

# **WARRANT**

## **Burlington Town Meeting**



**January 28, 2019  
7:30 P.M.**

**Burlington High School  
Fogelberg Auditorium  
123 Cambridge Street  
Burlington, MA**

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**Burlington Town Meeting**  
**Monday**  
**January 28, 2019**

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**WARRANT**

**BURLINGTON TOWN MEETING**

**Monday, January 28, 2019**

In accordance with the provisions of Chapter 686 of the Acts of 1970 of the Commonwealth of Massachusetts, you are hereby notified that the Town Meeting Representatives of the Town of Burlington will meet in general assembly at the Burlington High School, Fogelberg Auditorium, in said Town, the 28th of January 2019 at seven-thirty o'clock in the evening then and there to act on the following articles of the warrant:

**GENERAL ARTICLES**

**ARTICLE 1**

**RE: Reports of Town Officers & Committees**

To hear and act on the reports of the Town Officers and Committees, or to act in any other manner in relation thereto.

Submitted by the Rules Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

## ZONING BYLAW ARTICLES

### ARTICLE 2

### RE: Life Science Amendment

To see if the Town will vote to amend Article II of the Zoning Bylaw to insert new definitions as follows:

#### Article II: Definitions

##### 2.12.1.1

Laboratory: A designated area within a building equipped to conduct scientific experiments, tests, investigations, research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of biology, life science, chemistry, electronics, engineering, geology, medicine and physics.

##### 2.2.14

Biotechnology and Life Science: Research, development and manufacturing utilizing microorganisms or biological substances in the fields of Life Science, biotechnology, medical, pharmaceutical, environmental science, immunology, microbiology, virology, toxicology, rDNA, comparative medicine, genome research, cell biology and apparatus, machines and devices for research, development, pharmaceuticals, biomedical technologies, life systems technologies, environmental and biomedical devices manufacturing and advance and practical application in any such field or areas. Life Science and Biotechnology uses are subject to all federal, state and local regulations and best management practices including but not limited to the Burlington Board of Health regulations for the Use of recombinant DNA Technology, the National Institute of Health Guidelines for Research Involving recombinant DNA Molecules, and the Biosafety in Microbial and Biomedical Laboratories (BMBL). Biosafety Level 4 (BL-4) laboratories, as defined by the Centers for Disease Control and Prevention, are prohibited in Burlington.

##### 2.12.1.2

Life Science (Manufacturing): A life science or biotechnology laboratory engaged in the manufacturing of life science technologies and medicines for commercial production to the market.

And further, to see if the Town will vote to amend Article IV of the Zoning Bylaw to amend the Use Table to add new uses 4.2.7.4.1 and 4.2.7.4.2, as set forth below, and to amend 4.2.7.4 to include the word “non-biologic” before medicine:

Article 4.2.0 Principal Use Regulation Schedules

4.2.7	INDUSTRIAL USES	RO	RG	RC	BN	BL	BG	BT	IG	IH	IR	OS	A	WR	CC	CBD
4.2.7.1	Light manufacturing or processing plants, prototype manufacturing	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	NO	SP	SP	SP	SP
4.2.7.4	Laboratories engaged in research, experimental and testing activities including, but not limited to, the fields of, chemistry, electronics, engineering, geology, non-biologic medicine and physics	NO	NO	NO	NO	NO	SP	NO	SP	YES	SP	NO	SP	SP	NO	SP
4.2.7.4.1	Life Science and Biotechnology laboratories engaged in research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of pharmaceuticals, biomedical technologies and engineering, life systems technologies, environmental and biomedical devices, subject to the Regulations of the Board of Health, see additional regulations in Article X, Section 10.5.0.	NO	NO	NO	NO	NO	NO	NO	SP	YES	NO	NO	SP	SP	SP	SP
4.2.7.4.2	Life Science and biotechnology laboratories engaged in the manufacture of life science technologies and medicines for commercial production to the market including, but not limited to, the fields of pharmaceuticals, biomedical technologies and engineering, life systems technologies, environmental, biomedical devices.	NO	NO	NO	NO	NO	SP	SP	SP	SP	NO	NO	SP	SP	SP	SP

And further, to see if the Town will vote to amend Article V of the Zoning Bylaw to amend, Section 5.1.5 and the Density table notes as follows:

5.1.5 Floor Area Ratio Incentive

5.1.5.1 Add new header "Floor Area Ratio Incentive" (*existing 5.1.5 language unchanged*)

And add a new subsection 5.1.5.2, as set forth below:

5.1.5.2

An owner or owners of land in the IG or IH districts may increase the Maximum Floor Area Ratio requirement from .15 to a maximum of .50 of the total gross square feet if the following conditions are met:

1. A laboratory use as defined under Article IV, sections 4.2.7.4.1 – 4.2.7.4.2 occupies at least 15% of the gross square footage of the building.
2. The non-laboratory square footage does not exceed .15 or .25 pursuant to Section 5.1.5.1.

