of his employment before speaking thereon. (1932 Bylaws, Art. 1, Sec. 11)

Sec. 2-13. Deleted.

(6-22-77, Art. 2)

Editor's Note—Quorum requirements for Town Meeting deleted.

Sec. 2-14. Barring of nonvoters.

If the moderator so orders, only voters shall be admitted to the place of meeting or to a defined portion thereof; and the check list shall be used in the enforcement of such order. (1932 Bylaws, Art. 1, Sec. 13)

State law reference - Reception of votes, G.L. c. 39, sec. 18.

Sec. 2-15. Reconsideration of vote.

(a) No vote shall be reconsidered, except after the affirmative vote of two-thirds of the voters present and voting on a motion to reconsider such vote.

(b) A motion to reconsider any vote shall be made before the final adjournment of the meeting at which the vote was passed; provided that such motion to reconsider shall not be made at an adjourned session of the meeting unless the mover has given notice of his intention to make such a motion either at the session of the meeting at which the vote was passed or by written notice to the town clerk not more than forty-eight hours after the hours of adjournment of such session and not less than twelve hours before the hour to which adjournment has been voted. A vote shall not be reconsidered a second time or after a motion to reconsider it has failed to pass. (3-15-49, Art. 76)

Sec. 2-15.1. Secret ballot.

Upon the vote of twenty-five or more persons present and voting at an annual or special town meeting, a secret ballot shall be used as the means of voting on a particular motion. (3-28-74, Art. 59; 4-12-76, Art. 17; 5-6-96, Art. 13)

ARTICLE III. FINANCE AND ADVISORY BOARD

State law reference - Open meeting law, G.L. c. 39, sec. 23A, 23C, and 24. Advisory or finance committees, G.L. c. 39, sec. 16. Reserve fund, G.L. c. 40, sec. 6.

Sec. 2-16. Creation; Composition; Terms of members; Subsequent appointments; Vacancies; Removal.

There shall be a Finance and Advisory Board consisting of eleven (11) members, all of whom shall be registered voters of the town. As the term of each member expires, successor members shall be appointed by the Moderator for a term of three (3) years. Any vacancies on the Board other than by normal expiration of a term shall be filled by the Moderator for the unexpired term. Whether the appointment by the Moderator be for a full three (3) year term or to fill a vacancy for an unexpired term, the remaining members of the Finance and Advisory Board shall evaluate prospective members and make recommendations to the Moderator. (5-5-03, Art. 11)

After notification properly given to all members setting forth reasons and after a hearing for cause the Finance and Advisory Board, upon a two-thirds vote of those members of the Board present and voting, can request and the Town Moderator can remove a member from said Finance and Advisory Board before said member's term has concluded. Said removal shall be made in writing to the member to be removed and to the Town Clerk at which time the removed member's position shall be considered vacant. (5-8-86, Art. 27)

Sec. 2-17. Other offices held by members; compensation and term of members; organization.

The members of the board shall serve without salary. The term of the members shall commence the first of June following their appointment. Such board shall meet for organization and shall choose its own chairman and clerk not later than the fifteenth day of June of each year. (1932 Bylaws, Art. 2, Sec. 2; 10-18-37, Art. 19; 3-17-69, Art. 19, 5-5-03, Art. 11)

Sec. 2-18. Matters to be considered.

The finance and advisory board shall consider matters relating to the appropriation, the borrowing and the expenditures of money by the town; its indebtedness; the methods of administration of its various officers and departments: property valuation and assessments; revenue sources and other municipal affairs; the assessments and costs associated with the operation, maintenance and capital requirements of the Water and Sewer systems to ensure such costs are just and equitable and in proportion to the benefits of the users; hold at least one annual public hearing to receive citizens input on the current year, the proposed budget

and rates for the next fiscal year and any other information as may be requested concerning the water and sewer departments; and make recommendations to the town, and any town board, officer or committee, relative to such matters. (1932 Bylaws, Art. 2, Sec 3; revenue sources, 5-4-92, 5-5-22, Art. 21)

Sec. 2-19. Financial estimates of boards, officers, etc., expending town money—Preparation and filing.

The Finance and Advisory Board shall duly consider the tentative budget submitted by the Select Board pursuant to Section 16 of the Select Board -Administrator Act and may confer with town boards, officers and committees and hold hearings, if they deem it advisable.

The board shall make a report of the matters so considered by it with recommendations or suggestions relative thereto and such recommendations or suggestions shall be published by the last Monday in April.

Such report of the Finance and Advisory Board, as published, shall also contain a statement of the doings of the Board during the year, with such recommendations or suggestions as it may deem advisable on any matters pertaining to the welfare of the Town. (5-6-85, Art. 29; 5-2-94, Art. 4, 5-5-03, Art. 11)

Cross reference—Select Board member-Administrator Act, Sec. 15.

