




**Town of Arlington
Legal Department**

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To: Select Board

Cc: Adam Chapdelaine, Town Manager
John Leone, Town Moderator
Resident Petitioners

From: Douglas W. Heim, Town Counsel 

Date: February 19, 2020

Re: Warrant Articles 9, 10, 11, 12, 15, 18, 22, and 60

I write to provide the Select Board a summary of the above-referenced 2020 Annual Town Meeting warrant articles to assist in the Board's consideration of these articles at its upcoming hearings on February 24, 2020. As the Board will recall, where draft motions appear, new or additional language is underscored, while removed language is provided in "strikethrough."

ARTICLE 9

BYLAW AMENDMENT/CANINE CONTROL FEES & FINES

To see if the Town will vote to amend the Town Bylaws, Title VIII, Article 2 ("Canine Control") to reduce late fees for dog license registration from \$50.00 to \$25.00; or take any action related thereto.

(Inserted at the request of the Town Clerk)

This Article was inserted at the request of the Town Clerk to modify the initial penalty for failing to obtain or renew annual dog licenses in a timely fashion. The Clerk recommends reducing the initial penalty from \$50.00 to \$25.00. Additional fines of \$50.00 would still apply for those who fail to obtain or renew their license within 45 days of the deadline, and again for those who fail to comply within a calendar year.

A draft motion would be as follows:

VOTED: That Title VIII, Article 2 ("Canine Control"), Section F.2(a) ("Failure to Comply), be and hereby is amended by striking the number "50" in paragraph 2(a) and replacing it with "25;" so as to read as follows as follows:

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.

b. Additional late fees.

Failure to comply with this section within the first Thursday following 45 business days of the date that the licensing or re-licensing obligation arises shall be punishable by a fine of \$50. An additional \$50 fine shall be applied where owners fail to register a dog for an entire calendar year, due upon registration the following calendar year. These late fees shall be in addition to any other applicable penalty provided for in this Bylaw.

ARTICLE 10

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)

This Article addresses the need to update the bylaw fine set forth in Title V, Article I ("Display of Notices"), Section 2 of the Town Bylaws following last year's successful updates to Arlington signage regulation at Town Meeting; the overwhelming majority of which is now set

forth in the Zoning Bylaw rather than in multiple ordinances. A side effect of the successful vote on a comprehensive signage Zoning Bylaw was that the Town Bylaws' regulation temporary of "Notices," such as lost-pet, yard sale, and Town committee temporary flyers and signs often placed in or around public ways or on Town property, was no longer tethered to state laws governing outdoor advertising (as had been the case in years past when certain types of accessory signage were not regulated by the Zoning Bylaw). Accordingly, the Town's fine for violations of the Bylaw cannot now exceed \$300, and it is respectfully requested that the Board support the following motion:

VOTED 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 I
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).

ARTICLE 11 BYLAW AMENDMENT/STREET PERFORMANCE DEFINITIONS

To see if the Town will vote to amend the Town Bylaws, Title III, Article 1, Section 18 ("Street Performances") to expand the definition of "Perform" to allow the creation of items for sale; and further to remove or amend the prohibition of street performances in Town parks and recreation areas; or take any action related thereto.

(Inserted at the request of the Town Manager)

This article was developed by the Arlington Commission on Arts and Culture ("ACAC") in consultation with the Department of Planning and Community Development for the purpose of fostering a wider variety of artists and creative vendors by enabling them to sell their works and goods on public ways and in park and recreation areas. I expect a representative from

I expect that either the Environmental Planner or the Town Engineer will be available to answer the Board's technical questions. Were the Board inclined to endorse this article, an appropriate motion would be:

VOTED: That Title V, Article 15 ("Stormwater Management") of the Town Bylaws is hereby amended so as to read as follows:

ARTICLE 15
~~STORM WATER MITIGATION~~ STORMWATER MANAGEMENT
(ART. 10, ATM – 04/25/07)

Section 1. Purpose

The purpose of this bylaw is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction and post-development stormwater runoff, decreased groundwater recharge, and nonpoint source pollution associated with new development, redevelopment, and other land alterations. Stormwater runoff can be a major cause of:

- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater, and drinking water supplies;*
- (2) Contamination of drinking water supplies;*
- (3) Contamination of downstream coastal areas;*
- (4) Alteration or destruction of aquatic and wildlife habitat;*
- (5) Overloading or clogging of municipal stormwater management systems; and*
- (6) Flooding.*

