

Arlington Town Meeting — Motion to Amend

ARTICLE NO. 10

Dated: April 26, 2026

I, Eugene B. Benson, do hereby submit the following Motion to Amend Article 10, Bylaw Amendment / Wetlands Protection:

To amend the main motion by making the following changes to the proposed Section 12, Enforcement and Penalties for Violations, of Title V Article 8 of the Town Bylaws, by:

- 1) Adding the words, “after a positive vote to do so in each instance by a majority of the Conservation Commission,” after the words, “Conservation Agent, Conservation Administrator; and
- 2) Adding the word, “or” between the phrases “Conservation Agent” and “Conservation Commission” in the second paragraph of that Section.

The revised text of the second paragraph of Section 12 would read (the additions are in **bold text**):

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 majority vote to do so in each instance by the Conservation Commission**, or any Police Officer of the Town, through the noncriminal disposition provisions of M.G.L. c. 40, §21D.

Comment:

This amendment would align this enforcement section of the town wetlands bylaw with the state Wetlands Protection Act regulations, 310 CMR § 10.08(3), which require a majority of the Conservation Commission to sign an enforcement order. In this instance, M.G.L. 40, § 21D (which the town has the authority to implement) is more severe enforcement than an enforcement order under the Wetlands Protection Act because it allows monetary penalties and requires the offender to appear before the clerk of the district court. It makes sense that the Conservation Commission must approve this more drastic step considering it must approve issuing a lower-level enforcement order.

For quite a few years of my career (I am now retired), I did environmental enforcement. For some other years I worked on wetlands issues and with the Wetlands Protection Act. One takeaway I got from those experiences is that it is better to have enforcement responsibilities set

out in writing, in law or regulation, rather than leave it to policy and practice of the organization. Having it in writing provides clarity, protects the town from claims of improper procedures, makes clear that the Conservation Commission must authorize the Conservation Agent or Conservation Administrator to proceed, and protects the public by setting forth the oversight process and providing some consistency in application. The Wetland Protection Act regulations do that for Enforcement Orders, requiring Conservation Commission approval. The town bylaws should do that for M.G.L. c.40 § 21D enforcement notices.

Respectfully submitted,

Eugene B. Benson

Eugene B. Benson, Precinct 10

Date Voted: _____

Action Taken: _____