Sec. 2-20. Same—Consideration and report of board.

In addition to the foregoing the Finance and Advisory Board shall consider the subject matter of all articles under its jurisdiction and shall make recommendations or suggestions relative to such articles. Such recommendations and suggestions shall be published at least three (3) days before any Special Town Meeting and at least the (10) days before the Annual Town Meeting (Article 2). (5-2-94, Art. 4)

Sec. 2-21. Review of articles to be inserted in warrants for town meetings.

Requests by the town boards, officers, committees or citizens for insertion of articles in warrants for town meetings which involve the expenditure or appropriation of money shall be referred to the finance and advisory board. When an expenditure or appropriation is sought by the Select Board for a department or matter under the control of such board any proposal for such expenditure or appropriation shall be submitted to the finance and advisory board for its approval or disapproval as herein provided. (1932 Bylaws, Art. 2, Sec. 6; 3-21-32, Art. 16)

Sec. 2-22. Preparation and filing of equipment reports.

All officers, boards and committees charged with equipment shall on or before December 1 of each year list such equipment upon forms approved by the finance and advisory board. Such list shall be filed with the town accountant, who shall transmit it to the clerk of the finance and advisory board. (3-11-40, Art. 54)

ARTICLE IV. OFFICERS, BOARDS AND COMMITTEES, GENERALLY

State law reference - officers and employees, generally, G.L. c. 41. Open meeting law, G.L. c. 39, sec. 23A-23C, and 24.

Sec. 2-23. Notice to clerk of organization and office hours or time of meetings.

All officers, boards and committees shall notify the town clerk of their organization and office hours or time of stated meetings. (1932 Bylaws, Art. 3, Sec. 1)

Sec. 2-24. Reserved. (5-5-03, Art. 11)**Sec. 2-25. Same—Contracts exceeding five hundred dollars; approval of legal form.**

No contract, involving an obligation of the town, exceeding the sum established by GL. c.30B, sec. 17 shall be binding upon the town unless it is in writing and is signed by the respective contracting authority. The contracting authority shall make a record of every such contract. No contract shall be binding upon the town unless it has been approved in writing as to legal form by the town counsel and includes a certification as to the availability of funds by the Town Accountant. (1932 Bylaws, Art. 3, Sec 3; 3-15-54, Art. 55, 5-5-03, Art. 11)

Sec. 2-26. Residency Requirement - Boards, Commissions and Committees.

No person shall be appointed to or serve on a board, commission or committee of the Town or any other board, commission or committee for which the appointment thereto is by a town board or officer, unless such person is a resident of the Town. Any person serving as a member of a board, commission or committee who, during the term of office for which appointed, ceases to be a resident of the town, shall be deemed to have vacated such membership.

The provisions of this bylaw shall not apply to ex-officio members (including any non-resident town officer(s) or employee(s) representing the Town in such capacity), non-voting members, or members of a board, commission or committee holding such membership at the time this bylaw becomes effective. (5-3-99, Art. 23)

Sec. 2-27. Deleted. (5-9-91, Art. 10)

Sec. 2-28. Reserved. (5-5-03, Art. 11)

Sec. 2-29. Reserved. (5-5-03, Art. 11)

Sec. 2-30. Reserved. (5-5-03, Art. 11)

Sec. 2-31. Filing and publication of annual reports.

Every officer in charge of a department shall annually, on or before the tenth day of January, transmit to the Select Board member, in writing, a report containing a statement of the acts and doings of his department for the past financial year; such report shall be printed in the annual report. (1932 Bylaws, Art. 3, Sec. 8)

State law reference - Annual Town Report, G.L. c. 40, sec. 49. Transmission of annual report by town clerk to state library, G.L. c. 40, sec. 50.

Sec. 2-32. Payment to treasurer and report to town accountant of funds received for town.

All officers shall pay to the treasurer forthwith, except as otherwise provided by the statutes of the Commonwealth, all amounts received by them on behalf of the town, and make a true return to the town accountant, stating the accounts upon which such amounts were received. (1932 Bylaws, Art. 3, Sec. 9)

State law reference—Treasurer’s duty to receive and account for funds, G.L. c. 41, sec. 35.

ARTICLE V. COMMITTEES

Sec. 2-33. Committees - Generally

Any committee, excluding the Finance and Advisory Board, formed by town meeting, the Town Moderator or the Select Board shall include and/or comply with the following requirements and provisions:

(a) Mission Statement: there shall be a mission statement established for the committee by the governmental body or official which formed the committee (“formation authority”) or in lieu thereof by the governmental body or official which appoints the

members of the committee (“appointing authority”) (hereinafter referred to as the formation or appointing authority, without reference to the phrase “in lieu thereof”) The mission statement may be amended by said formation or appointing authority as deemed appropriate

(b) Term of the Committee: The limit, if any, on the life of the committee (sunset provision) shall be determined by the formation or appointing authority.

