

types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Wilmington. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000; or to take any other action related thereto. (Adopted 12/16/17, AG approval 04/04/18)

Section 56 Ban on Plastic Bags

This action shall ban town stores from the use of disposable, single use plastic bags at retail establishment, food establishments, grocery stores, and other establishments at which goods are purchased. This excludes paper bags and bags intended for produce/meat, newspaper, and laundry/dry cleaning articles. Residents will be encouraged to bring their own reusable shopping bags. If shoppers would like to use a paper bag, stores can determine a fee to offset the cost.

Section 1. Purpose and Intent:

The purpose of this bylaw is to limit the amount of plastic that enters and impacts the environment of Wilmington, and reduce the amount of trash that ends up on the streets and in landfills by using recyclable, reusable, or compostable bags instead of thin-film single-use plastic checkout bags.

Section 2. Definitions:

“Disposable, single use, plastic bags” – Any checkout bag made predominately of plastic derived from either petroleum, natural gas, or a biologically based source, such as corn or other plant sources, which is provided to a customer at the point of sale. Typically with plastic handles, these are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products. This includes bags that are not commercially compostable.

“Paper Bags”: A paper bag that is 100 percent recyclable and contains at least 40 percent post-consumer recycled content, and displays the words “Recyclable” and “made from at least 40% post-consumer recyclable content” in a visible manner on the outside of the bag.

“Retail Establishment”: Any commercial enterprise, whether for or not-for-profit, including, but not limited to the following: pharmacies, convenience stores, liquor stores, seasonal and temporary business, jewelry stores, clothing stores, household goods stores and any other business that offers the sale and display of merchandise.

“Food Establishment”: Any establishment whose purpose is to prepare and vend food and drink items.

“Grocery Store”: Any establishment where more than fifty percent of the gross floor area is devoted to the sale of food products for home preparations and consumption, and home care and personal care products.

The term “disposable, single-use, plastic shopping bag” shall not include: (1) Reusable bags; (2) Produce/meat bags; (3) Newspaper bags; or (4) bags for laundry/dry cleaning articles.

Section 3. Enforcement and effective date:

Enforcement:

- a. The Town of Wilmington Board of Health and its Director/Agent or their designee shall have the authority to administer and enforce this bylaw.
- b. The following penalties shall apply:
 1. First offense: Written warning, each day of violation after written notice, is a separate violation.
 2. Second offense: \$100.00
 3. Third offense: \$300.00 and appearance in front of the Board of Health, any subsequent offenses: \$300.00.

Effective date: This Bylaw shall take effect one year after acceptance on May 5, 2019, following approval of the Bylaw by the Attorney General; or take any other action related thereto.

CHAPTER 6
INVALIDITY

The invalidity of any section or provision of these by-laws shall not invalidate any other section or provision. The repeal of said existing by-laws and the adoption of the aforesaid by-laws not to take effect until approved by the Attorney General and posted.

HOW TO AMEND THESE BY-LAWS

These by-laws may be amended or other by-laws may be adopted at any town meeting. One or more articles for such purposes may be inserted in the warrant for a town meeting by the Selectmen or by the procedures described in the following excerpts from the General Laws, Chapter 39, Section 10: "The Selectmen shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by ten or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by one hundred registered voters or by ten percent of the total number of registered voters of the town whichever number is the lesser.

The written request of registered voters for the insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence with street and number, if any the board of registrars of voters shall check and forthwith certify the number of signatures so checked.

CHAPTER 592

AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR
THE TOWN OF WILMINGTON

BE IT ENACTED, ETC., AS FOLLOWS:

SECTION 1. Scope of the Act. Whenever any board, commission, committee or office is provided for or referred to in this act, the term of office of the members or incumbents thereof, the number of members and the powers, duties and obligations appertaining thereto, shall be the same as may now or hereafter be fixed by general provisions of law with respect to town boards, commissions, committees or offices having corresponding powers or duties, or by the by-laws of the town, now or hereafter in force, except as expressly otherwise provided herein.

Nothing in this act shall be construed to affect in any manner any by-law of the town now in effect or which may be adopted hereafter, or the power of the town to amend, alter or adopt any by-law, or the operation or applicability to the Town of Wilmington of any general or special law now or hereafter in effect, except so far as may be expressly provided herein.

SECTION 2. Elective Officers. Beginning with the first town election following acceptance of this act, the only board, officers or committees to be elected by the voters shall be the Selectmen, the School Committee, the Moderator, and members of the Wilmington Housing Authority. Every other elective office, board or commission shall be terminated as herein provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board or commission existing at the time of such acceptance and terminated hereunder shall continue until such first town election and until the appointment and qualification of his successor, if any, and thereafter the said offices, boards or commissions shall be abolished, and all powers, duties and obligations conferred or imposed thereon by law shall be conferred and imposed upon the town manager, with the exception herein provided.