The objectives of this bylaw are to:

- (1) Protect wetland and water resources;*
- (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;*
- (3) Prevent and reduce pollutants from entering Arlington's municipal separate storm sewer system (MS4);*
- (4) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;*
- (5) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality and the control of sedimentation and erosion on disturbed sites;*
- (6) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, and pose no threat to public safety; and*

(7) Establish Arlington's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

Section 1. Section 2. Definitions

A. "Building footprint" – the outline of the total area covered by a building's perimeter at the ground level

B. "Development" – the modification of land to accommodate a new use or expansion of use, usually involving construction

B.C. "Impervious surface" – a hard-surfaced, human-made area that does not readily absorb or retain water, preventing the infiltration of storm water runoff; including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreation areas, structural additions, accessory structures, roads, pools, and play areas

D. "Land Alteration" – Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing and grading; or results in an alteration of drainage characteristics

C.E. "Predevelopment" – the status of a property at the time prior to request for a permit for new construction or increase to the impervious surface area of a lot

D.F. "Runoff Rate" – the speed and volume of stormwater which flows over the surface of the land

E.G. "Runoff" – rainfall, snowmelt, or irrigation water flowing over the ground surface or directed through a pipe or culvert

F.H. "Stormwater" – storm water, snow melt; the flow of water which results from precipitation and which occurs following rainfall or snowmelt runoff from precipitation or snow melt and surface water runoff and drainage

Additional definitions may be set forth in the Rules and Regulations promulgated by the Department of Public Works.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

Section 2. Section 4. Applicability

This bylaw is applicable to the following development or redevelopment:

A. All development of a previously undeveloped vacant lot, resulting in a structure where building footprint and other impervious surfaces exceeds 500 square feet;

B. Alteration of a developed property resulting in an increase to the impervious area of a lot by more than 350 square feet.

This bylaw shall not apply, however, to the paving of private ways that are owned in common with abutting lot owners, and that serve purposes similar to that of public ways, and that are not driveways entirely located on a single lot or on multiple lots under the same ownership.

This bylaw shall be applicable to all development, redevelopment, or land alteration activities resulting in either an increase in impervious surface of 350 square feet or more, or land alteration of 1 acre or more, including such activities that may also require a permit issued by the Planning Board, Conservation Commission, Zoning Board of Appeals, and/or the Inspectional Services Department. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.

Project Categories. The Permitting Authority may by regulation establish categories of projects ranging from "minor" to "major" based on project size, scope, nature, or location. Project Application requirements and submittals, fees, and criteria for permit issuance shall be scaled appropriately based on project category.

Section 3. Standard

No project subject to this bylaw may increase the surface water runoff rate relative to the predevelopment runoff rate.

Section 4, Section 5. Procedure

A. Application: Prior to the issuance of a building permit for any activity subject to this bylaw, a grading and drainage plan shall be submitted to the Engineering Division, consistent with specifications to be developed by the Arlington Department of Public Works. A fee of \$25.00 shall be assessed to cover the costs of review of the plan.

B. Review: The Engineering Division will review the application, and within 14 days approve, approve subject to conditions, or reject the plan.

C. Relief: The applicant may request relief when strict adherence to this bylaw can be shown to constitute significant hardship due to unique topographical aspects of the site or due to serious financial hardship. Relief may be granted by the Director of Public Works, after consultation with the Engineering Division which decision shall be made within 14 days after the request for same is made. Further relief from the decision of the Director of Public Works may be sought from the Zoning Board of Appeals, which will make a de-novo determination after a hearing on the merits. The Zoning Board will convene such hearing within 21 days of a request for relief from the applicant and make a decision within 14 days of the hearing.

D. Prior to project completion, the Town Engineer or the Engineer's representative shall determine if there has been compliance with the storm water plan; if found to be not in compliance, the applicant will be notified of remaining work to be done; if found in compliance, a certificate of completion will be issued.

E. Any attempt to occupy the premises by the applicant or anyone else without compliance with the provisions of this bylaw shall be punishable by a fine of \$200 each day of noncompliance to be considered a separate offense.

Permit procedures and requirements shall be defined in the Rules and Regulations promulgated pursuant to Section 6.C. of this bylaw.

