



**Town of Arlington
Legal Department**

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MEMORANDUM

TO: Select Board

FROM: Douglas W. Heim

DATE: March 19, 2021

RE: **Draft Votes and Comments for Articles: 8, 9, 10, 17, 19, 22, and 91**

I write to provide the Board the following as draft Final Votes and Comments for your consideration at the March 22, 2021 Select Board meeting regarding the previously heard, above-referenced warrant articles.

**ARTICLE 8 BYLAW AMENDMENT/CANINE CONTROL
FEES & FINES**

VOTED: That Title VIII, Article 2 (“Canine Control”) Section 4 (“Licensing”) be and hereby is amended throughout to establish clearer and more efficient deadlines and penalties for annual dog licensing, enhance clarity for residents, and provide for minor grammar and syntax adjustments as follows:

**ARTICLE 2
CANINE CONTROL**

Section 4. Licensing

(ART. 25, ATM – 04/27/88)

(ART. 23, ATM – 05/04/2009)

(ART. 13 -04/29/13)

A. Licensing Requirement.

1. License required. The owner or keeper of any dog over the age of six months kept in the Town of Arlington shall obtain a license for the dog from the Town Clerk.

2. Annual renewal. Licenses issued under this section shall be renewed on an annual basis in accordance with procedures to be determined by the Town Clerk. Licenses are issued for the calendar year and must be renewed every on or before January 31st, although there is a grace period established in sub-section F before fines are assessed.

3. Transfer. Within 30 days of moving into the Town ~~within a licensing period~~, the owner or keeper of a dog must apply to the Town Clerk ~~to transfer the dog's~~ for a license. ~~The Town Clerk shall issue a transfer license for a fee and in accordance with procedures that the Town Clerk shall determine.~~

B. Conditions.

1. Rabies vaccination. The Town Clerk shall not grant a license unless (i) the license applicant provides a veterinarian's certification or notarized letter that the dog has been vaccinated against rabies; or (ii) the dog is exempted from the vaccination requirement by the Town of Arlington Board of Health or the Town Clerk in accordance with Section 145B of Chapter 140 of the General Laws.

2. Control. Any license granted under this section is granted on the condition that the licensed dog shall be controlled and restrained from killing, chasing, or harassing livestock or fowl.

3. Previous conviction of animal cruelty. Town Clerk shall not grant a license under this section or Section 5, below, to an applicant who has been convicted of one or more of the offenses set forth in Section 137D of Chapter 140 of the General Laws within the preceding five years.

C. License Forms.

1. Symptoms of rabies. Every license issued to the owner of a dog shall have a description of the symptoms of rabies printed thereon, as supplied by the state Department of Public Health.

2. Description of dog. The owner of a dog to be licensed under this section may add to the license application form up to ten descriptive words indicating the dog's color, breed, weight, or any special markings.

D. Tags.

1. Issuance. ~~Along with the~~ As proof of license licensure, the Town Clerk shall issue a durable tag inscribed with the license number, designation of the Town of Arlington, and the year of issue.

2. Affixed to dog. The owner or keeper of the licensed dog shall keep a collar or harness of leather or other suitable material affixed around the dog's neck or body to which the tag shall be securely attached.

3. Lost tags. If the tag is lost or destroyed, the owner or keeper shall immediately secure a substitute tag from the Town Clerk for a fee to be determined by the Town Clerk.

E. Exemptions. The requirements of this section shall not apply:

(1) to a person to whom the applicable kennel license has been issued under this Bylaw and remains in force; or (2) to a dog housed in a research institution.

F. Fees. (ART. 10, ATM – 04/23/18)

1. Annual license fees. The annual license fees are as follows:

- a. female: \$20
- b. spayed female: \$15
- c. male: \$20
- d. neutered male: \$15

To be charged the lower fee for licensing a spayed or neutered dog, the license applicant must provide proof of spay or neuter in the form of either: (a) a certificate from the veterinarian who spayed or neutered the dog; (b) a veterinary bill for performing the procedure; or (c) a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that the veterinarian has examined the dog and that the dog appears to be spayed or neutered and therefore incapable of propagation.

2. Failure to comply; penalties.

a. **Penalty for failure to comply with licensing requirements.**

Failure to comply with this section shall be punishable by a fine of ~~\$50~~ \$25.

Grace period. ~~Failure to comply with this section within~~ satisfy licensing requirements before the first Thursday following 45 business days of the 31st of January each year ~~date that the licensing or re-licensing obligation arises~~ will constitute failure to comply with licensing requirements.

b. Additional late fees.

Missed year. An additional ~~\$50~~ **\$25** fine shall be applied where owners fail to register a dog for an entire calendar year, due upon registration the following calendar year, and the license fee for the missed year must be paid in full. These late fees shall be in addition to any other applicable penalty provided for in this Bylaw.

