

8:00 P.M.

SPECIAL TOWN MEETING
WEDNESDAY, OCTOBER 19, 2016

TO THE



BOARD OF SELECTMEN

REPORT OF THE

TOWN OF ARLINGTON
MASSACHUSETTS

VOTED: That Title V of the Town Bylaws be and hereby is amended to add Article 16 "Registration and Maintenance of Vacant Commercial and Industrial Buildings." to read as follows:

Section 1. Findings and Purposes.

The purposes of this bylaw are to protect the welfare and economic vitality of the residents of the Town of Arlington by protecting property values, maintaining neighborhood integrity and accessibility, safeguarding against economic property blight, protecting Town resources, and ensuring the safe and sanitary maintenance of commercial and industrial vacant. Among other things, vacant commercial and industrial properties can degrade the vitality of Arlington's business districts, frustrate local planning and development efforts, create increased specific risks of fire damage, vandalism and unlawful entry or uses, and give rise to other public health and safety hazards. This bylaw is intended to promote the Town's public welfare and economic health by requiring all property owners to register and properly maintain vacant commercial and industrial properties.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:
"Building Inspector" - The Building Inspector of the Town of Arlington or his or her designee.

"Legally Occupied" - Occupied in accordance with the provisions of the Massachusetts Building Code.

"Owner" - A person or entity who, alone or severally with others:

A. Has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or

B. Is a tenant with a legal right to possess an entire building; or

C. Is a mortgagee in possession of any building; or

D. Is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or

B. The Planning Director and the Building Inspector may jointly exempt a property owner from the provisions of this bylaw upon the presentation of evidence, in such form as may be convincing to them, that the failure to use or occupy a building for a period in excess of 21 days does not violate the purpose or intent of this bylaw.

A. Prior to, or not more than seven (7) days after a unit or any portion of a property becomes vacant, as defined herein, the owner(s) must register the vacancy with the Department of Planning and Community Development and the Building Inspector on forms agreed upon and provided by such departments. All registrations must state the owner's name, phone number, and mailing address as well as an emergency contact, if not the same. None of the required addresses shall be a post office box. This registration must state if the property is vacant at the time of filing. The registration shall also state the owner's efforts to regain occupancy. Once the building is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of lawful occupancy to the Planning Department or Inspectional Service Department pursuant to the process outlined by such departments. The Building Inspector will notify Police, Fire, Water and Sewer, and Health Departments of the submitted registration of vacant building as well as the re-occupancy of the building.

Section 3. Registration.

B. Which is intermittently occupied by persons with legal right of entry, but exhibits in the opinion of the Building Inspector dilapidated walls, roof, or doors which fail to prevent the entry of a trespasser for a period of more than seven (7 days).

A. Is not legally occupied, is abandoned, or is not used for a period of at least twenty-one (21) consecutive days or longer by occupants having custody or legal right of entry to such property; or

“Vacant Building” - Any unoccupied commercial or industrial real property which:
“Public Art” - Works of art for public benefit and viewing, approved by the Department of Planning and Community Development, for which owners have agreed to the temporary display inside storefront windows or upon other safe, visible exterior surfaces of vacant properties for agreed upon time periods and other material terms.

“Planning Director” - The Director of Planning and Community Development for the Town of Arlington or her or his designee.

“Planning Department” - The Department of Planning and Community Development.

F. Is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant property.

C. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner shall maintain the condition of the building and property so as to appear not to be vacant. Upon notice by the Building Inspector, any accumulated trash and/or graffiti shall be removed from the property by the owner within seven (7) days. The Building Inspector and/or his designee will document violations. The owner of any building vacant for a period exceeding six months, whose

B. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at a vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure allowed by Title V, Article Seven of these bylaws, unless the Building Inspector determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a determined period of time. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.

A. The owner of a vacant building must maintain the vacant building in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, pertaining to the external/visible maintenance of the building and major system maintenance of the property.

Section 5. Maintenance Requirements.

C. Owners may apply for a waiver of the annual registration fee on or before October 1 of each calendar year, requesting waiver of some, or the entire fee on grounds of demonstrable financial hardship, or by agreeing in writing to display public art as defined herein for the term of a vacancy. Waivers for public art display will be granted only as sufficient public art is available, appropriate to the location for display, and the Town, artist, owner agree to terms of exhibition as set forth by the Planning Department.

B. On or before November 15 of each calendar year, the owner of any vacant property shall pay to the Town an annual registration fee to cover the administrative cost of monitoring and ensuring the security and proper maintenance of such building, as identified in said billing statement. Failure to pay the annual registration fee shall be a violation of this bylaw, and the full fee shall be deemed an assessment resulting from a violation of this bylaw. Such fee, and any fines issued for violations of this bylaw, shall constitute a "municipal charges lien" on the property, to be collected in accordance with MGL c. 40, § 58.

A. On or before October 15 of each calendar year, the Town shall send a billing statement, setting forth the annual registration fee, to the owner of the vacant property. The annual registration fee shall be set by the Board of Selectmen pursuant to M.G.L. c. 40, § 22F.

Section 4. Annual Registration Fee, Failure to Pay, Waiver.

If the Building Inspector determines the building to be unsafe, the Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this bylaw shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, MGL c. 139, § 1 et seq. and MGL c. 143, § 6 et seq.

Section 8. Unsafe Buildings.

The Building Inspector or his designee shall enforce all provisions of this bylaw and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this bylaw shall receive a written warning and a minimum of seven (7) days to remedy all violations prior to the institution of any enforcement action by the Inspector. The Building Inspector, acting on behalf of the Town of Arlington, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this bylaw. This bylaw may also be enforced through non-criminal disposition in accordance with the provisions of the Town bylaws.