Section 5, Section 6. Administration

A. The Engineering Division, subject to approval by the Director of public Works and the Town Manager, shall establish administrative procedures for the review and approval of storm water

management plans. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this bylaw.

B. The Engineering Division shall utilize the policy, criteria, and information, including specifications and standards, of the latest edition of the Massachusetts Department of Environmental Protection's revised Surface Water Discharge Permit Regulations at 314 CMR 3.06(11)(b)5 Storm Water Management Policy for execution of the provisions of this bylaw.

A. The Engineering Division or its Designee shall administer this bylaw.

B. The Engineering Division may designate additional authorized agents (Designees) of the Conservation Commission, Planning Board, Zoning Board of Appeals, or Building Inspector to issue Stormwater Permits concurrent with other permitting processes for projects when the land alteration or change in impervious cover is wholly under their jurisdiction.

C. The Engineering Division, subject to approval by the Director of Public Works and the Town Manager, shall adopt, and may periodically amend, Stormwater Management Rules and Regulations including terms, conditions, definitions, enforcement, fees, delegation of authority, procedures and administration of this Bylaw. A public hearing must be held at least 2 weeks prior to the adoption or amendment of such Rules and Regulations, and a draft of the proposed Rules and Regulations must be made publicly available at least 2 weeks prior to the public hearing. Failure of the Engineering Division to issue such Rules and Regulations or legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.

D. Stormwater Management Standards. For execution of the provisions of this Bylaw, the Permitting Authority shall define stormwater management standards within the Rules and Regulations. These standards shall incorporate into the Rules and Regulations the minimum standards of the EPA NPDES Small MS4 Permit and the specifications and standards of latest editions of the Massachusetts Stormwater Management Standards and Technical Handbooks, or approved local equivalents. The stormwater management standards may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience.

Section 7. Enforcement

The Engineering Division or its Designee shall enforce this Bylaw, Regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A. Civil relief. If a person violates the provisions of this Bylaw, or any associated Regulations, permit, notice, or order issued thereunder, the Engineering Division or its Designee may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B. Orders. If the Engineering Division or its Designee determines that a person's failure to follow the requirements of this Bylaw, any regulatory provision issued hereunder, or any authorization issued pursuant to this Bylaw or Regulations is creating an adverse impact to a water resource, then the Engineering Division or its Designee may issue a written order to the person to remediate the adverse impact, which may include requirements to:

- (1) Cease and desist from land-disturbing activity until there is compliance with the Bylaw or provisions of an approved Stormwater Management Permit;
- (2) Maintain, install, or perform additional erosion and sediment control measures;
- (3) Perform monitoring, analyses, and reporting;
- (4) Remediate erosion and sedimentation resulting directly or indirectly from land-disturbing activity;
- (5) Comply with requirements in the Stormwater Management Permit for operation and maintenance of stormwater management systems;
- (6) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management systems; and/or
- (7) Eliminate discharges, directly or indirectly, into a watercourse or into the waters of the Commonwealth.

C. If the Engineering Division or its Designee determines that abatement or remediation of pollutants is required, the order shall set forth a deadline for completion of the abatement or remediation. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator or property owner. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Engineering Division or its Designee within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Engineering Division or its Designee affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the cost shall become a special assessment against the property owner of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. c.59, § 57 after the 30th day at which the costs first become due.

Section 8. Fee Schedule

A. Permit fees are payable at the time of Application and are nonrefundable.

B. Permit fees shall be calculated by the Engineering Division and shall be approved by the Director of Public Works and Town Manager. Fees shall be outlined within the Rules and Regulations.

C. Town, County, State, and Federal projects are exempt from fees.

D. Consultant Fee. Upon receipt of a Stormwater Permit Application the Engineering Division is authorized to require an Applicant to pay a fee for the reasonable costs and expenses borne by

the Engineering Division for specific expert engineering and other consultant services deemed necessary by the Engineering Division to come to a final decision on the Application. The fee is called the consultant fee. The consultant shall be chosen by, and report only to, the Engineering Division. The exercise of discretion by the Engineering Division in making its determination to require payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. The Engineering Division shall return any unused portion of the consultant fee to the Applicant. Any Applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provision of the Massachusetts General Laws.

