



**Town of Arlington
Legal Department**

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To: Select Board

Cc: Sandy Pooler

From: Douglas W. Heim, Town Counsel

Date: April 2, 2023

Re: Draft Votes and Comments re: Articles 10, 15, 17, 24 and 25

I write to provide the Board Draft Votes and Comments regarding the above-referenced 2023 Annual Town Meeting Warrant Articles, based upon your prior hearings for same.

ARTICLE 10

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

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 January 1, 2024.

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.

(4 – 0) Mr. DeCoursey was absent

COMMENT: The Select Board strongly supports adoption of this local option statute (and associated model bylaw) provided by the Commonwealth to enhance energy efficiency and electrification requirements primarily for *new residential* homes. Such action builds upon the Town's long-standing efforts and previous adoption of the original "Stretch Code." Should Town Meeting approve Arlington would join Brookline, Newton, Somerville and Cambridge (among others) in taking the next step toward meeting the Town's "Net Zero" energy goals. The "Specialized Stretch Code" essentially amends the building code as applied in Arlington to provide for design and construction standards to meet heightened baseline energy efficiency requirements. These requirements in turn incentivize electric heating and cooling systems which are less dependent on fossil fuels and consume less overall energy.

The Board appreciates the Sustainability Manager and Building Inspector's past and planned future efforts to educate and prepare contractors for the application the Specialized Stretch Code, as well as its alignment with housing affordability goals in Arlington. Indeed new construction of affordable housing has often been a proving ground for energy efficiency standard improvements. Town Meeting members can find additional details on the Specialized Stretch Code in the informational materials included in the Appendix to the Board's report.

ARTICLE 15

VOTE/BOARD O YOUTH SERVICES UPDATES

VOTED: That Article 63 of the 1962 Town Meeting (as amended by Article 116 of the 1979 Town Meeting) is amended as follows:

That a committee be appointed known as the ~~Board of Directors of Youth Services- Arlington Youth Counseling Center Advisory Board~~, the purposes of which shall be to assist 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; said committee to consist of up to eleven (11) and no fewer than seven members reflecting racial, ethnic, and other forms of diversity in Arlington, consisting of the following with conditions set forth herein:

- **At least four (4) registered voters of the town; and**
- **Between zero (0) and five (5) non-residents who by occupation, course of study, or experience demonstrate noteworthy commitment to the concerns of Arlington children, youth, and the work of the Arlington Youth Counseling Center, such that at any given time the majority of the Advisory Board shall be registered voters of the Town, except in instances of unanticipated vacancies, until successors are appointed; and**
- **All of whom shall serve without compensation and who shall be appointed by an appointing committee of three members composed of the ~~Chairman of the Board of Selectmen~~ Select Board, the Town Manager, and the Superintendent of Schools;**
- **The appointing committee shall vote, upon receiving a request from the Advisory Board, expand or contract the membership of the Board consistent with the foregoing requirements upon a request of the Board.**

~~the initial appointments to said committee to be made in the following manner: two (2) members to be appointed to serve for a term of one year, two (2) members for a term of two~~

~~years, and three (3) members for a term of three years, all to serve until their respective successors are duly appointed and qualified, and thereafter the said appointing committee to appoint annually such number of members as there are terms expiring in such year to~~

Members shall serve for a period of three years with the option for a single consecutive re-appointment term of three years and until their respective successors shall be duly appointed and qualified, such that no member shall be appointed to serve more than two consecutive three-year terms. Vacancies to shall be filled by appointment in the same manner as originally appointments for the period of the unexpired term except that vacancy appointments shall not count towards consecutive term limits and members may seek appointment again after at least one (1) year off the Board., said The Advisory Board shall ~~committee to~~ choose annually from its members such officers as it shall deem desirable; ~~and further, that the sum of three thousand five hundred (3,500) dollars be and hereby is appropriated for the use of said committee, sad sum to be raised by general tax and expended under the direction of the Town Manager.~~

(4 – 0) Mr. DeCoursey was absent

COMMENT: The Select Board urges Town Meeting’s support for updates to the 1962 Vote establishing the Board of Youth Services (“BYS”). In brief, the BYS’s orientation, resources, and challenges have changed since 1962. The BYS asserts that it 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 consecutive three-year terms to better cycle members on and off the Board; and

The Select Board trusts the BYS’s assessment of its needs to continue its long-standing and excellent service to the children and youth of Arlington, and urges Town Meeting’s positive action on their requests.