(c) Members/Method of Appointment: the size of the committee shall be established by the formation or appointing authority. The size of the committee may be amended by said formation or appointing authority as deemed appropriate. The method of appointment shall be established by the formation or appointing authority. Any vacancy on a committee shall be filled by the respective formation or appointing authority.

(d) Term of appointment: The term of committee appointments, including whether the term is definite or indefinite shall be determined by the formation or appointing authority.

(e) Notice of Committee Formation and Appointment Process: the formation or appointing authority shall provide public notice of the formation of the committee and the appointment date by providing written notice of the said formation and appointment process to the Town Clerk and by publishing notice thereof in a newspaper of general circulation in the town, each no less than fourteen (14) days prior to the selection of committee members. Any details of the appointment process, including qualifications for appointment, if any, shall be provided to the Town Clerk with the above referenced written notice, and may be included in the published notice.

(f) Minutes: Minutes of each committee meeting shall be provided by each committee to the Town Clerk and to the Select Board, and as otherwise provided in the vote forming the committee. Said minutes shall be provided in a reasonably timely manner.

(g) Reports: Every committee shall file a written report with the appointing authority, the town clerk and the finance and advisory board at least once every calendar year, unless otherwise directed by the formation or appointing authority. The final report in any calendar year shall, if the Select Board member deem appropriate, may be printed in the annual town report.

(h) Meeting attendance: meeting attendance requirements to retain membership, if any, shall be determined by the formation or appointing authority.

(i) Meeting with Appointing Authority: If requested by the formation or appointing authority, a committee shall meet with the respective authority upon reasonable written notice.

(j) No Authority To Expend Funds: No committee shall have authority to expend town funds, nor commit the town to the expenditure of any funds.

(k) Removal: A member of a committee may be removed for cause as follows:

- (1) If the committee member was appointed by a board, including the Select Board, removal shall be effectuated by a four-fifths vote of said board, but only after the committee member sought to be removed has had a hearing before the board, at which at which the committee member has had the opportunity to refute any allegations concerning continued membership if the vote is for removal, the board shall notify the Town Clerk, and the Town Clerk shall notify the effected committee member. Upon receipt of such notification the effected member will be deemed to have been removed from the committee.
- (2) If the committee member was appointed by the town moderator, removal shall be by the town moderator, but only after a recommendation for removal by a four-fifths vote of the remaining members of the committee to the town moderator. If there is a recommendation of removal, the committee shall notify the town moderator of such recommendation in writing. The decision as to whether or not to remove a committee member, whose removal was recommended by the remaining members of the committee, rests with the town moderator, however removal can occur only after the committee member sought to be removed has had a hearing before the committee or the moderator, at which at which the committee member has had the opportunity to refute any allegations concerning continued membership. If the town moderator decides to remove the committee member, the moderator shall notify the Town Clerk, and the Town Clerk shall notify the effected committee member. Upon receipt of such notification the effected member will be deemed to have been removed from the committee.

Loss of membership as a result of a failure to meet a meeting attendance requirement pursuant to subparagraph (h) above shall not be deemed to be removal from a committee, subject to the above procedural protections.

Nothing in this Section 2-33 shall be deemed to eliminate any committee currently established by the town meeting, town moderator or the Select Board. (5-5-03, Art. 11)

Sec. 2-34. List of Committees – Town Clerk

The Town Clerk shall maintain a complete list of town committees and committee members, based on information supplied in writing by the formation and appointing authorities. (5-5-03, Art. 11)

Sec. 2-35. Reserved. (5-5-03, Art. 11)

Sec. 2-36. Reserved. (5-5-03, Art. 11)

Sec. 2-37. Reserved. (5-5-03, Art. 11)

Sec. 2-37.1. Reserved. (5-5-03, Art. 11)

Sec. 2-37.2. Open Space and Recreation Advisory Committee; establishment and duties.

(a) *Selection and term of members:* The Open Space and Recreation Advisory Committee shall, at its inception, consist of all current members of the Youth Commission and Unicorn Recreational Area Committee, who will, if they so desire, complete their terms as scheduled, but shall serve the remainder of their scheduled terms as members of the Open Space and Recreation Advisory Committee. Subsequent appointments shall be made as follows: four (4) Committee members shall be appointed in the year 2000; three (3) Committee members shall be appointed in the year 2001; and four (4) Committee members shall be appointed in the year 2002, all for terms of three years. All subsequent appointments, except for the filling of vacancies, shall also be for three (3) years.

