

WARRANT

Burlington Town Meeting



September 24, 2018
7:30 P.M.

Burlington High School
Fogelberg Auditorium
123 Cambridge Street
Burlington, MA

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BURLINGTON TOWN MEETING
MONDAY
MONDAY, SEPTEMBER 24, 2018

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GENERALARTICLES - Continued

ARTICLE 3

**RE: Home Rule Petition Special Legislation
Concerning Liquor Licenses**

MAIN MOTION:

That a petition to the General Court, accompanied by a bill for a special law relating to the Town of Burlington to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted as follows:

**AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO GRANT ADDITIONAL
ALCOHOLIC BEVERAGE LICENSES**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding Section 17 of Chapter 138 of the General Laws, the licensing authority of the Town of Burlington may grant five (5) licenses for the sale of all alcoholic beverages to be drunk on the premises and four (4) licenses for the sale of wine and malt to be drunk on the premises under Section 12 of said Chapter 138. The licenses shall be subject to all of said Chapter 138, except Section 17.

SECTION 2. The licensing authority of the Town of Burlington shall restrict the licenses granted under Sections 1 and 2 of this Act as to number and to persons, corporations, organizations, and entities located on the property known as and comprising the “Burlington Mall”; as more specifically shown on a plan which is on file with the Board of Selectmen of the Town of Burlington. (The property identified above being referred to in the Act as a “Permitted Location”.)

SECTION 3. The nine (9) licenses authorized in Section 1 above are in addition to the three (3) licenses granted to the Permitted Location for the sale of all alcoholic beverages to be drunk on premises pursuant to Chapter 59 of the Acts of 2014.

SECTION 4. License granted under this section shall not be transferable to any other person, corporation, or organization for a period of three (3) years from the date of original issuance or three (3) years from the enactment of this legislation, whichever is later. Any transfer in violation of Section 2 of this Act shall render said license null and void.

SECTION 5. Notwithstanding Sections 12 and 77 of Chapter 138 of the General Laws, the licensing authority of the Town of Burlington may restrict the licenses pursuant to this Act to holders of common victualler licenses.

SECTION 6. If a license granted under this section, is revoked or no longer in use at the location of original issuance, it shall be returned physically, with all of the legal rights and privileges pertaining thereto, to the licensing authority which may then grant the license to a new applicant only at the same

location under the same conditions as specified in this act provided that the applicant files with the licensing authority a letter from the Department of Revenue and a letter from the Division of Unemployment Assistance indicating that the license is in good standing with those entities and that all applicable taxes, fees, and contributions have been paid.

SECTION 7. This Act shall take effect upon its passage.

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of
Simon Property Group

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

ARTICLE 4

**RE: Chapter 194 Acts of 1986; Adoption of
Town of Burlington Scholarship Fund**

To see if the Town will vote to accept Chapter 194 of the Acts of 1986, authorizing the adoption of a town scholarship fund [entitled "Town of Burlington Scholarship Fund"]. To design and designate a place on its municipal tax bills, or the motor vehicle excise tax bill, whereby the taxpayer of said city or town can voluntarily checkoff, donate, and pledge an amount not less than one dollar or such other designated amount which shall increase the amount otherwise due, and to establish a city or town scholarship fund, the purpose of said fund is to provide educational financial aid to deserving city and town residents. Said fund shall be under the jurisdiction of the town treasurer or the Board of Selectmen, acting for and on behalf of the town and all monies which are collected as a result of the voluntary checkoff shall be transferred to the principal of said fund, and the city or town treasurer shall be the custodian of the fund and may deposit the proceeds in a bank or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth. A Scholarship Committee, to consist of the Superintendent of Schools, or his designee, and no fewer than five residents of the city or town appointed to a three-year term by the Board of Selectmen;

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of
Lucy Damiani, Shari Ellis

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

GENERAL BYLAW ARTICLES

ARTICLE 5

Town Treasurer - Change to Appointed Position

To see if the Town will vote to have its elected Treasurer/Collector become an appointed Town Treasurer/Collector for the Town of Burlington; and if such vote passes by a simple majority, to instruct the Board of Selectmen to place on the ballot for the Annual Town Election being held on Saturday, April 6, 2019, a ballot question to see if the residents of the Town of Burlington will vote to have its elected Treasurer/Collector become an appointed Treasurer/Collector; or to take any other action in relation thereto.

Submitted by the Board of Selectmen

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

ARTICLE 6

RE: Town Moderator – Increase Term to Three Years

To see if the Town will vote to amend the General Bylaws, Article III, Section 1.2 – Other Elected Officers, Item 2, by deleting:

(2) A Moderator for a one year term.

And replacing it with:

(2) A Moderator for a three year term.

This change will take effect for the Annual Town Election of 2019;

or to act in any other manner in relation thereto.

