



**Town of Arlington  
Legal Department**

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To: Arlington Select Board

Cc: Sandy Pooler, Town Manager

From: Douglas W. Heim, Town Counsel; Michael Cunningham, Deputy Town Counsel

Date: March 17, 2023

**Re: Annual Town Meeting Warrant Articles: 10, 14, 15 and 17 (Updated)**

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I write to provide the Select Board a summary of the above-referenced warrant articles to assist in your consideration of these articles at your upcoming hearing on March 20, 2023. Please note that the reference for Article 17 in update from your previous and continued hearing on same.

**ARTICLE 10**

**BYLAW AMENDMENT/VOTE/MUNICIPAL OPT-IN  
SPECIALIZED STRETCH ENERGY CODE**

To see if the Town will vote to amend Title VI, Article 3 of the Bylaws of the Town of Arlington, entitled "Building Code," to adopt the Municipal Opt-In Specialized Stretch Energy Code for the purpose of regulating the design and construction of buildings for the effective use of energy and reduction of greenhouse gas emissions, pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and 3 CC, including future editions, amendments or modifications thereto; or take any other action related thereto.

**(Inserted at the request of the Town Manager and Clean Energy Future Committee)**

I expect the Town’s Sustainability Manager, the Town Manager, and/or members of the Celan Energy Future Committee to present detailed information on the rationale for and benefits of this article. However in short, Massachusetts has three levels of building codes under which new projects are built – the “Base” Code, the Stretch Code, and the Specialized Stretch Code. The Specialized Stretch Code (or “Specialized Energy Code” builds upon the previous success of the “Stretch Code” in improving energy efficiency requirements (also previously adopted by the Town) and is an important component in both local and Commonwealth-wide goals in reducing greenhouse gas emissions and enhancing energy efficiency gains. The specialized code’s primary mechanisms are heightened requirements for building envelopes which reduce the amount of energy required to heat and cool homes, and incentivized electrification, particularly for heating. The specialized stretch code would apply only to new commercial and residential structures as further detailed in the Sustainability Manager’s reference material.

If the Board is inclined to adopt the Specialized Stretch Code, the Town must both “opt in” and establish a new bylaw. A base model for the bylaw (without an effective date) would be as follows:

*VOTED: That the Town hereby accepts the “Specialized Stretch Code” as provided in G.L. c. 25A sec. 6, and enacts Title VI, Article 6 (B) of the Town of Arlington Bylaws, entitled “Specialized Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy and reduction of greenhouse gas emissions, pursuant to the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including future editions, amendments or modifications thereto, with an effective date of [REDACTED].*

*AND FURTHER VOTED: That the Town hereby amends Title VI, Article 6, to add a new section B “Specialized Stretch Code” as follows.*

### *SPECIALIZED ENERGY CODE*

#### *1. Definitions*

*International Energy Conservation Code (IECC) – The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts*

*amendments, as approved by the Board of Building Regulations and Standards and published in state regulations as part of 780 CMR.*

*Specialized Energy Code – Codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, the Specialized Energy Code adds residential and commercial appendices to the Massachusetts Stretch Energy Code, based on amendments to the respective net-zero appendices of the International Energy Conservation Code (IECC) to 3 | P a g e incorporate the energy efficiency of the Stretch energy code and further reduce the climate impacts of buildings built to this code, with the goal of achieving net-zero greenhouse gas emissions from the buildings sector no later than 2050.*

*Stretch Energy Code – f Codified by the combination of 225 CMR 22 and 23 1 , not including Appendices RC and CC, the Stretch Energy Code is a comprehensive set of amendments to the International Energy Conservation Code (IECC) seeking to achieve all lifecycle cost-effective energy efficiency in accordance with the Green Communities Act of 2008, as well as to reduce the climate impacts of buildings built to this code.*

2. *Purpose*

*The purpose of 225 CMR 22.00 and 23.00 including Appendices RC and CC, also referred to as the Specialized Energy Code is to provide a more energy efficient and low greenhouse gas emissions alternative to the Stretch Energy Code or the baseline Massachusetts Energy Code, applicable to the relevant sections of the building code for both new construction and existing buildings.*

3. *Applicability*

*This energy code applies to residential and commercial buildings.*

4. *Specialized Code Incorporated Herein*

*The Specialized Code, as codified by the entirety of 225 CMR 22 and 23 including Appendices RC and CC, including any future editions, amendments, or modifications, is herein incorporated by reference into Title VI of the Town of Arlington Bylaws. The Specialized Code is enforceable by the inspector of buildings or building commissioner.*

## **ARTICLE 14 VOTE/STRATEGIC PLAN FOR NEW GROWTH**

To see if the Town will vote to create a study group, composed of staff and other appointed residents, for the purposes of developing a strategic plan to increase new growth; or take any action related thereto.

(Inserted at the request of Lenard Diggins and ten registered voters)

I expect the Article's proponent, Mr. Diggins, will present further information on the goals of the instant warrant article, and note that a draft vote for your consideration has been submitted as reference. To my understanding, the proposal would create a committee charged with researching options for "new growth" (locally taxable value) to report back with findings and recommendations at the 20225 Annual Town Meeting.

## **ARTICLE 15 VOTE/BOARD OF YOUTH SERVICES UPDATES**

To see if the Town will vote to amend or disband the Board of Youth Services' organization, name, mission, and terms, including, but not limited to, changing its name, removing residency restrictions for members and updating board operations; or take any action related thereto.

