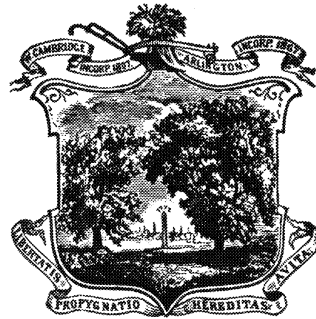


**TOWN OF ARLINGTON
MASSACHUSETTS**

**REPORT OF THE
BOARD OF SELECTMEN**



**TO THE
SPECIAL TOWN MEETING
MONDAY, FEBRUARY 12, 2018**

8:00 P.M.

ARTICLE 3

**BYLAW AMENDMENT/RESIDENTIAL
CONSTRUCTION, OPEN EXCAVATION, AND
DEMOLITION ACTIVITY REGULATIONS:
NOISE ABATEMENT**

VOTED: That Title V, Article 12, Section 3A be and hereby is amended by inserting a subpart “3,” which conditionally exempts Department of Public Works and public utilities’ work on and in public and private ways from the hours of restriction as follows:

Section 3. Daytime-Only Activities.

The following acts are specifically prohibited.

A. Prohibited Times. Operating, or permitting the operation of, any of the following devices or vehicles.

- 1. before 9:00 A.M. or after 5:00 p.m. on Saturday, Sunday or legal holiday**
- 2. before 8:00 A.M. or after 6:00 p.m. on all other days:**

a. Heavy equipment (as defined in Section 1), and

b. All electric motors or internal combustion engines, or other construction devices, tools or equipment, used in construction, drilling, demolition, maintenance, or earth moving, including but not limited to bulldozers, backhoes, concrete mixers, dump trucks, pneumatic tools, rollers, scrapers, air compressors, generators, jackhammers, cranes, pavement breakers, pile drivers, rock drills, and chainsaws.

3. Authorized Exemptions for Public and Private Way Projects

a. Arlington Department of Public Works, public utilities, and/or their contractors may perform non-emergency work in and/or on public and private ways within the Town of Arlington outside of the operating hours set forth in this Section with the permission of the Town Manager.

- b. The exemptions enumerated above shall not extend to non-emergency work on any other type of public or private property by such entities.**

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COMMENT: Last year’s successful amendment of the Town’s Noise Abatement provisions to mitigate the impact of residential construction activities in Arlington presented a previously non-ripe ambiguity in the overall formulation of Title V, Article 12 of the Town Bylaws. While Title V sets forth “Regulations Upon the Use of Private Property,” the contents of Article 12 of Title V make it ambiguous as to whether its restrictions should apply to public works and public utilities work on public and private streets (otherwise referred to as “ways”).

In the past, the issue of whether Article 12’s regulations applied or not was moot because DPW and public utilities’ normal schedule for paving, servicing of gas, water, and sewer lines typically took place within the allowed time periods. However the 2017 Town Meeting reduction of construction hours for noise purposes conflicts with both DPW’s needs and industry standards for roadway work. If these new hours of operation apply to DPW and public utilities, it will be substantially more difficult to improve roadways and the utilities contained therein in a cost-effective and efficient manner.

Moreover, the Board notes that whereas the crux of concern regarding noise in residential construction has been day and night noise at one, fixed location for the benefit of one developer or homeowner; DPW and the public utilities’ work on and in the public and private ways serve the overall public good in a manner that is not usually affixed in one location. In order to reassure against an overly broad exemption, DPW and public utilities’ non-emergency work would only be exempt with the authorization of the Town Manager. Accordingly, with these safeguards in place, we recommend this straightforward clarification to Town Meeting before DPW and utility improvements begin this coming Spring.

ARTICLE 4

BYLAW AMENDMENT/PARKING BENEFITS
DISTRICT EXPENDITURES

VOTED: That Title I, Article 11 “Program Budget,” previously deleted by vote the 2012 Annual Town Meeting, be and is hereby replaced in the entirety with the following new Article:

ARTICLE 11: Parking Benefit District Expenditures

A. Purpose and Definitions

The Purpose of this Article is to detail the Town of Arlington’s process for reviewing and endorsing expenditure requests for the operation of, and improvements to Parking Benefit Districts in Arlington as permitted by c. 40 §§ 22A and 22A ½.

For the purposes of this Article, “Parking Benefit Districts” shall be defined as set forth in G.L. c. 40 §22A ½.

The Parking Implementation and Governance Committee is a committee tasked with evaluating and making recommendations for parking and related administration and improvements in Arlington, including members of the Arlington business community.

B. Process for Review and Endorsement of Expenditures

1. Revenue Estimates. On or before February 1st of the current fiscal year, the Parking Implementation and Governance Committee, or other designee of the Board of Selectmen, shall provide a detailed estimate of the projected revenues and expenditures of each Parking Benefit District in Arlington for the ensuing fiscal year.
2. Operating Expenditures. All proposed operating expenditures for the ensuing fiscal year in each Parking Benefit District submitted by the Parking Implementation and Governance Committee or any other entity, shall be reviewed for report and recommended action or actions by the Finance Committee prior to submission for the endorsement of Town Meeting.
3. Capital Expenditures. All proposed capital expenditures for the ensuing fiscal year in each Parking Benefit District submitted by the Parking

Implementation and Governance Committee or any other entity, shall be reviewed for report and recommended action or actions by the Capital Planning Committee prior to submission for the endorsement of Town Meeting.

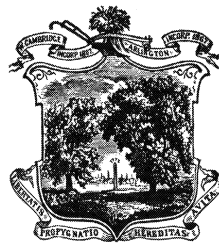
4. **Town Meeting Endorsement. Town Meeting shall have the opportunity for a non-binding vote to endorse the recommended action or actions of the Finance and/or Capital Planning Committees respectively relative to the expenditure of any Parking Benefits District revenue proposed by the Parking Implementation and Governance Committee, or any other entity.**

C. Construction and Severability

At all times this by-law shall be interpreted in a manner consistent with G.L. c. 40 §§ 22A and 22A ½. Should any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

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COMMENT: 2017 Annual Town Meeting approved the acceptance of a provision of legislation from the Massachusetts Municipal Modernization Act which allows for the establishment of “Parking Benefit Districts” in which the Town may segregate its parking revenues for expenditure in designated geographic areas (for example, the areas with parking meters) for a wide range of operating and capital purposes. The enabling state law says that the funds can be expended without further approval by Town Meeting. However, both before the Finance Committee and Town Meeting, this Board and the Town Manager committed to developing a process by which any proposed expenditures of such segregated revenues would be submitted for review and endorsement by the Finance Committee, Capital Planning Committee, and Town Meeting in a similar fashion to Town CDBG distributions. This proposed bylaw codifies such a process to ensure sound, consistent review of Parking Benefit District proposals prior to expenditure.



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DIANE M. MAHON
DANIEL J. DUNN
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