

ARTICLE 32
ENFORCEMENT OF ZONING BYLAW VIOLATION(S)
BY NON-CRIMINAL DISPOSITION

WARRANT COMMITTEE MEMBER: PETER MICHELSON

To see if the Town will vote to amend the Code of the Town of Medfield Chapter 300 Zoning Section 300-14.7 Violations and Penalties, by adding a new Subparagraph C as follows:

C. In addition to the foregoing, a zoning bylaw violation may be addressed by non-criminal disposition, as provided in GL Chapter 40 Section 21D. For said purpose, the fine for each zoning bylaw violation shall be:

First Offense: \$100

Second Offense: \$200

Third and Subsequent Offenses: \$300

In the case of a continuing violation, each day shall constitute a separate offense. The Building Commissioner, Building Inspector(s), and their designee(s) shall each have the authority to enforce the provisions of this subparagraph,

or do or act anything in relation thereto.

POSITIVE MOTION

Move to amend Code of the Town of Medfield Chapter 300 Zoning, as set out in the Warrant.

Warrant Committee Report: *As currently written, the only means of enforcement requires the Town to file an application for a criminal complaint in Dedham District Court; this is a time-consuming and generally ineffective process. In recognition of the shortcomings of the criminal enforcement process, the General Court has enacted GL Ch 40 Section 21D which provides an alternate means of enforcement, in the form of non-criminal disposition; this employs a ticketing process, but requires the municipality to have enacted a bylaw provision setting forth specific amount(s) for the fine for each violation of the bylaw, as well as identifying each local official with authority to issue tickets. The proposed amendment to the Medfield Zoning Bylaw addresses both of these statutory requirements, so that the Town will be able to utilize the non-criminal disposition process set out in GL Ch 40 Section 21D to enforce zoning violations. Most, if not all, of the Town's general bylaws already include this provision for enforcement. The fine of "not more than" three hundred dollars for each violation of the bylaw currently found in Medfield Zoning Bylaw Section 300-14.7B will not be changed by this warrant article.*

The Building Commissioner has confirmed that the preferred action is always education and warnings as a first step when issuing a zoning violation, however in some cases fines may be appropriate. Unpermitted projects are usually brought to the attention of the Building Commissioner in response to neighbors' concerns about the impact a project will have on their home. For example, homeowners recently came to the Building Commissioner because they were concerned about the runoff from outdoor structures built on a neighboring property. When the property owner refused to obtain proper permitting, a fine was issued.

Since this change will be an amendment to the Zoning Bylaw the Planning Board is required to hold a public hearing which is scheduled for April 22nd.