Section 9. Severability

If any provision, paragraph, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE 15

**VOTE/ESTABLISHMENT OF TOWN COMMITTEE ON
RESIDENTIAL DEVELOPMENT**

To see if the Town will vote to establish a Committee of the Town Meeting to examine the current issues related to residential development in the R0, R1, R2, R3, and R4 zoning districts. These issues shall include, but not be limited to, effects on the neighborhood during teardown and construction activities; new construction impacts on neighborhood character/environment; permanent negative impacts on abutters; loss of healthy tree canopy; and exacerbation of particular negative impacts on abutters with existing non-conforming lots.

Members of the Committee shall be appointed by the Town Moderator, and consist of not less than 5 nor more than 9 members. A quorum shall consist of a majority of the appointed members. Members of the Committee shall be residents of the Town, a majority of whom shall be persons who are not Town employees and/or have no financial interest (either directly or indirectly) in the development, building, or real estate communities.

The Committee's objectives will include development of recommendations for proposing new zoning and general bylaws and/or amendments, as applicable, to provide long-term mitigation of the significant issues identified; or take any action related thereto.

(Inserted at the request of Paul Parise and ten registered voters)

I expect the proponent of this resident petition article will present his rationale for creation a new committee of Town Meeting to study residential development in Arlington and make recommendations for new Zoning and Town bylaw amendments. Creation of such a study and report committee is within the authority of Town Meeting generally. However, it should be understood that only the Arlington Redevelopment Board, as the Planning Board of Arlington has the authority and obligation to hear proposals on zoning bylaw amendments and make recommendations for the purposes set forth in G.L. c. 40A sec. 5.

Additionally, the definition of financial interest in "development, building, or real estate communities" set forth in the Article is quite broad. If the Board is inclined to move in the affirmative, some consideration should be given to sharpening the requirements or limitations of membership of such a committee for the Town Moderator's benefit.

ARTICLE 18

**VOTE/BYLAW AMENDMENT/ENVISION ARLINGTON
UPDATED LANGUAGE**

To see if the Town will vote to amend Title I, Article 15 to change the name of "Vision 2020" to comport with its current name "Envision Arlington;" to revise the Bylaw's articulation of "Goals" as a "Statement of Community Values" or similar term; and to modernize the "Goals" as set forth in the vote of the 1993 Town Meeting (Article 19) with more inclusive language; or take any action related thereto.

(Inserted at the request of the Envision Arlington Standing Committee)

I expect that a representative of Envision Arlington will present the Board with supporting information on the purpose and scope of this article in terms of revisions to its 1993 charter vote. However, a piece of the article is designed to update the Town Bylaws to make them consistent with the body's current name, and could be accomplished as follows:

VOTED: That Title I, Article 15 ("Consideration of Vision 2020 Goals") of the Town Bylaws is hereby amended by replacing the term "Vision 2020" with "Envision Arlington" throughout, so as to read as follows:

*ARTICLE 15
CONSIDERATION OF ~~VISION 2020~~ ENVISION ARLINGTON GOALS
(ART. 19, ATM - 05/05/93)*

All Town officials including, but not limited to the Select Board, Town Manager, School Committee, and Superintendent of Schools shall consider the Goals of ~~Vision 2020~~ Envision Arlington as delineated in Article 19 of the 1993 Annual Town Meeting, or as same is subsequently amended by any future town meeting, in establishing their respective policies and in performing their various public functions.

ARTICLE 22

HOME RULE LEGISLATION/JUSTIN BROWN

To see if the Town will vote to request and authorize the Select Board to file Home Rule Legislation so as to enable Justin Brown, a resident of the Town, to be eligible for appointment as a firefighter in the Town of Arlington notwithstanding and the fact that he has attained the age of 32; or take any action related thereto.

(Inserted at the request of Justin Brown and ten registered voters)

The proponent of this article seeks home-rule legislation to allow him to apply for appointment as a Firefighter because Civil Service Law (as applied in Arlington), does not ordinarily permit a candidate aged 32 or older to be appointed to the position of Police Officer or Firefighter. Special Legislation is the only avenue by which Mr. Brown may sit for the exam and attempt to gain an appointment. Some members of the Board may recall the arguments for and against supporting such legislation, most recently successful in 2013 relative to a prospective candidate for a Police Officer position.