(b) *Vacancies:* The Select Board shall, within sixty (60) days of a vacancy, appoint a new member to complete the unexpired term of any member who vacates his or her position on the Committee.

(c) *Organizational meeting:* The Committee shall meet for organizational purposes not later than thirty (30) days following the annual appointment of its members to elect its officers for a term of one year.

(d) *Duties:* The Committee duties shall include: providing advice and recommendations to the appropriate Town officials, both elected and appointed, regarding the open space and recreation needs of the Town including but not limited to the Golf Courses, Arena, all existing and future playgrounds and recreation areas, preparing and updating the Open Space and Recreation Plan, and developing recreational programs and activities for residents of the Town. (5-1-00, Art. 9)

Sec. 2-37.3. Capital Improvement Advisory Committee.

(a) The Select Board shall establish and appoint a Capital Improvement Advisory Committee (hereinafter referred to as the “Committee”), composed of:

- (i) one member of the Select Board as chosen by the Board;
- (ii) one member of the Planning Board as chosen by the Board;
- (iii) one member of the Finance and Advisory Board as chosen by that Board;
- (iv) the School Superintendent or his designee;
- (v) the Town Administrator;
- (vi) three residents of Stoneham selected by the Select Board;
- (vii) one member of the School Committee; and
- (viii) the Town Accountant

The Committee shall choose its own officers.

(b) The Committee shall study proposed capital projects and improvements involving major non-recurring tangible assets and projects which:

- (i) are purchased, or undertaken, at intervals of not less than five years;
- (ii) have a useful life of at least three (3) years; and
- (iii) incur a total cost over \$10,000.

(c) All Departments, officers, boards and committees, including the Select Board member and School Committee, shall, by February 28th of each year, give to the Committee, on forms prepared by the Committee, information concerning all anticipated projects requiring Town Meeting action during the ensuing five (5) years. The Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town.

(d) The Committee shall prepare an annual report recommending a Capital Improvement Budget for the next fiscal year and a Capital Improvement Program including recommended capital improvements for the following five (5) fiscal years. The report shall be submitted to the Select Board prior to the annual town meeting to assist the Select Board with their recommended Capital Budget.

(e) The Committee’s report and the Select Board member’s recommended Capital Budget shall be published and made available in a manner consistent with the distribution of the Finance and Advisory Board Town Meeting recommendations. The Committee shall file its report with the Town Clerk. (4-3-07, Art. 12)(10-1-12, Art, 7) (10-17-16, Art. 15)

Note. Water and Sewer Review Board.

The Water and Sewer Review Board was established by Article 2 of the 1983 Special Town Meeting; thereafter rescinded and replaced by Article 6 of the October 27, 1997 Special Town Meeting; amended by Article 30 of the October 26, 1998 Special Town

Meeting; then amended by Article 16 of October 22, 2015 Special Town Meeting. All votes were rescinded and the Water and Sewer Review Board was dissolved by Article 20 of the May 2, 2022 Annual Town Meeting.

The Town Administrator or his or her designee will hear water and sewer billing disputes and will make a binding decision as to a remedy, if any.

The Finance and Advisory Board shall meet yearly, to review the assessments and costs associated with the operation, maintenance and capital requirements of both systems to ensure such costs are just and equitable and in proportion to the benefits of the users.

The Finance and Advisory Board and the Town Administrator shall hold a public hearing to receive citizens input on the current year, the proposed budget and rates for the next fiscal year and any other information as may be requested concerning the water and sewer departments. Said meeting shall result in a rate recommendation made by the Town Administrator prior to Annual Town Meeting.

Editor's Note—See Water and Sewer Connection Fees for residential and commercial construction on filed with the Department of Public Works and the Town Administrator's office. See Chapter 2, section 2-18 as amended by Art. 21, 5-5-22)

ARTICLE VI. SELECT BOARD

State law reference - Select Board member, generally, G.L. c. 41, secs. 20-23C. Election of, G.L. c. 41, secs. 1 and 2.

Cross Reference - Rules and regulations of the Select Board, Ch. 16. See also Select Board member-Administrator Act, Secs. 2, 14 and 16.

Sec. 2-38. Composition; terms of members.

The Select Board shall consist of five members. The term of office for each member shall be for a term of three years. (3-15-49, Art. 28; 3-9-70, Art. 30)

Sec. 2-39. Powers, generally.

The Select Board member shall have the general direction and management of the property and affairs of the town in all matters not otherwise provided for by law, this code or other bylaws of the town. (1932 Bylaws, Art. 5, Sec. 1)

Cross reference—As to jurisdiction over town land and buildings, town administrator, etc., Select Board member-Administrator Act, Sec. 10(h).

Sec. 2-40. Appearance before state or county boards or commissions to protect interests of town.

