GENERAL SUBJECTS **Penalties**

In regard to penalty provisions, the Town would seem to be limited only by the Municipal Home Rule Law, which authorizes legislative bodies of local governments to prescribe that offenses constitute misdemeanors, violations or traffic infractions.

Except where statutory provisions exist for certain types of regulations (such as vehicles and traffic), we suggest that the penalty provisions may generally be standardized to designate offenses as violations, punishable by a maximum fine of $250 or by imprisonment for not more than 15 days, or both. If a penalty at the misdemeanor level is desired for certain offenses, we generally recommend that those provisions be punishable by a maximum fine of $1,000 or by imprisonment for not more than one year, or both. **[Reference: See Penal Law §§ 55.10 and 80.05.]** Any legislation for which specific penalties are provided by statute should be revised so as to conform to those statutory provisions.

Where the Town's penalty provisions do not reflect standardized language or are not in compliance with statute, we have made specific mention in the chapter-by-chapter review.

Fees

This Editorial and Legal Analysis also provides a good opportunity for the Town to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. All fees should be reviewed to ensure that they adequately reflect the current administrative and enforcement costs to the Town. We have addressed statutory fees and occurrences of specific fees in the chapter-by-chapter review below.

Question CODE-008 **Global Nomenclature Changes**

This codification project provides an opportunity to ensure consistent use of titles of officers, departments, boards, etc. Are there any other global nomenclature changes you wish to impose throughout the Code?

Question 4-001 **Credit Card Use Policy**

This chapter adopts the 2024 credit card use policy. Is this policy current and desired for inclusion in the Code?

Question 6-001 **Defense of Town Employees**

This chapter, as last amended in 1997, establishes that the Town shall provide for the defense of an employee in civil actions. Does this chapter continue to reflect current Town practice?

Section 6-3 requires the employee to submit the original or a copy of any summons, complaint or notice to the Town Attorney or Supervisor within five days after the employee is served. The corresponding provision in § 18, Subdivision 5, of the Public Officers Law sets this time frame at 10 days. Is any revision desired?

Question 8-001 **Employee Drug & Alcohol Testing Policy**

This chapter, adopted by resolution in 1996, sets out employee drug and alcohol testing policy. The Town may wish to take this opportunity to review the provisions of this chapter to determine if they remain up-to-date with current practice. Are any revisions necessary?

Question 9-001 **Ethics, Code of**

This 2010 chapter sets forth the Town's Code of Ethics, as required by General Municipal Law § 806.

We note that the Office of the State Comptroller offers a modern, comprehensive Model Code of Ethics at this site: https://www.osc.state.ny.us/local-government/resources/ethics . Click the link for "Model Code of Ethics - Local Governments [docx]" and check the lower left of your screen for a download. This model complies with the most recent revisions to the General Municipal Law. The Town may wish to a) download the model in Word and save it locally; b) customize it (search on brackets [ ]); and c) attach it. We will then include it in the new Code and provide for its enactment via the Code Adoption Local Law.

Question 12-001 **Investment Policy**

This chapter was adopted by a 1995 resolution. We note that General Municipal Law § 39 requires every local government to adopt an investment policy and review it annually. Is any revision necessary?

Question 17-001 **Appearance Tickets**

This chapter, as last amended in 1997, sets out the authority for certain officials to issue appearance tickets. Does this chapter continue to reflect current Town practice?
Section 17-3 requires personal service for appearance tickets other than for a parking violation. We note that L. 2004, c. 415, § 1, amended § 150.40, Subdivision 2, of the Criminal Procedure Law to insert," except that an appearance ticket issued for the violation of a local zoning ordinance, or of a local building or sanitation code may be served in any manner authorized for service under § 308 of the Civil Practice Law and Rules." Is any revision necessary?

Question 18-001 **Personnel Policy**
This chapter, adopted in 1991 and last amended in 1997, sets out Town personnel policies. The Town may wish to take this opportunity to review the provisions of this chapter to determine if they remain up-to-date with current practice. Are any revisions necessary?

Question 20-001 **Procurement Policy**
This 2013 resolution adopts the Town's procurement policies and procedures. Effective January 1, 2009, a new Subdivision 2f was added to § 104-b of the General Municipal Law (and subsequent subdivisions renumbered) by L. 2007, c. 402, which requires that procurement policies "identify the individual or individuals responsible for purchasing and their respective titles." Is this the most recent procurement policy? We note that one option is to remove this policy from the Code, replacing it with a reference page, in which case this chapter would not have to be supplemented every two years when the information identifying the individual or individuals responsible for purchasing and their respective titles is updated. Are any revisions desired?