SECTION 2A. Recall of Elected Officers. Any person who holds an elected town office with more than six months remaining of the term of office may be recalled from the office by the voters in the manner as herein provided.

(a) One hundred and fifty or more voters may file with the Town Clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The signatures on such petition shall contain the names of at least ten voters in each of the precincts into which the town is divided for the purpose of electing town officers. If the said petition is found to be valid the Town Clerk shall thereupon deliver to the ten persons first named on such petition, petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by printing or typewriting; they shall be addressed to the Board of Selectmen; they shall contain the names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. The recall petition shall be returned to the Town Clerk within twenty days following the date they are issued, signed by at least ten percent of the total number of persons registered to vote as of the date of the most recent town election. The Town Clerk shall within four (4) working days, commencing the day after submission with him/her submit the petitions to the Board of Registrars which shall within seven (7) working days, certify thereon the number of signatures which are names of voters.

(b) If the petitions shall be certified by the Registrars of Voters to be sufficient, the Town Clerk shall within five (5) working days, or at the next meeting of the Board of Selectmen submit the same with his/her certification. Upon its receipt of the certified petition the Board of Selectmen shall within two (2) working days, give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within five (5) working days following delivery of said notice, the Board of Selectmen shall order a special election to be held not less than sixty-five nor more than ninety days after the date of the certification of the Town Clerk that the petition is sufficient.

(c) The nomination of candidates, the publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the charter and General Laws regulating elections.

d) Ballots used at the recall election shall state the proposition in the order indicated:
For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition shall be a place to vote for either of said propositions. After the said proposition shall appear the word "candidates" and the name of the candidates arranged as determined by a drawing by lot conducted by the Town Clerk which shall be open to the public, unless another arrangement is required by a general law. If a majority of the votes cast on the proposition is against the recall, the votes for candidates need not be counted. If the majority of the vote's cast is in favor of recall, the votes for candidates shall be counted and the candidates receiving the highest number of votes shall be declared elected.

(e) The incumbent shall continue to hold his office and to perform his duties until the recall election. If he is not then recalled, he shall continue in office for the remainder of his unexpired term. If the officer is recalled, he shall be deemed removed upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(f) No recall shall be filed against an officer within six months after he takes office, or in the case of an officer subjected to recall and not recalled thereby, during the remainder of his unexpired term.

(g) The validation and the call for election certifies only compliance with the procedural requirements of this Act.

SECTION 3. Election of Selectmen. At the first town election following acceptance of this act, there shall be elected two selectmen for three years, two selectmen for two years, and one selectman for one year. Upon the qualification of the selectmen so elected, the term of office of the Board of Selectmen then existing shall terminate. At each annual town election thereafter, the voters shall elect selectmen for the three-year terms to replace those whose terms are about to expire. When a vacancy occurs among the selectmen by reason of death, resignation, change of residence from the town, or other disability, the remaining selectmen shall order a special election to be held not less than 65 days and not more than 90 days following the notification of the vacancy at which the voters shall elect a selectmen for the remainder of the unexpired term.

SECTION 4. Appointments by Selectmen. In addition to the Town Manager, whose appointment and removal is hereinafter provided for, the selectmen shall appoint, and may remove, a Board of Appeals under the provisions of Section Eighty-one R of Chapter Forty-one of the General Laws, which board shall also act as the Board of Appeals under the by-laws, election officers, Registrars of Voters except the Town Clerk, constables, Town Counsel and Town Accountant.

SECTION 5. Multiple Officers. A member of the Board of Selectmen, or of the School Committee, or of the Finance Committee, shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office. Any person elected or appointed to any other office, board, commission, or committee under the provisions of this act or of any general or special law shall be eligible during the term of such office to election or appointment to any other town office, board, commission or committee, except that the Town Accountant shall not be eligible to hold the position of Town Treasurer or Town Collector. The Town Manager, subject to any applicable provision of law relating thereto, may assume the duties of any office which he is authorized to fill by appointment, except that he shall not appoint himself as a member of any board or committee.

SECTION 6. Investigations or Surveys. For the purpose of making investigations or surveys, the Town Manager, with the approval of the Selectmen, may expend such sums for the employment of experts, counsel and other assistants, and for the other expenses in connection therewith, as the town may appropriate for such purposes.

SECTION 7. Appointment of Town Manager. The selectmen elected as provided herein shall appoint, as soon as practicable, for a term of three years, a Town Manager who shall be a person especially fitted by education, training and by previous full time paid experience as a town or city manager or assistant manager, to perform the duties of the office. The Town Manager shall be appointed without regard to his political beliefs. The town manager need not be a resident of the town or of this commonwealth when appointed, and shall not, during the twelve months prior to his appointment have held any elective office in the Town of Wilmington. The town

manager may be appointed for successive terms of office. Before entering upon the duties of his office, the Town Manager shall be sworn to the faithful and impartial performance thereof by the Town Clerk, or a Justice of the Peace. The town manager shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen.