And further if the Planning Board makes the following determinations and findings

Methods satisfactory to the Planning Board to ensure that the site operator or owner reduces estimated Institute of Transportation Engineers (ITE) forecasted trip generation rates due to the reduction of employees in a lab use environment from that of all office related to the development in both the a.m. and p.m. peak hours, based upon the most recent "ITE Trip Generation Manual" or comparable real analysis provided for such use. The site operator or owner provides for alternative Transportation options for their employees, including but not limited to bike share, guaranteed ride home and/or membership with an area Transportation Management Association (TMA). The site operator or owner provides for pedestrian connections in and around the site and improves service levels and/or safety characteristics on affected roadways or intersections.

These provisions being satisfied in the opinion and finding of the Planning Board, the Maximum Floor Area Ratio may be increased from .15 to .50.

**NOTES FOR DENSITY REGULATION TABLE**

- 2 Except that the Planning Board pursuant to a "Site Plan" or "Special Permit" as described in Section 9.2.0 and 9.3.0 of Article IX, may permit the Maximum Floor Area Ratio (FAR) to increase to .25 if such application or applications meets the performance criteria specified in Section 5.1.5.1 of Article V and further may permit the Maximum Floor Area Ratio (FAR) to increase to .50 if such application or applications meets the performance criteria specified in Section 5.1.5.2 of Article V.

And further, to see if the Town will vote to amend Article VII of the Zoning Bylaw to create a new parking use category as follows:

7.2.5 Minimum and Maximum Parking Space requirements for Non -Residential and Non - Educational Uses.

7.2.5.13 - Laboratory Use - A minimum and maximum of one (1) parking space for every one thousand (1,000) square feet of Gross Floor Area of Laboratory use as defined in 4.2.7.4 - 4.2.7.4.2.

Or to act in any manner thereto.

Submitted by the Board of Selectmen at the request of  
The Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**FINANCIAL ARTICLES**

**ARTICLE 3**

**RE: Fund the Burlington Police Command Officers' Contract**

To see if Town will vote to transfer from the Negotiated Settlement Account the sum of \$375,915 for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington Police Command Officers' Contract for FY2017, FY2018, and FY2019, same to be spent under the appropriate authority; or to act in any other manner in relation thereto.

Amount: \$375,915

Submitted by Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 4**

**RE: Fund the Burlington International Firefighters' Association Contract**

To see if Town will vote to transfer from the Negotiated Settlement Account the sum of \$TBD for the purpose of funding the approved Collective Bargaining Agreement between the Town of Burlington and the Burlington International Firefighters' Association for FY2018 and FY2019, same to be spent under the appropriate authority; or to act in any other manner in relation thereto.

Amount: \$TBD

Submitted by the Board of Selectmen at the request of the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 5**

**RE: Water Funds Transfer**

To see if the Town will vote to transfer from Free Cash to the Water Stabilization Fund the sum of \$69,384 to be placed in the Water Stabilization Fund, or to act in any other manner in relation thereto.

AMOUNT: \$69,384

Submitted by the Board of Selectmen at the request of Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )



**FINANCIAL ARTICLES- Continued**

**ARTICLE 6**

**RE: Replenish Reserve Fund**

To see if the Town will vote to transfer from Free Cash to the Reserve Fund, budget line item 92, the sum of \$219,640 to be placed in the Town's FY 2019 Reserve Fund, or to act in any other manner in relation thereto.

AMOUNT: \$219,640

Submitted by Board of Selectmen at the request of  
the Town Administrator

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**ARTICLE 7**

**RE: Transfer from Free Cash to Stabilization Fund**

To see if the Town will vote to transfer from Free Cash the sum of \$700,000 to be placed in the Stabilization Fund, or to act in any other manner in relation thereto.

AMOUNT: \$700,000

Submitted by the Board of Selectmen at the request of  
the Town Accountant

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**GENERAL ARTICLES - Continued**