Submitted by Myrna Saltman,
Town Meeting Member, Precinct 2

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

GENERAL BYLAW ARTICLES - Continued

ARTICLE 7

**RE: Amendment to the General Bylaws
Construction Hours**

To see if the Town will vote to amend Article XIV (Environment) of the General Bylaws, Section 4.5 (Construction Hours) by deleting the current text in its entirety and replacing it with the following:

4.5 Construction Hours - The purpose of this bylaw is to set limits on the hours that construction activity can take place in order to minimize the impact to abutters and to the surrounding area, that would impair the normal use and peaceful enjoyment of any property, structure or dwelling therein.

4.5.1 Definitions - In this context, construction activity includes, but is not limited to: demolition, repair, paving, grading, excavation, and construction or alteration of buildings and streets. It also includes activities related to such construction, such as:

- a. The delivery, pickup, or movement of equipment or material
- b. Offensive noise or vibration

4.5.2 Weekday Construction Hours – Weekday construction activity shall be allowed only between the hours of 7:00 AM to 7:00 PM.

4.5.3 Saturday Construction Hours – Saturday construction activity shall be allowed only between the hours of 9:00 AM to 7:00 PM.

4.5.4 Sunday and Holiday Construction Hours – Sunday and legal (state and federal) holiday construction activity shall be allowed only for the maintenance, repair, or improvement of owner occupied residential property that does not involve the use of heavy construction equipment. Said activity must be performed by the owner or, under the supervision of the owner, the owner’s family or friends. This activity shall be allowed only between the hours of 9:00 AM to 7:00 PM.

4.5.5 Applicability – This bylaw applies to all zoning districts. This bylaw shall not apply to emergency construction activities. Nothing in this bylaw shall limit the authority of the following town boards to set or limit construction hours:

- a. The Planning Board, as part of the issuance of a special permit or as part of the terms and conditions included in a “Decision” document.
- b. The Board of Selectmen.

4.5.6 Enforcement - This bylaw shall be enforced through non-criminal disposition by the Building Inspector, his or her designee, or any police officer of the Town of Burlington.

4.5.7 Penalties for Violations - Violators of this bylaw shall be issued a warning on the first violation. Each subsequent violation shall result in a fine of \$300, each day of violation to constitute a separate offense;

or to act in any other manner in relation thereto.

~~recreation commission shall pay a fine of not less than Twenty Dollars (\$20) nor more than Two Hundred Dollars (\$200.00).~~

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the
Bylaw Review Committee

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

ARTICLE 9

**RE: Amendment to Town General Bylaws
Moderator – Two Thirds Voting**

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 the Representative Town Meeting, but he or she shall have no vote unless the numbers present and voting are equally divided. On matters requiring a two-thirds vote by statute, the Moderator as authorized under Massachusetts General Law Chapter 39 Section 15 may declare a two-thirds vote and a count need not be taken.

The Moderator may appoint, subject to Town Meeting approval, from among the elected Town Meeting Members, a Deputy Moderator to serve in the event of his or her absence or disability. In the case of the absence or disability of the Moderator and the Deputy Moderator, Town Meeting shall elect from its own membership a temporary Moderator to act 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 Moderator by bylaw, rule or other vote of the Town Meeting;

or to act in any other manner in relation thereto.

Submitted by the Board of Selectmen at the request of the
Bylaw Review Committee

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

GENERAL BYLAW ARTICLES - Continued

ARTICLE 10

RE: Regulation of Retail Checkout Bags

MAIN MOTION:

To see if the Town will vote to amend the Town's General Bylaws to include the following new provision:

REGULATION OF RETAIL CHECKOUT BAGS

Article XIV Section 2.15

2.15. Regulation of Retail Checkout Bags

2.15.1.

The purpose of this by-law 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 meanings.

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% 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 either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 mils in thickness.

2.15.2.4. "single-use plastic bag" means a plastic checkout bag 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 4 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 and any other business that offers the sale of 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 (2500) 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 bags sold in packages containing multiple bags intended to be used for home food storage, garbage, waste, pet waste or yard waste.

2.15.4. Effective Date

2.15.4.1. This bylaw will go into effect one hundred and twenty (120) days after approval according to Massachusetts General Law Chapter 40, Section 32..

2.15.4.2. A small business may ask for an extension of up to ninety (90) days past the effective date upon written request to the Town Administrator. 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 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 the retail establishments and non-profit organizations 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 shall be subject to a non-criminal disposition fine by the Town Administrator

2.15.6.3. Not more than one fine may be assessed within a fifteen (15) day period. 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. All fines shall be paid within fifteen (15) days, and be received by the Town of Burlington.

And, to see if the Town will vote to amend the Town's General Bylaws, 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

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

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

FINANCIAL ARTICLES

ARTICLE 11

RE: Will of Marshall Simonds

To see if the Town will vote to accept from the Trustees under the will of Marshall Simonds the sum not to exceed \$74,591.63 for the improvement of Simonds Park, same to be expended under the direction of the Recreation Commissioners; or to act in any other manner in relation thereto.