SECTION 8. Appointment of a Temporary Manager. Any vacancy in the office of Town Manager shall be filled as soon as possible by the selectmen. Pending the appointment of Town Manager or the filling of any vacancy, the selectmen may appoint a suitable person to perform the duties of the office.

SECTION 9. Acting Manager. The Town Manager may designate, by letter filed with the Town Clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the manager to make such designation, the selectmen may, by resolution, designate an officer of the town to perform the duties of the manager until he shall return or his disability shall cease.

SECTION 10. Removal of Manager. The selectmen, by a majority vote of the full membership of the board, may remove the Town Manager. At least thirty days before such proposed removal shall become effective, the selectmen shall file a preliminary written resolution with the Town Clerk setting forth in detail the specific reasons for his proposed removal, a copy of which resolution shall be delivered to the Town Manager.

The Manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the Board of Selectmen shall hold a public hearing not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, the selectmen by a majority vote of the full membership of the board may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the Manager from duty, but in any case his salary shall continue to be paid until the expiration of one month from the date of adoption of the final resolution of removal.

SECTION 11. Compensation of Manager. The Town Manager shall receive such compensation for his services as the selectmen shall determine, but it shall not exceed the amount appropriated therefor by the town.

SECTION 12. Powers and Duties of Manager. In addition to any other powers and duties expressly provided for in this act, the Town Manager shall have the following powers and duties:

- (a) He shall supervise and direct the administration of all departments, commissions, boards and offices except those mentioned in section two, three and four, and shall appoint and may, subject to the provisions of Chapter thirty-one of the General Laws where applicable, remove the Cemetery Commissioners, Water Commissioners, Board of Health, Board of Public Welfare, Planning Board, Library Trustees, Trustees of Trust Funds, a Town Collector, a Town Clerk, a Town Treasurer who may also act as Town Collector, a Board of Assessors of three members as here-in-after provided, a Superintendent of Streets, the Chief of Police and police officers, the Chief and members of the Fire Department, and such other officers and employees including school janitors, as may be necessary to carry out the powers and duties imposed upon him or upon the town either by this act, or by other provisions of law. Officers and employees not subject to Chapter Thirty-one of the General Laws shall not be removed by the Town Manager except on ten days' notice in writing, setting forth the cause of such removal.
- (b) Subject to any applicable provisions of Chapter Thirty-one and of Section One Hundred and Eight A of Chapter Forty-one of the General Laws, the Town Manager shall fix the compensation of all town officers and employees appointed by him, within the limits of the amounts appropriated therefor by the town.
- (c) The Town Manager shall attend all regular meetings of the Board of Selectmen except meetings at which his removal is being considered.
- (d) The Town Manager shall keep full and complete records of his office, and shall render as often as may be required by the selectmen a full report of all operations during the period reported on.

(e) The Town Manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.

(f) The Town Manager shall have jurisdiction over the rental and use of all town property, except schools. He shall be responsible for the maintenance and repair of all town property, including school buildings and grounds. Except as otherwise voted by the town he shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the town, subject however, to the approval of the School Committee with respect to plans for the construction or improvement of school buildings or property.

(g) The Town Manager shall purchase all supplies, materials and equipment, and shall award all contracts for all departments and activities of the town under his supervision; and he shall make all purchases for departments or activities not under his supervision but only upon and in accordance with a requisition duly signed by the head of any such department.

(h) The Town Manager shall administer either directly or through a person or persons appointed by him in accordance with this act all provisions of general and special laws applicable to said town, all by-laws and all regulations established by the selectmen.

(i) The Town Manager shall, with the approval of the selectmen, have authority to prosecute, defend or compromise all litigation to which the town is a party.

(j) The Town Manager shall perform such other duties, consistent with his office, as may be required of him by the by-laws or vote of the town or by vote of the selectmen.

(k) The Town Manager shall have access to all town books and papers for information necessary for the proper performance of his duties, and may without notice cause the affairs of any department or activity under his control or the conduct of any officer or employee thereof to be examined.

(l) The Town Manager may, with the approval of the Selectmen, and with the written approval of the Finance Committee, transfer the appropriation of one department, commission, board or office, in whole or in part, to any other.

SECTION 13. Appointment of Assessors. The Town Manager shall appoint a Principal Assessor, who shall devote his full time and attention to the duties of his office and shall serve as chairman of the board, and two additional assessors.