**ARTICLE 8**

**RE: Alteration of Public Way Mooney Road**

To see if the Town will vote to: (1) transfer the care, custody, management, and control of town land which is portions of the existing right-of-way layout on Mooney Road, said portions as shown on the “0 Mooney Road A Modified Definitive Subdivision Plan,” approved by the Planning Board on October 17, 2018, plan prepared by Eastern Land Survey Associates, Inc., revision 2 dated September 5, 2018. Said plan filed at the Middlesex South Registry of Deeds, as Plan 1 of 2019, said portions which are known as Lot “X” (containing 121 sf) and Lot “Y” (containing 2,300 sf) and Lot “Z” (74 sf) from the Board of Selectmen for the purposes for which such land is currently held to the Board of Selectmen for the purpose of conveyance; and (2) subject and pursuant to General Laws Chapter 40, Section 3, Section 4, Section 15, and any other enabling law, to authorize the Board of Selectmen to release and convey all right, title and interest held by the Town, as follows: Lots X and Y to the owners of the property located at 2 Mooney Road, Map 31, Parcel 16-0; and Lot Z to the owners of 9 Oak Street, Map 31 Parcel 27-0; said conveyances on such terms and conditions, which may be nominal consideration, as the Board of Selectmen deems appropriate; and (3) for the Town to retain a 10 foot wide easement across lots X, Y, and Z, for the benefit of the Town, said easement shown on the “0 Mooney Road A Modified Definitive Subdivision Plan,” approved by the Planning Board on October 17, 2018, plan prepared by Eastern Land Survey Associates, Inc., revision 2 dated September 5, 2018. Said plan filed at the Middlesex South Registry of Deeds, as Plan 1 of 2019; or to act in a manner thereto.

Submitted by the Board of Selectmen at the request of  
The Planning Board

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

## **GENERAL BYLAW ARTICLES**

### **ARTICLE 9**

### **RE: Regulation of Retail Checkout Bags**

#### **MAIN MOTION**

To see if the town will vote to amend Article XIV of the Town's General Bylaws to insert the following new provision at Section 2.15:

#### **REGULATION OF RETAIL CHECKOUT BAGS**

##### 2.15. Regulation of Retail Checkout Bags

2.15.1. The purpose of this bylaw is to reduce the number of single-use plastic bags that are being used, discarded, and/or littered, and to promote the use of reusable bags and recyclable paper bags by retail establishments in the Town of Burlington.

##### 2.15.2. Definitions

The following terms shall, for section 2.15 shall have the following meaning.

2.15.2.1. “checkout bag” means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

2.15.2.2. “recyclable paper bag” means a paper bag that is: (1) 100 percent recyclable; and (2) contains at least 40 percent post-consumer recycled paper content and is clearly labeled as such.

2.15.2.3. “reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric; or made of plastic other than polyethylene (HDPE, LDPE, PETE, etc.) or polyvinyl chloride that is durable, non-toxic, and generally considered a food-grade material that is more than 3 mils thick.

2.15.2.4. “single-use plastic bag” means a plastic checkout bag less than three (3) mils thick.

2.15.2.5. “retail establishment” means any commercial enterprise including, but not limited to the following: restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, household goods stores or any other business that offers the sale of food or merchandise.

2.15.2.6. “non-profit organization” means a corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

2.15.2.7. “small business” means a retail establishment that is under twenty five hundred (2,500) square feet in size, and is not publicly owned.

2.15.3. Regulations

2.15.3.1. If a retail establishment or non-profit organization provides checkout bags to customers, these bags must either be recyclable paper bags or reusable bags.

2.15.3.2. Information regarding the proper sanitization of reusable bags to prevent fungus and illness must also be displayed or communicated at the time of checkout.

2.15.3.3. Except as otherwise provided herein, single use plastic bags shall not be distributed, used or sold for checkout or other purposes by any retail establishment or non-profit organization within the Town of Burlington.

2.15.3.4. The following are exempt and not subject to Section 2.15.

Bags used by customers to:

package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;  
contain or wrap frozen foods, meat, or fish; or

contain or wrap flowers, potted plants, or other items where dampness may be a problem.

Laundry or dry-cleaning bags or hanging bags meant for suits or dresses.

Bags sold in packages containing multiple bags intended to be used for home food storage, or garbage, waste, pet waste or yard waste disposal.

2.15.4. Effective Date

2.15.4.1. This bylaw will go into effect one hundred and twenty (120) days after approval by the Attorney General.

2.15.4.2. Upon written request to the Town Administrator a small business may ask for an extension of up to ninety (90) days past the effective date. This exemption shall only apply to a small business facing an undue hardship. An “undue hardship” shall be found only in:

a. Circumstances or situations unique to the small business such that there are no alternatives to single use plastic bags present in their retail establishment by the effective date. There must be a plan as to obtain reusable bags or paper bags by the end of the extension filed to the Town Administrator’s office; or

b. Circumstances where a small business requires additional time in order to reduce an existing inventory of single use plastic bags. Any small business in receipt of an extension shall file inventory reduction plans to consume the remaining stock of single use plastic bags with the Town Administrator’s office.

No single use plastic bags shall be purchased by the small business requesting the extension during the time of this extension.

2.15.5. Education

The Town Administrator shall send a written notice detailing the requirements imposed by this ordinance to all retail establishments and non-profit organizations operating within the Town at least ninety (90) days prior to the effective date of this ordinance.