The Select Board member may appear, either personally, by the town counsel or by special counsel, before any court or any state or county board or commission, to protect the interest of the town, but are not authorized by this code to commit the town to any course of action. (1932 Bylaws, Art. 5, Sec. 2)

Sec. 2-41. Signing and sealing of conveyances of land.

All conveyances of land or interests in land shall be signed by a majority of the Select Board, unless otherwise provided by law or by vote of the town; and shall be sealed with the town seal. (1932 Bylaws, Art. 5, Sec. 3)

State law reference - Conveyance of town real estate, G.L. c. 40, sec. 3. Abandonment of rights in realty, G.L. c. 40, sec. 14. Uniform Procurement Act—real property, disposition or acquisition, G.L. c. 30B, sec. 16.

Sec. 2-42. Reserved. (5-5-03, Art. 11)**Sec. 2-43. Custody of bonds of treasurer and tax collector.**

The bonds of the town treasurer and tax collector shall be kept in the custody of the Select Board. (1932 Bylaws, Art. 5, Sec. 5)

State law reference - Bonds of treasurer and tax collector, G.L. c. 41, sec. 35.

Sec. 2-44. Numbering of buildings.

The Select Board member may order numbers to be affixed to or painted on the buildings on any street, in their discretion. The owners of every house shall comply with such order within ten days thereafter. (1932 Bylaws, Art. 5, Sec. 6)

ARTICLE VII. TOWN COUNSEL

State law reference - Authority of town to employ counsel, G.L. c. 40, sec. 5.

Cross reference - Select Board member-Administrator Act, Sec. 2 (Appointment of Town Counsel).

Sec. 2-45. Appointment; qualifications; compensation.

The Select Board member shall, annually in the month of March, appoint a town counsel, who shall be an attorney and counselor at law. He shall receive such compensation

as the Select Board member may determine, subject to the appropriation of the town therefor. (1932 Bylaws, Art. 6, Sec. 1)

Cross reference - Select Board member's authority to appoint town counsel, Select Board member-Administrator Act, Sec. 2.

Sec. 2-46. Duties, generally; employment of additional or special counsel by Select Board member.

The town counsel shall act as the legal advisor and counselor of the town. It shall be his duty to examine or cause to be examined all titles to property in which the town may acquire an interest, to draft all deeds, obligations, contracts, bonds, leases, conveyances, agreements and other legal instruments, of whatever nature, which may be required by any bylaw, vote or action of the town or any board or officer to which the town or its agents may be a party and which by law, usage or agreement the town is to be at the expense of drawing.

The Select Board member may, however, in any case, at their discretion, employ additional or special counsel. (1932 Bylaws, Art. 6, Sec. 2)

Cross reference - Town Administrator's authority to appoint special counsel to assist with collective bargaining, Select Board member-Administrator Act, Sec. 10(l)

Sec. 2-47. Prosecution of suits by town; defense of actions against town; trial of cases before tribunals, referees, etc.

The town counsel shall prosecute all suits ordered to be brought by the town in accordance with the Select Board member-Administrator Act and shall appear before any court in the Commonwealth in defense of all actions or suits brought against the town or its officers in their official capacity. He shall try any and all cases to which the town shall be a party before any tribunal in this Commonwealth or before any board of referees or commissioners. (1932 Bylaws, Art. 6, Sec. 3, 5-5-03, Art. 11)

Sec. 2-48. Settlement of litigation.

The town counsel shall not make final settlement of any litigation to which the town is a party, unless he has been duly authorized so to do by the town administrator and/or a duly authorized officer or board of the town with the approval of the town administrator, if required. (1932 Bylaws, Art. 6, Sec. 4, 5-5-03, Art. 11)

Sec. 2-49. Prosecution of statute or bylaw violations.

The town counsel shall, if requested by the town administrator or a town official(s) or officer(s) having enforcement authority together with the approval of the town administrator,

prosecute in the local district court any case of violation of the statutes of the Commonwealth or provisions of this code or other bylaws of the town. (1932 Bylaws, Art. 6, Sec. 5, 5-5-03, Art. 11)

Sec. 2-50. Annual report.

The town counsel shall annually make a written report to the Select Board member to be printed in the annual town report, concerning the professional services rendered by him during the preceding year. Such report shall contain a statement of each case which has been settled, tried or otherwise disposed of by him during the year and also a statement of each case which is still pending, the status of such case, together with such other information and recommendations as he may deem advisable. (1932 Bylaws, Art. 6, Sec. 6)

Cross reference - Filing and publication of annual reports, Sec. 2-31.

Sec. 2-51. Representation of town at hearings of General Court committees.