In summary, while there may be individuals aged 32 and over who are capable of performing the strenuous activities required in the positions of Police Office and Firefighter, these positions are generally been subject to age restrictions on appointment by law for objective reasons. The Town invests significant money and time in training individuals for these jobs and considers such training expenses long-term investments to be recouped over the course of a public-safety career. Moreover, individuals who occupy non-public-safety positions in the public sector with relatively long tenure could seek employment as a police officer or firefighter and, after serving a relatively short time, retire at a much higher pension rate than that to which they otherwise would have been entitled.

On the other hand, the Board has historically supported consideration of each applicant on his or her own merits. Moreover, if this exemption is approved, as they have been from time to time, it would give Mr. Brown only the opportunity to apply and be considered for appointment to the position of Firefighter. It would not guarantee him the job.

Should the Board be inclined to vote in the affirmative, a motion in support of a Home Rule Petition would substantially similar to the following:

VOTED: That the Town does hereby request and authorize the Select Board to file Home Rule Legislation to provide substantially as follows:

“AN ACT TO PERMIT TOWN RESIDENT, JUSTIN BROWN, TO TAKE THE CIVIL SERVICE TEST FOR THE POSITION OF FIREFIGHTER IN THE TOWN OF ARLINGTON.

Section 1 Notwithstanding the provisions of any special or general law to the contrary including without limitation Chapter 31 of the General laws, the Civil Service law, Justin Brown, a resident of the Town of Arlington is authorized to take the civil Service examination for appointment to the position of Firefighter notwithstanding the fact that he has attained the age of 32.

Section 2 THIS ACT WILL TAKE EFFECT UPON ITS PASSAGE.”

(Mr. Brown is ____ years old.)

ARTICLE 66

VOTE/ COMMUNITY PRESERVATION PLAN

To see if the Town will accept, receive, or resolve to endorse the Community Preservation Plan adopted by the Community Preservation Act Committee; or take any action related thereto.

(Inserted at the request of the Community Preservation Act Committee)

The Community Preservation Act Committee is required by the G.L. c. 44B sec. 5(b)(1) law to develop and update a “Community Preservation Plan” addressing the needs, possibilities and resources of the Town regarding community preservation. To my understanding, CPAC seeks the Board and Town Meeting’s perspective and endorsement for their 2020 update.

I look forward to discussing each of these articles with the Board further at its February 24th hearing.

FEB 24, 2020 WARRANT ARTICLE HEARING REFERENCE MATERIALS

ARTICLE 9

TOWN BYLAWS- TITLE VIII, ARTICLE 2(2)

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.

b. Additional late fees.

Failure to comply with this section within the first Thursday following 45 business days of the date that the licensing or re-licensing obligation arises shall be punishable by a fine of \$50. An additional \$50 fine shall be applied where owners fail to register a dog for an entire calendar year, due upon registration the following calendar year. These late fees shall be in addition to any other applicable penalty provided for in this Bylaw.

ARTICLE 10

TOWN BYLAWS- TITLE V, ARTICLE 1

DISPLAY OF NOTICES

Section 1. Restrictions on Use

(ART. 7, ATM - 05/04/15; ART. 26 2019 ATM)

Signs erected by a person, town committee, student organization or non-profit organization for the purpose of advertising an individual yard sale, non-commercial public event, or lost pet are hereby referred to as "notices" and are exempt from the provisions of this article of the Town Bylaws subject to Select Board regulations of "The Display of Notices" to be promptly promulgated by the Select Board upon the passage of this section.

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 hundred dollars (\$500).

ARTICLE 11

Town

TITLE III, ART. 1

Section 18, Street Performances

(ART. 14, ATM, - 04/30/14)

A. Purpose

The existence in Arlington of street performers provides a public amenity that enhances the character of the Town, and the Town seeks to encourage such performances on Town public ways to the extent that they do not interfere with the reasonable expectations of (1) residents to the enjoyment of peace and quiet in their homes; and/or (2) business owners to public access to and effective conduct of their business. It is the intention of this bylaw to balance the interests of the performers with those of the residents and businesses of the Town.