Question 22-001 **Public Access to Records**
This article, adopted in 1975, generally satisfies the requirements of the Freedom of Information Law (Article 6 of the Public Officers Law) by providing regulations on the availability, location and types of records to which the public should have access. If you wish to review New York State's most current MODEL REGULATIONS, please refer to the following website, fill in the model completely, adopt it by resolution and submit your revised regulations, with the date of adoption, when you return this Editorial Analysis: https://opengovernment.ny.gov/freedom-information-law.
This resolution from 1996 establishes a records management policy. Does this article reflect current Town practice? Is records management adequately covered in Articles I and III of this chapter?

Question 30-001 **Public Assemblies**
This chapter, last amended in 1997, regulates public assemblies that exceed 2,500 persons. Does this chapter continue to reflect current Town practice?
Are any revisions necessary for the liability coverage minimums stated in this subsection? This section was last amended in 1997.
Is the amount of the performance bond or letter of credit specified here still sufficient? This section was last revised in 1997.
This section was last amended in 1997. Does the Town want to revise the amount of the stated fees in this subsection, or refer instead to fees set by resolution?
This subsection imposes a penalty of not less than $100 nor more than $1,000, and/or 15 days' imprisonment, for each violation of this chapter. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?

Question 36-001 **Bingo**
This 1965 ordinance, authorizing and controlling bingo within the Town, has not been amended to reflect the current provisions of the controlling statutes. For instance, the list of restrictions in § 36-3 does not match the restrictions set forth in General Municipal Law § 479.
A. This chapter could be replaced by legislation which simply authorizes the conduct of bingo games in the Town. This would eliminate the need for future revision of this chapter. Such legislation could read as follows:
§ XXX-1. Conduct authorized.

It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Town of Windsor, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.
The following section ***could be added if authorization of Sunday games is desired****. Current § 36-3A appears to prohibit Sunday games.*
§ XXX-2. Sunday games.
Any game of bingo conducted within the Town pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."
B. Alternately, the Town could revise this chapter to reflect the current statutory provisions following Town officials' review of this local legislation in conjunction with General Municipal Law § 475 et seq.
NOTE: If an option to revise this ordinance is chosen, Executive Law § 439-a requires filing a copy of such amendment with the New York State Gaming Commission within 10 days of adoption.

Question 39-001 **Buildings, Unsafe**
This chapter, adopted in 2000, regulates unsafe buildings. Does this local law continue to reflect current Town practice?
This local law does not contain a penalty section. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired? Should a penalty be added?
Section 39-7 requires that, where the Town provides for demolition and removal, contracts in excess of $5,000 be awarded through competitive bidding; the Town may wish to take a look at state law provisions such as General Municipal Law § 103, which currently sets the threshold for competitive bidding at $35,000. Are any revisions desired?

Question 43-001 **Administration and Enforcement**
This article, adopted in 2023, provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code). Are any revisions desired?

Question 44-001 **Local Dog Licensing**
This article, as last amended in 2013, provides for local dog licensing fees. The Town may wish to review this article in light of the 2010 changes to the dog licensing laws that moved the remainder of the NYS dog licensing function to local municipalities. Is any revision desired?
The local licensing fee of $10 per dog was last revised in 2000. Are any revisions desired?
The local license fee for a purebred dog in § 44-2A was last revised in 2000. Is any revision desired?
The local kennel fees in Subsection B were last revised in 2013. Are any revisions desired?
Section 44-9A(2) prohibits habitual howling, barking, crying or whining. To help with enforcement, the Town may wish to consider adding a definition of "habitual" as follows:
"Habitual – A dog barking, whining, etc., for repeated intervals of at least **(insert number of minutes** – 5, 10, 15, etc.) minutes with less than (**insert –** 1, 2, 4, etc.) minutes of interruption, which can be heard by any person, including a law enforcement officer or dog control officer, from a location outside of the owner's or caretaker's premises."
Section 44-14 sets a fine of not less than $25 nor more than $50 for a first violation, and not less than $50 nor more than $100 for subsequent violations within three years. The Town may also wish to review any statutory penalties, such as those in Agriculture and Markets Law § 118. Is any revision desired? For instance, perhaps an introductory phrase could be added that reads "Except as otherwise provided in Agriculture and Markets Law § 118 . . . " If revisions are desired, please provide specific wording.

Question 51-001 **Flood Damage Prevention**
This chapter, last amended in 1992, establishes standards for construction and development in flood hazard areas, consistent with the model legislation promulgated under the National Flood Insurance Program, with reference to the1992 Flood Insurance Study and accompanying maps. Are any revisions necessary?