The town counsel shall have authority to represent the town at any hearing in which it is interested before a committee of the General Court. (3-9-70, Art. 30)

ARTICLE VIII. TOWN CLERK

State law reference - Town clerk, generally, G.L. c. 41, secs. 12-19J. Marriage licenses, G.L. c. 207, secs. 19-37. Sporting, hunting, fishing and trapping licenses, G.L. c. 131, sec. 6. Certain license granted by local licensing authority - signature, contents, recording, G.L. c. 140, sec. 202. Records - births, marriages, and deaths - G.L. c. 40, sec. 48. Enumeration of fees, G.L. c. 262, sec. 34. Oaths of office, administration, G.L. c. 41, sec. 107. Resignations of municipal officers, G.L. c. 41, sec. 109. Claims for defects in public ways, town's agent, G.L. c. 84, sec. 19. Board of Registrars, member, G.L. c. 41, sec. 15.

Cross reference - Select Board member-Administrator Act, Sec. 14 - election and term.

Sec. 2-52. Duties, generally.

The town clerk shall keep and cause to be permanently bound one or more files of the town reports. He shall notify or cause to be notified all persons chosen or elected by the town or appointed on committees of their election, choice or appointment. He shall furnish all boards and committees with a copy of all votes affecting them. He shall not allow original papers or documents of the town to be taken from his office, except as they remain in his custody or by authority of law. (1932 Bylaws, Art. 7, Sec. 1)

State law reference—Duties of town clerk, generally, G.L. c. 41, sec. 15.

Sec. 2-53. Copies of town actions affecting officers and committees.

The town clerk shall furnish the various town officers and committees a copy of such action of the town as affects them respectively immediately after the town meeting. (1932 Bylaws, Art. 7, Sec. 2)

Sec. 2-54. Vital statistics reports.

The town clerk shall make a report upon the vital statistics for publication in the annual report. (1932 Bylaws, Art. 7, Sec. 3)

Sec. 2-55. Abstracts of official records of the town meetings.

The town clerk shall submit to the Select Board member an abstract of the official records of all town meetings, and such abstracts shall be published in the town report. (1932 Bylaws, Art. 7, Sec. 4)

State law reference -Record Town Meeting votes, G.L. c. 41, sec. 15.

Sec. 2-56. Recording, filing and indexing of deeds, easements, etc.; keeping true copies of deeds and conveyances of Select Board member.

The town clerk shall record, file and index all deeds, easements and other papers and documents having to do with the town's interest in any land and see that every conveyance to the town of any interest in land is properly recorded in the registry of deeds. He shall keep a true copy, in a book to be kept for such purpose alone, of all deeds or conveyances executed by the Select Board member. (1932 Bylaws, Art. 7, Sec. 5)

ARTICLE IX. TREASURER AND TAX COLLECTOR

State law reference - Treasurer and tax collector, generally, G.L. c. 41, secs. 35-43A. Appointment by Town Administrator, Select Board member-Administrator Act, Sec. 13. Act as treasurer-custodian for retirement board, G.L. c. 32, sec. 23(2).

Cross reference - Custody of bonds of treasurer and tax collector, Sec. 2-43, Select Board member-Administrator Act, Sec. 13.

Sec. 2-57. Treasurer—Custody of bonds and insurance policies of town.

The treasurer shall be the custodian of all bonds belonging to the town; except, that the bonds of the treasurer and tax collector shall be in the custody of the town administrator. (1932 Bylaws, Art. 8, Sec. 1, 5-5-03, Art. 11)

Sec. 2-57.1. Reserved. (5-5-03, Art. 11)**Sec. 2-58. Same—Annual report.**

It shall be the duty of the treasurer to make, in the annual printed report of the town, a report which shall specifically state the objects, if any, for which the debt of the town may have been increased during the preceding year. The report shall give a classified statement of the indebtedness of the town and the objects for which it was incurred. Such report shall also include:

(a) A list of all notes issued during the year and the purposes for which the money was borrowed giving the dates, amount, term, rate of interest, time of maturity, the premium, if any, received thereon and the names of the parties of whom the funds were borrowed.

(b) A list of all notes paid during the year, and a list of all outstanding notes with the dates on which they will mature.

(c) A full exhibit of all moneys, properties and securities, which may be placed in his charge by virtue of any statute or bylaw or by virtue of any gift, devise, bequest or deposit. (1932 Bylaws, Art. 8, Sec. 2, 5-5-03, Art. 11)

Cross reference - Filing and publication of annual reports, Sec. 2-31.

Sec. 2-59. Same—Sales of land acquired by tax foreclosure.

The town treasurer may sell at any time, after advertising in the local newspapers for one week, any land acquired by the town through foreclosure of a tax title or through purchase of land of low value and execute, acknowledge and deliver on behalf of the town all papers necessary to effectuate any such sale; provided, that no such land shall be sold for less than the amount charged against it on the treasurer's books, except with the approval of the Select Board member. (3-16-42 Art. 55; 3-31-47, Art. 55)

Sec. 2-60. Duties of tax collector.