B. Definitions

1. Perform – Includes, but is not limited to, the following activities: acting, singing and playing of musical instruments, pantomime, juggling, magic acts, dancing, reading and reciting of literary works, puppetry, sidewalk art working with non- permanent, water-soluble media (i.e., chalk, pastels, watercolors directly on the pavement), conducted live and in-person, but shall not include presentations of audio/visual reproductions of such activities or the production of items for sale.
2. Performer – An individual artist, member of an ensemble, or sponsor of a street fair or public festival, who has obtained a permit pursuant to this bylaw and Select Board regulations and is responsible for compliance with such provisions.
3. Public Ways – Any Town way or in any place to which the public has a right of access, is dedicated for public access, or upon any way or in any place to which members of the public have access as invitees or licensees, consistent with this Article's definition and use of the term "public Ways", which includes, but is not limited to Town public sidewalks and streets, but does not include Town parks and recreation areas or Town school property.

C. Permit Required and Regulations

No person shall perform in or on a public way as defined under this article without a permit issued by the Select Board. The Select Board shall draft and promulgate appropriate procedures and regulations for the issuance of permits consistent with the provisions of this article.

Permit holders shall comply with all regulations and conditions of permits. Failure to comply with

regulations and permits shall, at a minimum, render any and all permits held by a performer under this bylaw void.

STORMWATER MANAGEMENT

ARTICLE 12

TOWN BYLAWS – TITLE V, ART. 15

STORM WATER MITIGATION (ART. 10, ATM – 04/25/07)

Section 1. Definitions

- A. "Building footprint" – the outline of the total area covered by a building's perimeter at the ground level
- B. "Impervious surface" – a hard-surfaced, human-made area that does not readily absorb or retain water, preventing the infiltration of storm water runoff; including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreation areas, structural additions, accessory structures, roads, pools and play areas
- C. "Predevelopment" – the status of a property at the time prior to request for a permit for new construction or increase to the impervious surface area of a lot
- D. "Runoff Rate" – the speed and volume of storm water which flows over the surface of the land
- E. "Runoff" – rainfall, snowmelt, or irrigation water flowing over the ground surface or directed through a pipe or culvert
- F. "Storm water" – storm water, snow melt; the flow of water which results from precipitation and which occurs following rainfall or snowmelt

Section 2. Applicability

This bylaw is applicable to the following development or redevelopment:

- A. All development of a previously undeveloped vacant lot, resulting in a structure where building footprint and other impervious surfaces exceeds 500 square feet;
- B. Alteration of a developed property resulting in an increase to the impervious area of a lot by more than 350 square feet.

This bylaw shall not apply, however, to the paving of private ways that are owned in common with abutting lot owners, and that serve purposes similar to that of public ways, and that are not driveways entirely located on a single lot or on multiple lots under the same ownership.

Section 3. Standard

No project subject to this bylaw may increase the surface water runoff rate relative to the predevelopment runoff rate.

Section 4. Procedure

A. Application: Prior to the issuance of a building permit for any activity subject to this bylaw, a grading and drainage plan shall be submitted to the Engineering Division, consistent with specifications to be developed by the Arlington Department of Public Works. A fee of \$25.00 shall be assessed to cover the costs of review of the plan.

B. Review: The Engineering Division will review the application, and within 14 days approve, approve subject to conditions, or reject the plan.

C. Relief: The applicant may request relief when strict adherence to this bylaw can be shown to constitute significant hardship due to unique topographical aspects of the site or due to serious financial hardship. Relief may be granted by the Director of Public Works, after consultation with the Engineering Division which decision shall be made within 14 days after the request for same is made. Further relief from the decision of the Director of Public Works may be sought from the Zoning Board of Appeals, which will make a de novo determination after a hearing on the merits. The Zoning Board will convene such hearing within 21 days of a request for relief from the applicant and make a decision within 14 days of the hearing.

D. Prior to project completion, the Town Engineer or the Engineer's representative shall determine if there has been compliance with the storm water plan; if found to be not in compliance, the applicant will be notified of remaining work to be done; if found in compliance, a certificate of completion will be issued.

E. Any attempt to occupy the premises by the applicant or anyone else without compliance with the provisions of this bylaw shall be punishable by a fine of \$200 each day of noncompliance to be considered a separate offense.

Section 5. Administration

A. The Engineering Division, subject to approval by the Director of public Works and the Town Manager, shall establish administrative procedures for the review and approval of storm water management plans. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this bylaw.

B. The Engineering Division shall utilize the policy, criteria, and information, including specifications and standards, of the latest edition of the Massachusetts Department of Environmental Protection's revised Surface Water Discharge Permit Regulations at 314 CMR 3.06(11)(b)5 Storm Water Management Policy for execution of the provisions of this bylaw.