We recommend that the Town review Ch. 51, Flood Damage Prevention, as adopted in 1988, against the provisions of Chapter 93, Article XII, Flood Hazard District, which was added to the zoning in 1975 (and also including five terms defined both in § 93-4 and in § 51-5, the definitions section for the Flood Damage Prevention chapter) to determine if any revisions are necessary to prevent any inconsistencies and/or conflicts. Please provide any revisions necessary.

Question 52-001 **Games of Chance**
This chapter, as adopted in 1980, authorizes games of chance in the Town. Are any revisions necessary?
We note that the restrictions on games of chance, as established by § 189 of the General Municipal Law, have been amended several times since the adoption of this chapter. The Town may wish to revise § 52-4 to simply refer to statutory restriction in § 189 of the General Municipal Law to prevent inconsistencies as follows:
Restrictions on games of chance shall be as established in § 189 of the General Municipal Law.

Question 57-001 **Hawkers, Peddlers and Solicitors**
This chapter, adopted in 1967 and last amended in 1997, requires a license to act as a hawker, peddler or solicitor. Does this chapter continue to reflect current Town practice?
Section 57-6 sets a license fee of $15. Is this fee current and adequate?
Section 57-12A sets a fine of not more than $25 for failure to obtain a license. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?
Section 57-12B sets a civil fine of not more than $25 for other violations of this chapter. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?

Question 64-002 **Manu. Homes and Parks**
Section 64-9A sets license fee of $100. Is this fee current and adequate?
Section 64-9B provides for a penalty of $10 for delinquent license. Is this penalty current and adequate?
Section 64-24A sets a fine of not more than $100 or imprisonment of not more than 15 days. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?

Question 68-001 **Noise Control**
This chapter, as adopted in 2016, sets regulations for noise control in the Town. Are any revisions necessary?
Section 57-12A sets a fine of not less than $50 and not more than $250 for failure to obtain a license, with no imprisonment term. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?
Does the Town want to revise the amount of the civil penalty set forth in this subsection?

Question 72-001 **Property Maintenance**
This chapter, adopted in 2004, provides for enforcement of the New York State Property Maintenance Code as authorized by Section 106.1 of the Property Maintenance Code. The Town should review this chapter with the current 2025 New York State Property Maintenance Code to determine any necessary revisions. It appears that administration and enforcement is now covered under Section 103.1. Are any revisions necessary?
Subsections I(2) and (3) impose fixed fines for first and subsequent violations of the Property Maintenance Code, with no provision for imprisonment. In accordance with our general recommendation regarding penalties in Question CODE-001, are any revisions desired?
We note that the fine imposed for a first offense is stated in mandatory terms ("… Court must impose"), which is somewhat unusual. If the standardized penalty provisions are desired, perhaps these subsections could be combined to read as follows:
Upon conviction, at trial, or by plea of guilty, of any violation of the Property Maintenance Code of the State of New York, the violator shall be subject to the following penalties for each count upon which a conviction or plea of guilty has occurred, together with any and all applicable court costs and surcharges: a fine of not less than $100 and not more than $250 or imprisonment for not more than 15 days, or both. When such violator has been previously convicted of violation of the Property Maintenance Code of the State of New York within the prior 180 days from the date that the cure period on the notice served upon that person had expired, each violation shall be considered a subsequent offense, subject to the maximum fine and/or term of imprisonment.

Question 75-001 **Sewer Use**
This chapter, originally adopted in 1992 and last amended in 2025, establishes sewer regulations. The Town may wish to take this opportunity to review this chapter to endure that it continues to reflect current standards and practices. Are any revisions necessary?
Section 75-2 contains a definition for both "Attorney" (added in 1997) and "Town Attorney" (added in 2009). Should one of these definitions be deleted?
Added in 2009, this subsection imposes a fee of zero dollars for providing a sewer pump. Are any revisions desired?
Last revised in 2009, this subsection characterizes certain violations of this chapter as misdemeanors punishable by fines ranging from a minimum of $100 to a maximum of $500, with no terms of imprisonment. In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?
Does the Town want to revise the civil penalties, last revised in 2009, for industrial discharger violations?
In accordance with our general recommendation regarding penalties in Question CODE-001, does the Town want to revise the misdemeanor term of imprisonment and/or revise the minimum fine?

Question 76-001 **Residency Restrictions**
It appears that local legislation restricting where registered sex offenders can live is preempted by a 2015 Court ruling; see People v Diack 2015 NY Slip Op 01376, decided on February 17, 2015, Court of Appeals Pigott, J. Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. Should this article be removed as preempted?

