



**TOWN OF MAYNARD
OFFICE OF THE TOWN CLERK**

**195 Main Street
Maynard, MA 01754**

PUBLIC NOTICE

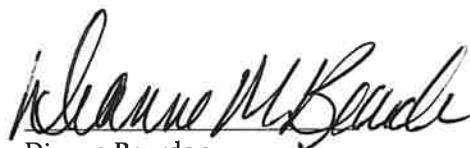
CITIZENS OF THE TOWN OF MAYNARD, MASSACHUSETTS

This is to inform you in accordance with the provisions of Chapter 40, Section 32, pertaining to Article 1 of the warrant for the Special Town Meeting that convened on October 10, 2023, has been **APPROVED** by the Attorney General's Office on February 7, 2024. Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute (14 Days). Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

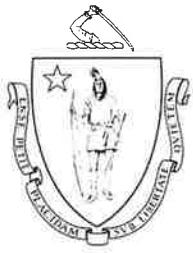
Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within 90 days of this posting. Copies of the by-laws may be obtained at the Town Clerk's Office, Town Hall, 195 Main Street, Maynard, MA.

And you are hereby given notice thereof by posting true and attested copies of this at the following locations:

- (1) Maynard Post Office, 143 Main Street
- (2) Maynard Town Hall, 195 Main Street
- (2) Maynard Public Library, 77 Nason Street
- (1) Boys & Girls Club-Assabet Valley, 212 Great Road
 - (1) Recreation Room – Concord Street Circle
 - (1) Maynard Outdoor Store, 24 Nason Street
 - (1) Shorette's Automotive, 2 Brown Street
 - (1) Family Delicatessen, 129 Main Street
- (1) Maynard Village Pizza, 86 Powder Mill Road
 - (1) Hawes Florist, 70 Powder Mill Road


Dianne Reardon
Town Clerk


2-8-2024
Posting Date



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

February 7, 2024

Dianne M. Reardon, Town Clerk
Town of Maynard
195 Main Street
Maynard, MA 01754



**Re: Maynard Special Town Meeting of October 10, 2023 -- Case # 11187
Warrant Article # 1 (Zoning)**

Dear Ms. Reardon:

Article 1 – Under Article 1 the Town voted to allow indoor commercial kennels in the Town’s Neighborhood Business Overlay District by special permit and to impose a maximum gross floor area of 7,500 square feet for these kennels. We approve Article 1 from the October 10, 2023 Special Town Meeting because it does not conflict with state law. See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law). However, we offer the following comments regarding protections given to agricultural uses under G.L. c. 40A, § 3 for the Town to consider when applying Article 1.¹

General Laws Chapter 40A, Section 3 provides exemption from local zoning by-laws for certain agricultural uses and provides in relevant part as follows:

No zoning . . . by-law . . . shall . . . prohibit unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products.....

¹ On January 10, 2024 we placed Article 1 on “299 hold” under G.L. c. 40, § 32 due to a procedural defect in its adoption. On February 7, 2024, the Town Clerk certified that the Town followed all notice and publishing requirements of G.L. c. 40, § 32 and no claims were received for Article 1. The Attorney General is therefore authorized to, and does, waive the procedural defects for Article 1.

General Laws Chapter 128, Section 1A defines agriculture and provides in pertinent part as follows:

“Farming” or “agriculture” shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market

These statutes together establish that, to the extent the use of land or structures constitutes commercial agriculture, the town cannot require a special permit for, unreasonably regulate, or prohibit such activities: (1) on land zoned for agriculture; (2) on land that is greater than five acres in size; and (3) on land of 2 acres or more if the sale of products from the agricultural use generates \$1,000 per acre or more of gross sales.

Article 1 allows indoor commercial kennels by special permit in the Town’s Neighborhood Business Overlay District. However, in some circumstances, the breeding and raising of dogs may be considered agricultural uses and entitled to the protections provided under G.L. c. 40A, § 3. See Sturbridge v. McDowell, 35 Mass. App. Ct. 924, 926 (1993). In instances where commercial kennels, enjoy the protections given to agricultural uses under state law the Town cannot prohibit, require a special permit, or unreasonably regulate such use. The Town must apply Article 1 consistent with the protections given to agriculture under G.L. c. 40A, § 3. The Town should consult with Town Counsel with any questions on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Lisa L. Mead