The collector of taxes shall collect, as town collector, all accounts due the town. (1932 Bylaws, Art. 8, Sec. 3)

State law reference—General duties of collector, G.L. c. 60, sec. 1 et. Seq.

Sec. 2-60A. Non-payment of municipal taxes, charges, etc.: License and permit denial, suspension and revocation.

Section 1. The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each board, commission, department, officer or other licensing authority of the town, 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 (12) month period, and that such party has not filed in good faith a pending application for abatement of such a tax or a pending petition before the appellate tax board or entered into and fully complied with a payment agreement with the Town.

Section 2. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on the 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 the applicable provisions of law, and the party is given a hearing, to be held not less than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted under this section. Any findings made by the licensing authority pursuant to the hearing hereunder shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be re-issued or renewed until the licensing 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 Town as of the date of said certificate.

Section 3. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of such license or permit; provided, however, that the holder be given notice as required by applicable provisions of law.

Section 4. The Select Board may waive such denial, suspension or revocation if he finds that is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268 in the business or activity conducted in or on said property.

Section 5. This bylaw shall not apply to licenses and permits specifically exempted from the operation thereof under Section 57 of Chapter 40 of the General Laws, as amended.

(Licenses currently exempted by Section 57 of Chapter 40: Open Burning, G.L. c. 48, sec. 13; Bicycle Permits, G.L. c. 85, sec. 11A; Sales of Articles for Charitable Purposes, G.L. c. 101, sec. 33; Children Work Permits, G.L. c. 149, sec. 69; Clubs, Associations Dispensing Food or Beverage License, G.L. c. 140, sec. 21E; Dog Licenses, G.L. c. 140, sec. 137; Fishing, Hunting, Trapping License, G.L. c. 207, sec. 28; Theatrical Events, Public Exhibition Permits, G.L. c. 140, sec. 181.)

(5-4-92, Art. 18; 5-2-95, Art. 5)

State law reference - G.L. c. 40, sec. 57.

Sec. 2-60B. Revolving Fund Bylaw.

(a) *Purpose.* This bylaw establishes and authorizes revolving funds for use by town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by Mass. Gen. L. Chapter 44, Section 53E½.

(b) *Expenditure Limitations.* A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

- (1) Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- (2) No liability shall be incurred in excess of the available balance of the fund.
- (3) The total amount spent during a fiscal year shall not exceed the amount authorized by town meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Select Board member and Finance and Advisory Board.

(c) *Interest.* Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.

(d) *Procedures and Reports.* Except as provided in Massachusetts General Laws Chapter 44, Section 53E½ and this bylaw, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

(e) *Authorized Revolving Funds.*

(1) Recreation Department Revolving Fund.

- (a) Fund Name. There shall be a separate fund called the Recreation Department Revolving Fund for the use of the Recreation Department and the Director of Recreation.
- (b) Revenues. The Town Accountant shall establish the Recreation Department Revolving Fund as a separate account and credit to the fund all of the revenue received by the Recreation Department from recreation programs and activities.
- (c) Purposes and Expenditures. During each fiscal year, the Recreation Department may incur liabilities against and spend monies from the Recreational Department Revolving Fund to cover the costs associated with the operation of recreation programs and activities, including salaries, purchasing equipment, supplies, and services.
- (d) Fiscal Years. The Recreation Department Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

(2) Farmers' Market Revolving Fund.

- (a) Fund Name. There shall be a separate fund called the Farmers' Market Revolving Fund for the use of the Director of Planning and Community Development to cover the costs and expense of

conducting a Farmers' Market on approved town property, including the Town Common.

- (b) Revenues. The Town Accountant shall establish the Farmers' Market Revolving Fund as a separate account and credit to the fund all of the revenue received by the Farmers' Market.
- (c) Purposes and Expenditures. During each fiscal year, the Director of Planning & Community Development may incur liabilities against and spend monies from the Farmers' Market Revolving Fund to cover the costs associated with the operation of the Farmers' Market and related programs and activities.
- (d) Fiscal Years. The Farmers' Market Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

(3) Health Services Revolving Fund.

- (a) Fund Name. There shall be a separate fund called the Health Services Revolving Fund for the use of the Board of Health.
- (b) Revenues. The Town Accountant shall establish the Health Services Revolving Fund as a separate account and credit to the fund all of the revenue and fees received by the Board of Health from vaccinations, flu shots, or other health services from individuals or their health insurance providers.
- (c) Purposes and Expenditures. During each fiscal year, the Board of Health may incur liabilities against and spend monies from the Health Services Revolving Fund for expenses related to medical equipment, medical supplies used to provide the vaccinations or flu shots.
- (d) Fiscal Years. The Health Services Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018.