ARTICLE 17

SPECIAL LEGISLATION/ALLOW DIGITAL LEGAL NOTICES

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.

(4 – 0) Mr. DeCoursey was absent

COMMENT: The Select Board endorses this resident petition effort to provide more flexible and potentially lower cost means of satisfying the Town’s legal advertising requirements for items such as hearings before town boards and commissions. At present, the law requires the Town to publish legal ads in the print version of a newspaper of local or general circulation. While the Town has consistently supported its local newspapers, there exists significant concern about the long-term viability of the print edition local newspapers. As such, the Town could be forced to expend significantly greater sums to advertise legal ads in Boston’s newspapers, where Arlington legal notices are also less likely to be seen by residents and concerned parties.

The proposed special legislation would provide the Town the option, but not requirement, to satisfy legal notice requirements through a combination of any two publication venues, such as the Town’s website and the Commonwealth’s repository for legal ads. It would also allow the Town to publish legal ads on local news websites (if they can meet legal requirements for archiving notices), or continue publishing in print media. The Select Board or the School Committee respectively would be charged with having a public vote to determine the adequate means of notice publication. Neither the length of the posting period of legal notices nor committee and commissions’ obligations under the Open Meeting Law would be affected by the special legislation.

ARTICLE 24

ENDORSEMENT OF CDBG APPLICATION

VOTED: That the Town hereby endorses the application for Federal Fiscal Year 2024 prepared by the Town Manager and the Board of Selectmen under the Housing and Community Development Act of 1974 (PL 93-383), as amended.

(6 – 0)*

COMMENT: This article represents the annual vote to endorse the annual application for Community Development Block Grant funds, a summary of which Town Meeting may find attached to this report.

*Includes vote of Town Manager for CDBG purposes.

ARTICLE 25

REVOLVING FUNDS

VOTED: The Town does hereby reauthorize the following Revolving Funds for FY 2024:

REVOLVING FUNDS FOR WARRANT ARTICLE

Private Way Repairs (3410): Originally established under Article 46, 1992 Annual Town Meeting expenditures not to exceed \$300,000

Beginning Balance,	7/1/2021	\$55,513.05
Receipts		308,403.84
Expenditures		256,642.44
Ending Balance, 6/30/22		\$107,274.45

Public Way Repairs (3400): Originally established under Article 45, 1992 Annual Town Meeting expenditures not to exceed \$5,000

Beginning Balance,	7/1/2021	\$14,715.06
Receipts		0.00
Expenditures		0.00
Ending Balance, 6/30/22		\$14,715.06

Fox Library Community Center Rentals (3990): Originally established under Article 49, 1996 Annual Town Meeting expenditures not to exceed \$20,000

Beginning Balance,	7/1/2021	\$1,221.47
Receipts		0.00
Expenditures		1,200.00
Ending Balance, 6/30/22		\$21.47

Robbins House Rentals (4060): Originally established under Article 77, 1997 Annual Town Meeting expenditures not to exceed \$75,000

Beginning Balance,	7/1/2021	\$3,884.28
Receipts		9,672.72
Expenditures		5,955.38
Ending Balance, 6/30/22		\$7,601.62

Conservation Commission Fees (5290): Originally established under Article 44, 1996 Annual Town Meeting expenditures not to exceed \$10,000

Beginning Balance,	7/1/2021	\$412.03
Receipts		0.00
Expenditures		412.03
Ending Balance, 6/30/22		\$0.00