Multiple penalties. If the owners fail to register a dog for an entire calendar year and apply for registration outside of the grace period, the fine will consist of the \$25 late fee and the \$25 skipped year fee, due upon registration in the current year.

3. Waiver of fees.

a. Service animal.

No fee shall be charged for the licensure of a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Late fees apply.

b. Owner aged 70 and over.

If the Town so votes in accordance with Section 139(c) of Chapter 140 of the General Laws, no fee shall be charged for the licensure of a dog owned by a person aged 70 years and older. Late fees apply.

4. No refund of fees. No license fee paid under this section shall be refunded, in whole or in part, due to mistake or due to the subsequent death, loss, spay or neuter, removal from the Town or the Commonwealth, or other disposal of the licensed dog.”; ~~and~~

(5 – 0)

COMMENT: The Select Board supports these straightforward amendments to the Town’s dog licensing bylaw provisions requested by the Town Clerk. The proposed changes make the bylaw easier to understand and enforce by clarifying timelines, reducing initial registration penalties, and better empowering the Clerk’s Office to pursue late fees for failure to pay the reduced fines.

ARTICLE 9

BYLAW AMENDMENT/DISPLAY OF NOTICE FINES

To see if the Town will vote to amend the Town Bylaws, Title V, Article 1 Section 2 to reduce fines for violations greater than twenty days from \$500 to \$300 in accordance with state law; or take any action related thereto.

(Inserted at the request of the Town Manager)

VOTED: That Title V, Article I (“Display of Notices”), Section 2. Fines for Violations be and hereby is amended by striking the word and number “five” and “500” respectively and replacing them with the words “three,” and “300” respectively so as to read as follows as follows:

ARTICLE 1 DISPLAY OF NOTICES

Section 2. Fines for Violations

Whoever violates any of the provisions of this By-Law shall be punished by a fine of not more than one hundred dollars (\$100), and whoever, after conviction for such violation unlawfully maintains such notice for twenty (20) days thereafter shall be punished by a fine of not more than five three hundred dollars (~~\$500~~300).

(5 – 0)

COMMENT: The proposed changes constitute administrative corrections to the amount of fines allowed under Title V, Article I (“Display of Notices”), Section 2 of the Town Bylaws following 2019 Town Meeting’s successful updates to Arlington signage regulations. A side effect of moving most signage regulation into the Zoning Bylaw is that the Town Bylaws’ regulation of temporary of “Notices,” such as lost-pet, yard sale, and Town committee temporary flyers and signs are no longer tethered to state laws governing outdoor advertising, which authorized higher levels of fines that state law affords for Bylaw violations. Accordingly, the Town’s fine for violations of the Display of Notices Bylaw cannot now exceed \$300. Therefore, the Select Board recommends Town Meeting adopt this administrative change to accurately reflect the maximum cap on Bylaw fines under the law.

ARTICLE 10

BYLAW AMENDMENT/STREET PERFORMANCE DEFINITIONS

VOTED: That no action be taken on Article 10.

(5 – 0)

COMMENT: The Select Board recommends no further action on this article during the 2021 Town Meeting as its proponents inform us that further examination of the issues is necessary to developing any appropriate updates and revisions to street performance definitions.

**ARTICLE 17 VOTE/ ESTABLISHMENT OF YOUTH AND YOUNG ADULT
ADVISORY BOARD, COMMISSION, OR COMMITTEE STUDY
COMMITTEE**

VOTED: That Town Meeting hereby establishes a “Youth and Young Adult Advisory Board Study Committee” to be structured, organized, and charged as follows:

Youth and Young Adult Advisory Board Study Committee

I. Committee Membership and Organization

A. The Committee shall consist of the following members:

- Four (4) Arlington students appointed by the Town Moderator, two (2) of whom shall be currently enrolled Arlington Public Schools student; and two (2) of who shall be Arlington residents presently enrolled in middle school or high school’
- One (1) member of the Select Board, or their designee;
- One (1) member of the School Committee, or their designee;
- One (1) member of the Library Board of Trustees as determined by such commission;
- The Director of Diversity, Equity and Inclusion or their designee from the Health and Human Services Department,
- One (1) member of the Board of Youth Services; as determined by such Board;
- One (1) member of the Park & Recreation Commission; as determined by such commission; and
- One (1) member of Envision Arlington Standing Committee or their designee; as determined by such committee.

B. Quorum

A majority of voting members shall constitute a quorum, and decisions shall be based on the vote of a simple majority of those committee members present and voting.

C. Organization and First Meeting

The initial meeting of the Study Committee shall be convened by the designee of the Select Board, and the first order of business shall be the self-organization of the study committee through the election of one or more chairs, whose responsibility shall be to convene and preside over all future meetings, as well as a clerk, whose duties shall include the proper posting of meeting agendas and minutes. The Study Committee shall designate any other officers as it sees fit.