(Inserted at the request of Board of Youth Services)

The purpose of this Article is to update the Board of Youth Services charter vote to better reflect their current role and work, and to further provide additional flexibility in membership criteria and totals. In brief, the Board of Youth Services was established under Article 63 of 1962 Annual Town Meeting as the "Board of Directors of Youth Services" to be comprised of seven (7) registered voters of the Town and charged with "assist[ing] in the prevention, treatment and control of problems relating to the children and youth of the Town and to advise and assist other agencies, both public and private concerned with such matters." The Board was subsequently expanded from seven (7) to eleven (11) members by Article 116 of the 1979 Annual Town Meeting, but otherwise outlines only basic qualifications for members, the total number of memberships, and membership terms.

The Board would like to update its charter in the following manner:

- Rename the Board of Youth Services "the Arlington Youth Counseling Center Advisory Board," which better captures their primary function relative to Arlington's services for young people;
- Provide for flexible membership totals, allowing the Board to have no fewer than seven (7) and up to eleven (11) members;
- Amend member requirements to allow for appointment of persons who are not registered voters in Arlington, including volunteer and professional staff dedicated to serving Arlington youth, and affirming their commitment to an inclusive Board that reflects the diversity of the Town; and

- Adding term limits of up to two three-year terms to better cycle members on and off the Board; and

If the Board is inclined toward positive action, each of the foregoing can be achieved by a vote of Town Meeting alone.

## **ARTICLE 17                                      SPECIAL LEGISLATION/ALLOW DIGITAL LEGAL NOTICES**

To see if the Town will vote to authorize and request the Select Board to petition the Massachusetts General Court to allow the Town to satisfy requirements for legal notices set forth in the general laws by allowing the publication of notices on the Town's website and/or in a local digital newspaper, along with the option of continuing the current practice of publication in a newspaper of general circulation, or take any other action relative thereto.

(Inserted at the request of Larry Slotnick and ten registered voters)

Following the Board's prior discussion, this Office synthesized the proponents' proposal together with individual Board member feedback to further delineate the dimensions of a Home Rule Petition to relieve the Town of the specific *requirement* that legal ads for Town business be published in print. The proposal below if acceptable to the Board (and of course the Commonwealth) would achieve three things:

1. Allow, but not require the Town to run legal ads exclusively online, saving the Town substantial costs in the even local newspapers are no longer in circulation (I anticipate the Manager will have more information on this score should the Board so require it);
2. Expand the means of digital notice publication currently allowed (only newspapers and state website) to permit the Town to place legal notices on its own website, or a website dedicated to local news and opinion, *so long as standards for online publication of notices set in G.L. c. 4 sec. 13(b) are met; and*
3. Provide a process by which the Select Board and School Committee would by vote elect which means of publication will be utilized, including print, for their respective sides of local government.

Accordingly, the Select Board might decide that legal notices are to remain in a local newspaper's print and online versions; or it might elect to publish legal notices on the Town and State websites. The remaining requirements, including the length of publication or the advanced notice of publication required by various general laws would remain unchanged.

If the Board is inclined towards positive action under this proposal, a recommended vote would be as follows:

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

*“AN ACT ALLOWING ‘PRINT FREE’ DIGITAL LEGAL NOTICES FOR THE TOWN OF ARLINGTON”*

*Section 1. Purpose*

*The purpose of this Act is to allow, but not require the Town of Arlington and its subdivisions to satisfy legal notice requirements entirely by digital publication as voted necessary by its Select Board in light of the changing landscape of print newspapers, particularly at the local level*  
*Section*

*Section 2. Means of Legal Notice Publication*

*Notwithstanding G.L. c. 4 section 13(b), wherever the Town of Arlington, Arlington Public Schools and/or their subdivisions, committees, boards, commissions, or officers are required by statute, ordinance, by-law or judicial order to publish a legal notice in a newspaper or newspaper of general circulation, the person, corporation, agency, authority, municipality or other legal entity may satisfy such requirement by one or more of the following means as authorized by local vote in Section 3:*

- 1. a newspaper of local or general circulation’s print publication;*
- 2. a newspaper’s website;*
- 3. websites reporting local news and opinion which satisfy all criteria for digital publication set forth in G.L. c. 4 section 13(b)*
- 4. a statewide website that may be maintained as a repository for such notices;*
- 5. a town wide website that may be maintained as a repository for such notices;*

*Section 3. Local Vote on Means of Publication*

*A. For all legal notices to be issued by Town of Arlington boards, committees, commissions and officials, including, but not limited to the Arlington Zoning Board of Appeals, the Arlington Redevelopment Board, the Conservation Commission, the Arlington Historic District Commissions, the Town Manager, Town Treasurer, Town Clerk, Police Chief, Fire Chief, and Building Commissioner, the Select Board by majority vote shall determine at least two of the means of legal notice publication set forth in Section 2 to satisfy publication requirements.*

*B. For all legal notices to be issued by Arlington Public School boards, committees, commissions and officials, the School Committee by majority vote shall determine at least two of the means of legal notice publication set forth in Section 2.*

*C. The Select Board and School Committee may revisit their means of publication votes at their discretion and elect different means of publication from the options afforded under Section 2 by majority vote.*

*Section 3. Nothing set forth in this Act shall be construed to alter or amend the time or timing of publication of legal notices set forth in the General Laws.*

*Section 4. This Act shall take effect upon passage.*