2.15.6. Enforcement

2.15.6.1. Enforcement of this ordinance shall be the responsibility of the Town Administrator or his/her appointed designee.

2.15.6.2. Any retail establishment or non-profit organization found to be in violation of this section may be subject to a non-criminal disposition fine pursuant to M.G.L. c. 40, section 21D,

2.15.6.3. Not more than one fine may be assessed within a fifteen (15) day period per retail establishment. In lieu of the non-criminal disposition process, all fines levied may be appealed to the Board of Selectmen in writing within fifteen (15) days of the fine being levied.

2.15.6.4. Unless otherwise appealed, all fines issued under this section shall be paid within fifteen (15) days, to the Town of Burlington.

To also amend the table of penalties according to non-criminal disposition of Article I, Section 4.0 to include the following

Article XIV, Section 2.15, Regulation of Retail Checkout Bags	
First Offense	Warning
Second Offense	\$25
Subsequent Offense	\$50

or to act in any other manner in relation thereto.

Submitted by Resident Steven Shah at the request of  
Laura Vittum, Town Meeting Member, Precinct 2

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**GENERAL BYLAW ARTICLES - Continued**

**ARTICLE 10**

**RE: Amend Article II Representative Town Meeting  
of the General Bylaws**

To see if the Town will vote to amend Article II Representative Town Meeting of the General Bylaws, Section 4.0 Moderator by deleting the current text in its entirety and replacing it with the following:

The Town Moderator shall preside at all sessions of Town Meeting and shall only vote in the case of a tie vote.

On matters requiring a two-thirds vote by statute, the Moderator, as authorized under Massachusetts General Law Chapter 39 Section 15, may declare the obvious result of a two-thirds vote without the need to take a count. However, a Town Meeting Member may challenge this result by raising an immediate objection and a standing vote shall be taken.

Subject to Town Meeting approval, the Town Moderator may appoint a Town Meeting Member as Deputy Moderator to serve as Moderator during the Town Moderator's absence or disability. If both the Moderator and the Deputy Moderator are absent or disabled, Town Meeting shall elect a Town Meeting Member to serve as Moderator during said absence or disability.

The Moderator shall appoint the members of a Committee on Ways and Means and such other committees, special or standing, as may from time to time be established. The Moderator shall perform such other duties as may from time to time be assigned to the office of the Town Moderator by Bylaw, rule or other vote of Town Meeting, or to act in any other manner in relation thereto.

Submitted by the Town of Burlington's Bylaw Review  
Committee

PASSED ( ) DEFEATED ( ) POSTPONED INDEFINITELY ( ) OTHER ( )

**THE COMMONWEALTH OF MASSACHUSETTS**

To either of the Constables of the Town of Burlington in the County of Middlesex Greeting.

You are hereby directed to serve this warrant by posting up attested copies thereof at the billboard at the Town Hall, in said Town, at least fourteen days before the Town Meeting of January 28, 2019 at Fogelberg Auditorium, Burlington High School.

HEREOF FAIL NOT, to make due return of the warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting as aforesaid

Given under our hands this 7th day of January in the year of our Lord 2019.

Christopher E. Hartling, Chairman  
Robert C. Hogan, Vice Chairman  
Michael S. Runyan  
Joseph E. Morandi  
James M. Tigges

SELECTMEN OF BURLINGTON, MASSACHUSETTS

A true copy attest.

\_\_\_\_\_ Constable

Dated \_\_\_\_\_

Middlesex ss

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Burlington by posting up an attested copy of the same at the billboard in the Town Hall and as within directed, at least fourteen days before Town Meeting of January 28, 2019.

s/s \_\_\_\_\_  
Constable of Burlington

A copy of the warrant was mailed to each Town Meeting Member, the Town Moderator and the Town Clerk on the 11th day of January, 2019.

Attest: Amy E. Warfield, Town Clerk

Warrant  
January 28, 2019



MURPHY HESSE  
TOOMEY & LEHANE LLP

Attorneys at Law

*Karis L. North*  
*knorth@mhtl.com*

January 2, 2019

Town Meeting Representatives  
Burlington Town Hall  
29 Center Street  
Burlington, MA 01803

**Re: January 28, 2019 Burlington Town Meeting**

Dear Town Meeting Representatives:

I have reviewed the warrant for the January 28, 2019 Meeting, which I am hereby approving as to form subject to the following comments.

A two-thirds vote is necessary for any financial article where the funding source is a borrowing or a transfer from a Stabilization Fund.

Article 2 involves amendments to the Town's Zoning Bylaw, also requiring a two-thirds vote.

Because Article 8 involves disposition of Town land, a two-thirds vote is also required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karis L. North', written over a horizontal line.

Karis L. North  
Town Counsel

cc: John Petrin, Town Administrator