Amount: \$74,591.63

Submitted by the Board of Selectmen at
Request of the Recreation Commissioners)

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

ARTICLE 12

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

To see if Town Meeting will vote to transfer from the Negotiated Settlement Account a sum of \$TBD 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: \$TBD

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

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

ARTICLE 13

**RE: Fund the Burlington Police
Patrolmen's Association Contract**

To see if Town Meeting 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 Police Patrolmen's Association for 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 ()

FINANCIAL ARTICLES - Continued

ARTICLE 14

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 15

RE: PEG Cable Access Enterprise Fund

To see if the Town will vote to transfer the sum of \$560,000 to operate the FY2019 PEG Cable Access Enterprise of which \$560,000 will come from the FY2019 PEG Cable Access Enterprise Fund Estimated Revenue Account; or to act in any other manner in relation thereto.

Amount: \$560,000

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

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

ARTICLE 16

RE: Transportation Infrastructure Fund

To see if the Town will vote to transfer from Receipts Reserved for Appropriation-Commonwealth Transportation Infrastructure Fund monies the sum of \$16,785.30 from to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation or to act in any other manner in relation thereto.

Amount: \$16,785.30

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

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

FINANCIAL ARTICLES - Continued

ARTICLE 17

RE: Fire Headquarters Fire Alerting System

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide the sum of \$59,636 to pay expenses to purchase in order to replace the current Fire Headquarters fire alarm alerting system or to act in any other manner in relation thereto.

Amount: \$59,636

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

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

ARTICLE 18

RE: Tax Abatement Defense

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$150,000 to fund legal fees for property tax lawsuits filed by Sears Roebuck & Co., and SPS Portfolio Holdings LLC (C/O Simon properties); and to fund consultants to perform appraisals and/or valuation of Burlington Mall parcels; or to act in any other manner in relation thereto.

Amount: \$150,000

Submitted by the Board of Selectmen at the request of
Board of Assessors

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

ARTICLE 19

RE: 117 South Bedford Street

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of \$250,000 as necessary to exercise its first right of refusal and purchase the above-referenced property; or to act in any other manner in relation thereto.

Amount: \$250,000

Submitted by the Board of Selectmen at the request of
James Doherty, Affordable Housing Coordinator

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

FINANCIAL ARTICLES - Continued

ARTICLE 20

RE: Payment of Prior Year Expenses

To see if the Town will vote to raise and appropriate or transfer from available funds such sum of money as may be necessary to pay bills from previous FY2018 pursuant to the provisions of M.G.L. Chapter 44, § 64, or to act in any other manner in relation thereto.

Submitted by Board of Selectmen at the request of the School Committee.

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

ARTICLE 21

RE: Funding An Audit, Review or Other Procedures for a Report of the Burlington School Department Financial Accounts

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide the sum of up to \$50,000, for the purpose of funding a complete and inclusive independent audit, review or other procedures for a report of the Burlington School Department's financial accounts by an independent accounting firm. Such report shall include: operating expenses, revolving accounts, capital expenditures and all other financial accounts, for the fiscal year ended June 30, 2018 and any other period determined by the Ways and Means. The same to be spent under the direction of the Town Meeting Ways and Means Committee, and the Board of Selectmen, as set forth in Burlington General Bylaws, Article V, Section 2.1.2. A status update of the report is to be provided at the January 2019 Town Meeting by the independent accounting firm. A final report to be completed by February 1, 2019 and presented by the independent accounting firm at the regularly scheduled meeting of Ways and Means in February 2019 or to act in any other manner in relation thereto.

Amount: \$50,000

Submitted by Board of Selectmen at the request of Town Meeting Members: Pat Angelo, Karen Cooper, John Cormier, Shari Ellis, Joanne Frustaci, Larry Gelberg, Paul Girouard Jr., Joan Hastings, Betsey Hughes, Gary Kasky, Rose Manni, Gary Mercier, Dave Miller, Pat Moreno, Patricia O'Brien, Maria O'Connor, Ellie O'Connell, Michelle Papagno, Cindy Phillips, Rob Sears, Adam Senesi, Eileen Sickler, Steve Stamm, David Webb, Richard Wing, Mark Woods and Ernie Zabolotny

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

FINANCIAL ARTICLES - Continued

ARTICLE 22

RE: Amend the FY2019 Operating Budget

To see if the Town will vote to amend Article 4 of the May 14, 2018 Annual Town Meeting, “Fund FY2019 Operating Budget,” by reducing the amount appropriated in Line 63 TOTAL LOCAL EDUCATION by a sum of money, 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 ()

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 Monday, September 24, 2018 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 6th day of September in the year of our Lord 2018.

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 date of September 24, 2018.

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 7th day of September, 2018.

Attest: Amy E. Warfield, Town Clerk



MURPHY HESSE
TOOMEY & LEHANE LLP

Attorneys at Law

Karis L. North
knorth@mhtl.com

August 28, 2018

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

Re: September 24, 2018 Burlington Town Meeting

Dear Town Meeting Representatives:

I have reviewed the warrant for the September 24, 2018 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 20 involves payment of prior fiscal year expenses, which requires a nine-tenths (9/10) vote.

Sincerely,

A handwritten signature in black ink, appearing to be 'Karis L. North', written over a large, light-colored scribble or watermark.

Karis L. North
Town Counsel

cc: John Petrin, Town Administrator