Question 77-001 **Snowmobiles**
This chapter, originally adopted in 1973 and last amended in 1997, regulates the operation of snowmobiles in the Town. Are any revisions necessary?
Is this list of highways in § 77-4A current?
Are the regulations in § 77-5 current? For instance, the Town may wish to compare § 77-5A with the provisions of § 25.19 of the Parks, Recreation and Historic Preservation Law, regarding youthful operators; this section was reenacted by L. 2005, c. 609, to change age requirements. Are any revisions required?
Section 77-7 sets forth penalties for violations of this chapter. We note that $100 used to be the maximum permitted by statute. However, that restriction has been lifted. Subdivision 2 of § 27.11 of the Parks, Recreation and Historic Preservation Law was amended by L. 2001, c. 338, to delete the phrase “except that the maximum fine may not exceed $100.” In accordance with our general recommendation regarding penalties in Question CODE-001, is any revision desired?

Question 80-001 **Notification of Defects**
This article, adopted in 1999, outlines notification requirements for actions against the Town. No changes are recommended.
This 2009 article prohibits the deposit or tracking of debris from adjacent properties onto the Town streets. If it continues to reflect Town practice, no changes are recommended.

Question 82-001 **Subdivision of Land**
This chapter, adopted in 2009, contains the Town's Subdivision Regulations. Are any revisions desired?
This chapter does not contain a penalty section. Should one be added? Town Law § 268 provides as follows:
1. The town board may provide by local law or ordinance for the enforcement of this article [Article 16, Zoning and Planning] and of any local law, ordinance or regulation made thereunder. A violation of this article or of such local law, ordinance or regulation is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such local law, ordinance or

regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
This application fee for approval of a preliminary plat has not changed since original adoption in 2009. Are any revisions desired?

Question 84-001 **Senior Citizens Tax Exemption**
This article provides a senior citizens tax exemption pursuant to Real Property Tax Law (RPTL) § 467 and was last amended in part in 2011. The wording in the statutory section has been amended a number of times subsequent to adoption of these provisions. The Town may wish to thoroughly review the statute to determine whether any revisions are desired. A few items of note:

- The exemption was extended to siblings, in addition to husband and wife (L.1992, c.506)
- The maximum income for the 50% exemption was recently increased to $50,000 (L.2022, c.488)

Are any revisions desired?
This 2010 article provides for the business investment exemption in accordance with § 485-b of the Real Property Tax Law. Are any revisions necessary?
This 2010 article provides for the Cold War veterans exemption in accordance with § 458-b of the Real Property Tax Law. Are any revisions necessary?

Question 89-001 **Penalties for Offenses**
Section 89-5 provides incremental fines for violations not otherwise a violation subject to the penalties in the Vehicles and Traffic Law. It appears that this section has not been revised since 1969. Are any revisions necessary?
This section was last revised in 1995, and specifies fines from $15 to $25 for ten different parking offenses listed in Subsections A(1) through A(10). Does the Town want to revise any or all of these fines?
Section 89-9 contains general parking regulations and should be reviewed in conjunction with Vehicle and Traffic Law § 1202, Stopping, standing or parking prohibited in specified places, which appears to cover most, if not all, of the regulations found in § 89-9. The Town Attorney should be consulted as to whether this section should be retained.
Section 89-13 prohibits operating a motor vehicle unless it is equipped with rubber tires. We note that Vehicle and Traffic Law § 375, Subdivisions 35 and 35-a, appear to address tire requirements. Does the Town continue to enforce this section?
The stop and yield intersections established in this article have not been updated since 1991. Are any revisions necessary?

Question 93-001 **Zoning**
This ordinance, as amended through 2025, sets forth the Town's Zoning regulations. Are any revisions necessary other than the issues noted in subsequent questions?
The Town may wish to review site plan review requirements and timeframes in § 93-21.1B and C and § 93-29.1B and C against the provisions of § 274-a, Subdivision 8, Town Law, Public hearing and decision on site plans. Are any revisions necessary?
Immediately before the Applicant(s) signature block on this application form, the form states: "I(we), the undersigned, understand that a $25 filing charge must accompany this application…" This form was last revised in 2000. Is the amount of the stated filing charge still current and adequate?
Does the Town want to revise the $50 processing fee for registration of a junkyard? It was added in 1991.
This section was last revised in 1998. Is the $7,500 deposit still adequate to secure recovery of expert and consultant expenses related to telecommunications special use permit applications?
This section was adopted in 1998. Are the application fees established in this section adequate to cover the current costs of special use permit application processing related to new tower construction and collocation projects?
The minimum coverage amounts § 93-98A(1) appear to have not been updated since adoption in 1998. Are any revisions to the coverage minimums desired?
The minimum coverage amounts in § 93-98A(2) appear to have not been updated since adoption in 1998. Are any revisions to these coverage minimums desired?