SECTION 14. Approval of Warrants. The Town Manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the Town Accountant in accordance with applicable provisions of law shall be submitted to the Town Manager. The approval of any such warrant by the Town Manager when countersigned by a majority of the selectmen, shall be sufficient authority to authorize payment by the Town Treasurer, but the selectmen alone shall approve all warrants in the event of the absence of the Town Manager or a vacancy in the office of Town Manager.

SECTION 15. Investigations of Claims. Whenever any payroll, bill or other claim against the town is presented to the Town Manager, he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, refer it to the selectmen, who shall immediately investigate the facts and determine what, if any, payment should be made. Pending such investigation and determination by the selectmen, payment shall be withheld.

SECTION 16. Certain Officers not to make Contracts with the Town. It shall be unlawful for any selectman, the Town Manager, or any other elective or appointive official of the town, directly or indirectly, to make a contract with the town, or to receive any commission, discount, bonus, gift, contribution or reward from, or any

share in the profits of, any person or corporation making or performing such a contract, unless the official concerned immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify the selectmen in writing of the contract and of the nature of his interest therein and shall abstain from doing any official act on behalf of the town in reference thereto. In case such interest exists on the part of an officer whose duty it is to make such a contract on behalf of the town, the contract may be made by another officer of the town duly authorized thereto by vote of the selectmen. Violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the town. Any person violating any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

SECTION 17. Estimates of Expenditures. All boards, officers and committees of the town shall annually, at the request of the Town Manager, submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments and offices during the next fiscal year. On or before 90 days prior to the Annual Town Meeting of each year, the Town Manager shall submit to each member of the Finance Committee and of the Board of Selectmen a copy of his annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the town for the ensuing fiscal year, including a statement of the amounts required to meet the interest and maturing bonds and notes or other indebtedness of the town, and showing specifically the amount necessary to be provided for each office, department and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the two preceding years, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall also report to said committee and to the selectmen the probable amount required to be raised by taxation to defray all of the proposed expenditures of the town, together with an estimate of the tax rate necessary therefor.

SECTION 18. No contract existing and no action at law or suit in equity or other proceeding pending at the time this act is accepted or at the time of revocation of such acceptance shall be affected by such acceptance or revocation.

SECTION 19. This act shall be submitted for acceptance to the qualified voters of the Town of Wilmington at the first state election after the date of approval of this act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the question, which shall be placed upon the official ballot to be used at said election: - "Shall an act passed by the General Court in the year nineteen hundred and fifty, entitled 'An Act establishing a Town Manager form of government for the Town of Wilmington', be accepted by this town?" If a majority of the voters voting on this question shall vote in the affirmative, said act shall take effect immediately for the purposes of the next following town election, and for all things pertaining thereto, and shall take full effect upon the qualification of a majority of the selectmen first elected as provided in Section three. If this act is rejected by the qualified voters of the town when first submitted under this section, it shall be further submitted to the said voters at the second next following annual town election, and if accepted by a majority of the voters voting thereon it shall take effect as herein before provided. If a majority of the voters voting on this question when so further submitted shall vote in the negative, this act shall thereupon become void.

SECTION 20. Duties of Certain Town Officials relative to Election. It shall be the duty of the selectmen and Town Clerk in office and any other town official upon whom by reason of his office a duty devolves under the provisions of this act, when this act is accepted by the registered voters as herein provided, to comply with all the requirements of law relating to elections, to the end that all things may be done necessary for the nomination and election of the officers first to be elected under this act.

SECTION 21. At any time after the expiration of three years from the date of acceptance of this act, and not less than sixty days before the date of an annual meeting, a petition signed by not less than ten percent of the registered voters of the town may be filed with the selectmen, requesting that the question of revoking the acceptance of this act be submitted to the voters. The selectmen shall thereupon direct the Town Clerk to cause the said question to be printed on the official ballot to be used at the next annual town election in the following form: "Shall the acceptance by the Town of Wilmington of an act passed by the General Court in the year

nineteen hundred and fifty, entitled 'An Act establishing a Town Manager form of government for the Town of Wilmington' be revoked?" If such revocation is favored by a majority of the voters voting thereon, this act shall cease to be operative on and after the annual meeting next following such vote. All general laws respecting town administration and town officers, and any special laws relative to said town, the operation of which has been suspended or superseded by acceptance of this act, shall be revived by such revocation and shall continue to be in full force and effect. By-laws in force when such revocation takes effect, so far as they are consistent with general laws respecting town administration and town officers and with special laws relating to said town, shall not be affected thereby, but any other by-laws inconsistent with such general or special laws shall be annulled. If such revocation is not favored by a majority of the voters voting thereon, no further petition therefore shall be filed under this section oftener than once in every three years thereafter.

APPROVED JULY 5, 1950