II. Committee Charge & Reporting

- A. The Study Committee shall study the need, value, and options for the creation and operation of a permanent board or committee aimed towards fostering youth and young adult involvement in governance and youth and young adult input on all issues facing the town.**
- B. The Study Committee shall be encouraged to examine and compare models for obtaining youth and young adult input and feedback as well as the overall structures and functions of a Youth and Young Adult Advisory Board or similar entity.**
- C. The Study Committee shall report its recommendations to the 2022 Annual Town Meeting.**

III. Dissolution

The study committee will be dissolved concurrent with the dissolution of the 2022 Annual Town Meeting, unless there is a vote of Town Meeting to effectuate an earlier dissolution or other amendment.

(5 – 0)

COMMENT: The Select Board recommends positive action on the establishment of a committee of Town Meeting to explore the options for creation of an “Arlington Youth and Young Adult Advisory Board” or similar entity. The primary goal of such a Board would be proactively garnering youth perspectives on a wide array of Town policies, practices and issues, and to foster engagement that flows from including Arlington Youth in our government. It is the expectation of the Select Board that the proposed study committee would evaluate the scope and parameters for operation of similar boards in other communities; determine whether or not such a body would be effective and useful in Arlington; and make recommendations at a future Town Meeting for the creation of such an advisory board or other actions as dictated by their collective findings.

ARTICLE 19

VOTE/ESTABLISHMENT OF TOWN COMMITTEE ON RESIDENTIAL DEVELOPMENT

VOTED: That no action be taken on Article 19.

(5 – 0)

COMMENT: The Select Board commends Mr. Parise and other proponents of this article for continued advocacy on issues of residential development in Arlington. As the Select Board understands it, the goal of this article is to re-establish a version of the “Residential Study Group” created at the 2016 Town Meeting, but with a more limited membership. The Select Board’s primary concern is that subject of the proposed committee’s work is precisely the role of the ARB as the Planning Board. Hence, the proposal is essentially to create a new committee to engage already existing boards and committees like the ARB and the Zoning Bylaw Review Committee.

ARTICLE 24

VOTE/TOWN CLERK STUDY

VOTED: That the Select Board supports to Finance Committee’s Appropriation under this article.

(4 – 1) Ms. Mahon voted in the negative.

COMMENT: The instant warrant article was inserted at the request of the Town Clerk, and the balance of the Board supports the Finance Committee’s vote to the appropriate up to \$10,000 to conduct a community study on the conversion of the office of the Town Clerk from elected to appointed. The majority of the Board believes that the issue is worth study to evaluate potential benefits of professionalizing the elected position, noting some of the benefits of an converting the Town Treasurer to an appointed office several years ago. Several Board members stressed that supporting study does not guarantee a given outcome. The minority view expressed concerns about consideration of taking a directly-elected office away from voters and disappointment with facets of the prior conversion of the Treasurer’s position.

ARTICLE 22

VOTE/PROVISION OF TOWN EMAIL ADDRESSES FOR TOWN MEETING MEMBERS

VOTED: That no action be taken under this Article.

(4 – 1) Mr. Diggins voted in the negative.

COMMENT: While the article raises several valuable ideas for increasing engagement with Town Meeting Members and securing certain privacy interests, on balance, the majority of the Select Board believes creating Town administered email addresses for Meeting Members poses significant challenges that can be addressed with greater autonomy and customization by Members themselves. There may be some Town Meeting Members who do not make themselves accessible via email, but in the Board's experience, many if not most Members establish a "TMM" email address for Meeting business separate from their personal or work email addresses. Some members of the Board expressed interest in exploring the issue further, including whether or not "alias" addresses would be technically feasible.

However, as Town Meeting knows, Meeting Members are not "municipal employees" in the same manner as town staff, other committee and commission members, or elected officials. The conflict-of-interest and open meeting laws do not apply to Town Meeting or its membership. In a similar vein, public records laws do not necessarily apply to Meeting Member communications while using personal email addresses. Using a Town administered email address could make communications between members or members and precinct residents public records. Moreover, providing Meeting Member Town email accounts would not require Meeting Members to necessarily utilize them, and may require significant tech support. Thus, the Select Board is not convinced that the benefits of this Article's proposal outweigh new issues created by it.