(4) Senior Center Revolving Fund.

- (a) Fund Name. There shall be a separate fund called the Senior Center Revolving Fund for the use of the Council on Aging and the Director of the Council on Aging.
 - (b) Revenues. The Town Accountant shall establish the Senior Center Revolving Fund as a separate account and credit to the fund all fees collected through user fees of Council on Aging programs and other monies charged or received by the Council on Aging for transportation.
 - (c) Purposes and Expenditures. During each fiscal year, the Council on Aging may incur liabilities against and spend monies from the Senior Center Revolving Fund for ongoing salaries, supplies, equipment and programs.
 - (d) Fiscal Years. The Senior Center Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018. (5-7-18 Art.13)
- (5) Energy Revolving Fund.
- (a) Fund Name. There shall be a separate fund called the Energy Revolving Fund for the use of the Select Board.
 - (b) Revenues. The Town Accountant shall establish the Energy Revolving Fund as a separate account and credit to the fund all of the revenue received by the Town from energy rental surcharges and any type of incentive payments from utility companies received after a project is completed (a/k/a pay for performance payments).
 - (c) Purposes and Expenditures. During each fiscal year, the Town may incur liabilities against and spend monies from the Energy Revolving Fund to cover the costs associated with energy efficient upgrades and energy-related projects.
 - (d) Fiscal Years. The Energy Revolving Fund shall operate for fiscal years that begin on or after July 1, 2018. (10-15-18, Art.6)
- (6) Prevention and Outreach Revolving Fund.

- (a) Fund Name. There shall be a separate fund called the Prevention and Outreach Revolving Fund for the use of the Stoneham Coalition for a Safe and Healthy Community.
- (b) Revenues. The Town Accountant shall establish the Prevention and Outreach Revolving Fund as a separate account and credit to the fund all of the revenue received by the Town from community engagements, programs and donations.
- (c) Purposes and Expenditures. During each fiscal year, the Town may incur liabilities against and spend monies from the Prevention and Outreach Revolving Fund to cover the costs associated with substance use prevention, mental health and treatment services.
- (d) Fiscal Years. The Prevention and Outreach Revolving Fund shall operate for fiscal years that begin on or after July 1, 2020. (06-29-20, Art. 14)

State law reference - G.L. c. 44, sec. 53E½.

ARTICLE X. HOUSING AUTHORITY

Sec. 2-61. Established.

In accordance with provisions of Section 26K, Chapter 574, Acts of 1946, and any subsequent amendment thereto, there is hereby established a Housing Authority for the town. (3-22-48)

State law reference - Housing and urban renewal and housing authorities, G.L. c. 121B.

ARTICLE XI. PLANNING BOARD

State law reference - Planning Board, G.L. c. 41, secs. 70-72 and 81A-81B. Subdivision control law, G.L. c. 41, secs. 81K-81GG.

Cross reference - Authority pursuant to Zoning bylaws, Ch. 15, Sec. 7.3. Rules and regulations of the Planning Board with respect to approval of subdivisions, Ch. 17. Select Board member-Administrator Act, Sec. 14-election and term.

Sec. 2-62. Establishment; composition.

The town hereby establishes a Planning Board under the provisions of General Laws, Chapter 41, Section 81A. Such board shall consist of five members to be elected by ballot at the annual town meeting in accordance with the provisions of the statute. (3-9-42, Art. 3)

ARTICLE XII. COUNCIL ON AGING

State law reference -Establishment of Council on Aging, G.L. c. 40, sec. 8B.

Cross reference - Council on Aging, Director, Sec. 10-123; Council on Aging social out-reach clerical worker, Sec. 10-122.

Sec. 2-63. Established; composition; appointment of members.

There is hereby established a council on aging, consisting of from seven to eleven citizens of the town, appointed by the Select Board for terms not to exceed four years for any member. Such terms shall be staggered so that not more than three appointments shall be made in any calendar year. Members may be reappointed for consecutive terms. (3-22-73, Art. 66)

Sec. 2-64. Duties.

The duties of the council on aging shall be to:

- (a) Identify the total needs of the community's elderly population.
- (b) Educate the community and enlist support and participation of all citizens concerning these needs.
- (c) Design, promote, or implement services to fill these needs, or coordinate present existing services in the community.
- (d) Promote and support any other programs which are designed to assist elderly programs in the community.
- (e) The council on aging shall cooperate with the Commonwealth office of elder affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange and program planning which exists for better community programming for the elderly.
- (f) The council on aging shall give an annual report to the Select Board with a copy of that report directed to the Commonwealth office of elder affairs. (3-22-73, Art 66)