A. Violations of any portions of this bylaw shall be punishable by a fine of \$100 per day in total. However, the Building Inspector and Planning Director may waive the fine in total or in part upon the abatement of the violation(s).

Section 7. Violations and Penalties; Enforcement.

The Building Inspector, Police Chief, Fire Chief and the Health Director, or their designees, shall have the authority to periodically inspect the exterior and interior of any building subject to this bylaw for compliance, as authorized under the terms of registration form filed with the Building Inspector and Planning Department. The Building Inspector shall have the discretionary authority to disconnect utilities immediately if a potential hazard that may be dangerous to life and limb is present.

Section 6. Inspections.

E. Compliance with this bylaw shall not relieve the owner of any obligations set forth in any other applicable bylaw, regulation, codes, covenant conditions or restrictions and/or association rules and regulations. In case of a conflict with these rules and regulations, the stricter of the rules and regulations shall apply.

D. The owner may include advertising materials in the vacant space or displayed in the vacant property's street-facing windows. Such advertising materials must be approved by the Planning Director.

utilities have been shut off, shall have those utilities removed or cut and capped to prevent accidents.

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect.

(5-0)

COMMENT: The Board of Selectmen appreciates that a Vacant Property Registry is a tool of significant utility to the Town and local business community, while also recognizing that it is not a solution to all vacancies in and of itself. The Board also appreciates the substantial efforts taken to date, and continuing by neighborhood leaders, concerned residents, and members of Arlington's business community to address the issues and findings set forth in the proposed bylaw through non-governmental action. The benefits of the Registry in terms of further codifying a consistent set of Town's expectations for maintenance and care of unoccupied properties alone could be substantial. However, the Registry's usefulness in encouraging commercial and industrial property owners, to be thoughtful before allowing their properties to sit vacant for long periods, as well as to potential buyers and tenants is also clear. As such, the Board urges favorable action under this Article.

**STM ARTICLE 7
ACCEPTANCE OF LEGISLATION/ USE OF PARKING
METER REVENUE WITHOUT APPROPRIATION**

VOTED: That the Town does hereby adopt provisions of Chapter 218 of the Acts of 2016 ("An Act Modernizing Municipal Finance and Government"), Section 25, elsewhere to be codified as Section 22A of M.G.L. Ch. 40, regarding payment for the acquisition and/or installation of parking meters without appropriation, from fees received for the use of such parking meters, including any subsequent amendments or modifications thereto, such adoption shall be effective upon acceptance.

(5-0)

COMMENT: In order to continue to possess the option of paying for parking meter improvements with the proceeds of such meters efficiently, the Town must now adopt this local option provision created by the Municipal Modernization Act. The Town has in the past, including very recently, found this approach to be a valuable means funding these important improvements, and as such, this Board urges favorable action under this Article.

**STM ARTICLE 8
ACCEPTANCE OF LEGISLATION/
LOCAL SPEED LIMITS**

VOTED: That the Town does hereby adopt provisions of Chapter 218 of the Acts of 2016 ("An Act Modernizing Municipal Finance and Government"), Section

As noted previously, this Board does not anticipate instituting any safety zones without appropriate opportunity for public engagement and recommendations from necessary Town and School officials, especially our Transportation Advisory Committee and Police Department. However, as with the general speed limit option, adopting this section of the Modernization Act will permit us to more efficiently assess and respond to public safety concerns about the speed of traffic in especially active areas of Arlington such as our schools and other areas of congregation. Therefore, the Board strongly urges Town Meeting's favorable action under this Article.

COMMENT: As set forth in Article 8, the process for modifying the present posted speed limits in and on Arlington roadways currently requires state studies and approvals. By adopting this provision of the Modernization Act, this Board could reduce speed limits in areas which present public safety concerns as low as twenty (20) miles per hour without engaging in such a lengthy, difficult, and sometimes uncertain process with the State.

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VOTED: That the Town does hereby adopt provisions of Chapter 218 of the Acts of 2016 ("An Act Modernizing Municipal Finance and Government"), Section 194, elsewhere to be codified as Section 18B of M.G.L. Ch. 90, regarding the option to establish 20 mile per hour safety zones as appropriate in the Town of Arlington, including any subsequent amendments or modifications thereto, such adoption shall be effective upon acceptance.

**STM ARTICLE 9
ACCEPTANCE OF LEGISLATION/
LOCAL SPEED SAFETY ZONES**

COMMENT: The process for modifying the present posted speed limits in Arlington has long been an onerous one, requiring traffic studies and State approvals, which have limited the Town's capacity to respond to frequent resident concerns of traffic moving too quickly through neighborhoods and dense business districts. While lowering the speed limit from thirty (30) to twenty-five miles per hour in the majority of Town roadways will not totally resolve such concerns, it may provide a powerful signal and incentive for drivers to slow their speeds. This Board does not contemplate instituting the lowered speed limit without first providing our Transportation Advisory Committee and Police Department, as well as the public, the opportunity to examine the various impacts of a lower speed limit, comment and make recommendations. However, adopting this local option will give Arlington discretion on this important issue. Accordingly, the Board strongly urges favorable action under this Article.

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193, elsewhere to be codified as Section 17C of M.G.L. Ch. 90, regarding the option to establish a 25 mile per hour speed limit in permitted Town of Arlington residential or business districts, including any subsequent amendments or modifications thereto, such adoption shall be effective upon acceptance.

DIANE M. MAHON, CHAIRMAN
DANIEL J. DUNN, VICE CHAIR
KEVIN F. GREELEY
STEVEN M. BYRNE
JOSEPH A. CURRO, JR.