ARTICLE 91

DECLARATION OF CLIMATE EMERGENCY

VOTED: That Town Meeting hereby adopts the following resolution:

WHEREAS, on April 22, 2016, in the Paris Agreement, world leaders from 174 countries and the European Union agreed to keep warming well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C; and

WHEREAS, on October 8, 2018, the United Nations International Panel on Climate Change ("IPCC") projected that limiting warming to the 1.5°C target this century will

require an unprecedented transformation of every sector of the global economy over the next 12 years, and ongoing research suggests even greater urgency; and

WHEREAS, on November 23, 2018, the United States Fourth National Climate Assessment (“NCA4”) reported the massive threat that climate change poses to the American economy, our environment and climate stability, and underscores the need for immediate climate emergency action at all levels of government; and

WHEREAS, in August, 2008, the Massachusetts Global Warming Solutions Act (GWSA) established 1990 as the statewide baseline for measuring greenhouse gas (GHG) emissions, with a target of reducing emissions from all sectors of the economy by 25% in 2020 and at least 80% in 2050; and

WHEREAS, per 192nd MA General Court (1-28-2021) S.9 SEC.10 - sec.4(h) “The interim 2030 statewide greenhouse gas emissions limit shall be at least 50 percent below the 1990 level, and the interim 2040 statewide greenhouse gas emissions limit shall be at least 75 percent below the 1990 level.” and

WHEREAS, the Commonwealth of Massachusetts and the Town of Arlington are vulnerable to the effects of climate disruption and have already been subjected to devastating disasters caused by global warming, including increasingly severe Nor’easters, blizzards, droughts, heatwaves, and coastal and inland flooding; and

WHEREAS, the economic costs of weather and climate disasters are immense, as indicated by the National Oceanic and Atmospheric Administration (NOAA) report that in 2020 (as of October 7) there have been 16 U.S. weather/climate disasters with losses exceeding \$1 billion each (tied with 2011 and 2017 for the highest number ever), including fires, hurricanes, droughts, and heatwaves; and

WHEREAS, the marginalized populations in Arlington, the Commonwealth of Massachusetts and worldwide, including people of color, immigrants, indigenous communities, low-income individuals, homeless persons, and people with disabilities, are already disproportionately affected by climate change, and will continue to bear an excess burden as temperatures increase; and

WHEREAS, the Town of Arlington acknowledges the need for climate action through the Select Board’s establishment of Envision Arlington (formerly Vision 2020), the Town’s greenhouse gas inventory, its 2018 commitment to becoming carbon neutral by 2050 through the establishment of the Clean Energy Future Committee, and the drafting of the Net-Zero Planning Roadmap; and

WHEREAS, the National and state governments have acted too slowly to address the climate emergency, so Arlington and other Massachusetts communities are being called to step forward and take bold action now, just as our town has done in history.

THEREFORE, THE ARLINGTON TOWN MEETING HEREBY RESOLVES AS FOLLOWS:

- 1. Declares Emergency. Declares a climate emergency and calls for an immediate urgent mobilization to protect the climate, reducing the pace of warming and slowing down ecological collapse to the maximum extent possible.**
- 2. Tells the Truth. Speaks plainly in high-profile public communications about the climate crisis; and commits to providing a periodic report of our community's complete annual greenhouse gas emissions, using a reputable accounting protocol.**
- 3. Acts Now. Initiates immediate action wherever possible, in matters within Town authority. Agrees (a) to explicitly consider climate impact in major town decisions to the maximum extent permitted by law, reliably supporting actions that increase climate resiliency while reducing pollution and opposing actions that increase greenhouse gas emissions; and (b) to appoint a community liaison with the responsibility of actively working with the media, annual carbon reporting, and constituent communication, to support rapid greenhouse gas reductions.**
- 4. Promotes Climate Action in Matters Beyond Town Authority. All Town of Arlington input, influence, and lobbying with state and federal governments and with regional entities responsible for energy and utilities supports rapid greenhouse gas reductions.**
- 5. Promotes Climate Justice. Preserves and protects the rights, well-being, autonomy, and power of people at greatest risk, including people of color, immigrants, climate refugees, indigenous communities, low-income individuals, the very young and very old, homeless persons, and people with disabilities.**

(5 – 0)

COMMENT: The Select Board unanimously urges Town Meeting to adopt this Climate Emergency Resolution to convey and reflect upon the urgency and centrality of the threat of climate change to the Town's policies and commitments. While the resolution largely speaks for itself, the Board specifically wishes to highlight that the five "action steps" set forth in the resolution build upon the work and goals of the Town's present Climate & Resiliency Planning and the Town Manager's "Net Zero Plan," while also reaffirming our convictions to build climate change into Town decision making within the respective boundaries of duties and authorities of various town bodies and officials. Further, this resolution follows previous efforts such as special legislation seeking to allow the Town to limit installation of fossil fuel infrastructure by urging the Town to continue to vigorously pursue new and additional tools and resources for greenhouse gas emission reductions and elimination. Finally, this resolution recognizes the fundamental role of equity and justice in attacking climate change and its impacts both locally and globally.

The Board also encourages members of Town Meeting to avail themselves of the many resources on this resolution and subject developed and published by “Emergency Arlington” on their website.