Uncle Sam Fees (2480): Originally established under Article 31, 2000 Annual Town Meeting expenditures not to exceed \$2,000

Beginning Balance,	7/1/2021	\$1,526.31
Receipts		0.00
Expenditures		0.00
Ending Balance, 6/30/22		\$1,526.31

REVOLVING FUNDS FOR WARRANT ARTICLE

Life Support Services (Ambulance) Fees (3210): Originally established under Article 37, 2001 Annual Town Meeting
Expenditures not to exceed \$800,000

Beginning Balance,	7/1/2021	\$248,628.65
Receipts		588,804.19
Expenditures		426,761.90
Ending Balance, 6/30/22		\$410,670.94

Board of Health Fees (4120): Originally established under Article 30, 2005 Annual Town Meeting
expenditures not to exceed \$150,000

Beginning Balance,	7/1/2021	\$154,089.82
Receipts		139,553.40
Expenditures		55,343.59
Ending Balance, 6/30/22		\$238,299.63

Field User Fees (5275): Originally established under Article 78, 2004 Annual Town Meeting
expenditures not to exceed \$80,000

Beginning Balance,	7/1/2021	\$35,219.53
Receipts		35,756.00
Expenditures		53,235.27
Ending Balance, 6/30/22		\$17,740.26

Robbins Library Rentals (4250): Originally established under Article 35, 2006 Annual Town Meeting
expenditures not to exceed \$8,000

Beginning Balance,	7/1/2021	\$36,742.82
Receipts		1,650.00
Expenditures		1,500.00
Ending Balance, 6/30/22		\$36,892.82

Town Hall Rentals (4150): Originally established under Article 35, 2006 Annual Town Meeting
expenditures not to exceed \$175,000

Beginning Balance,	7/1/2021	\$63,270.69
Receipts		57,331.97
Expenditures		68,579.31
Ending Balance, 6/30/22		\$52,023.35

White Goods Recycling Fees (3510): Originally established under Article 35, 2006 Annual Town Meeting
expenditures not to exceed \$80,000

Beginning Balance,	7/1/2021	\$43,008.82
Receipts		54,004.03
Expenditures		38,938.99
Ending Balance, 6/30/22		\$58,073.86

REVOLVING FUNDS FOR WARRANT ARTICLE

Library Vending Fees (4220): Originally established under Article 34, 2009 Annual Town Meeting expenditures not to exceed \$25,000

Beginning Balance,	7/1/2021	\$4,551.97
Receipts		8,929.72
Expenditures		3,622.38
Ending Balance, 6/30/22		\$9,859.31

Gibbs School Energy Fees (2790): Originally established under Article 45, 2010 Annual Town Meeting expenditures not to exceed \$120,000

Beginning Balance,	7/1/2021	\$4,814.41
Receipts		0.00
Expenditures		0.00
Ending Balance, 6/30/22		\$4,814.41

Cemetery Chapel Rentals (3435): Originally established under Article 52, 2011 Annual Town Meeting Expenditures not to exceed \$15,000

Beginning Balance,	7/1/2020	\$0.00
Receipts		0.00
Expenditures		0.00
Ending Balance, 6/30/21		\$0.00

Council On Aging Program Fees (3840): Originally established under Article 28, 2013 Annual Town Meeting Expenditures not to exceed \$100,000

Beginning Balance,	7/1/2021	\$3,373.15
Receipts		2,140.00
Expenditures		2,799.37
Ending Balance, 6/30/22		\$2,713.78

(4 – 0) Mr. DeCoursey was absent

COMMENT: The above summary represents the annual vote to receive reports on expenditures and receipts of the various Town revolving funds and to authorize and reauthorize such funds in accordance with state law. These funds must be reauthorized annually in order to enable expenditures from them, and as such, must be included in our abbreviated Town Meeting session. Additional materials regarding the Revolving Funds have also been included in the Appendix to this report for further consideration.