

Arlington Town Meeting — Substitute Motion

ARTICLE NO. [10]

Dated: [05.11.26]

I, [David White], do hereby submit the following Substitute Motion under Article [10]:

Voted: To see if the Town will vote to modify Title V, Article 8 of the Town Bylaws (“Wetlands Protection”) as follows, or take any action related thereto:

Move SECTION 9. DEFINITIONS to SECTION 2. DEFINITIONS, format for correct numbering and lettering; change numbering of subsequent sections.

In SECTION 5. APPLICATION FOR AND ISSUANCE OF DETERMINATION OF APPLICABILITY, OR PERMIT, remove the language “in Section 16 of this Bylaw, payable to the "Town of Arlington"” and replace with “specified in the Arlington Regulations for Wetlands Protection”.

In SECTION 12. PENALTIES FOR VIOLATIONS/ENFORCEMENT, reword the title to SECTION 12. ENFORCEMENT AND PENALTIES FOR VIOLATIONS and replace the section in full with the following text:

Whoever violates any provision of this Bylaw, its regulations, or permits or orders issued thereunder may be penalized, with fines recoverable, by indictment in superior court or on complaint before a district court. The District Court may impose fines for any violation of these provisions which shall be \$300 for each offense. Each day on which any violation exists shall be deemed to be a separate offense.

The provisions of this Bylaw, its regulations, and permits or orders issued thereunder, may also be enforced by the Conservation Agent or Conservation Administrator, after a positive vote to do so in each instance by a majority of the Conservation Commission, through the noncriminal disposition provisions of M.G.L. c. 40, §21D.

In SECTION 16. FEE SCHEDULE, change the title to SECTION 16. FEES and before SECTION 16(A). RULES, add the sentence “Any applicant shall pay the Application fee specified in the Arlington Regulations for Wetlands Protection.”

In SECTION 16. FEES SCHEDULE, replace SECTION 16(A)(2) with “Permit fees shall be calculated by the Conservation Commission or its Agent according to the schedule in the Regulations.”; SECTION 16(A)(4) with “All permit fees are tripled if work is started without permit.”; and add SECTION 16(A)(6) “ An application may be rejected or denied for failure to pay the application fee.”

In SECTION 16. FEES SCHEDULE, remove SECTION 16(B) and replace with SECTION 16(B). CONSULTANT FEES as follows.

1. Consultant Fee Upon receipt of an application/ Notice of Intent, Abbreviated Notice of Resource Area. Delineation, or Request for Determination of Applicability, or any point during the hearing process, the Commission is authorized pursuant to M.G.L. c. 44, § 53G to require an applicant to pay a reasonable fee to the Conservation Commission for employment of an outside consultant for consultant services deemed necessary by the Commission to come to a final decision on the application. The fee is called the "consultant fee."

The specific consultant services may include, but are not limited to, performing or verifying the accuracy of a resource area survey and delineation, stormwater management, analysis of resource area values, wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. Failure by the applicant to pay the Consultant Fee specified by the Commission within five (5) business days of the request for payment shall be cause for the Commission to deny issuance of a permit or other requested action.

The applicant shall pay the fee to be put into a revolving fund, which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings. The consultant shall be chosen by, and report only to, the Commission or its designee.

The exercise of discretion by the Commission 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 Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary.

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.

The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

Comment:

This was limited for scope to only (1) update the penalties for violation, (2) adjust the fee schedule, (3) and make certain clerical changes. Other edits were taken out and may come back next year.

Date Voted: _____

Action Taken: _____

Respectfully submitted,

/s/ David White

Precinct 21