

Proposed Amendment to Section 1.8.3.2.1.c and 1.8.2.1.d (1) of the
Arundel Land Use Ordinance

- ~~e. If a petition requesting amendment of this ordinance is submitted, signed by at least ten percent (10%) of the registered voters of the town based on the latest gubernatorial election and filed with the Town Clerk, the Clerk shall verify the signatures. If the Clerk verifies that the signatures are valid, the Town Clerk shall notify the Board of Selectmen and Planning Board of the proposed amendment for consideration at the next town meeting. The Planning Board shall then carry out the other procedural requirements of this section. (Amended June 10, 1997)~~
- d. c. As soon as the amendment procedure is initiated by any of the above methods, the Board shall cause the Town Clerk to give public notice of a public hearing on the proposed changes, which notice shall be posted at the Arundel Town Hall and be published in a newspaper of general circulation in the town thirteen (13) days prior to the date of the hearing and published again seven (7) days prior to the date of the hearing. The notice shall contain the time, date, and place of hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.
- ~~1) Prior to a public hearing the individuals requesting the amendment shall pay to the Town Clerk a fee, in an amount specified by the Board of Selectmen's Schedule of Fees, to cover staff, professional and advertising expenses. If the actual costs exceed this amount then the individuals requesting the amendment shall be responsible for the balance to be paid prior to Town Meeting. (Amended November 13, 2007) (Amended January 8, 2018)~~

Explanation:

The Town Attorney (Drummond and Woodsum) has advised the Planning Board and the Board of Selectmen that the current language in the Arundel Land Use Ordinance (LUO) section 1.8.2.1.c and 1.8.2.1.d (1) conflicts with the State enabling legislation 30-A MRS §2522 for citizen petitions to municipal warrants.

The current language poses a legal liability to the Town in that 1) petitions are limited to the Land Use Ordinance while 30-A MRS §2522 does not restrict the scope of citizen petitions to zoning, 2) the LUO currently requires verification of petition signatures whereas 30-A MRS §2522 does not, and 3) the LUO requires the Town to be compensated by the petitioner for costs incurred in the petition process, while the state legislation does not grant that provision to the Town via its land use ordinance.

Given the current legal exposure, the Town Attorney has recommended that the citizens of Arundel simply delete LUO section 1.8.2.1.c and 1.8.2.1.d (1). This action does **not** eliminate Arundel citizens right to petition ordinance changes. The right is guaranteed by 30-A MRS §2522. Period.

However, if Arundel townspeople wish to establish accountability standards in the petition circulation or verification process or recoup public costs associated with a private citizen petition, then the Town Attorney reports that these standards can be legally established by a Town Charter Amendment.

The advantage of the Town Charter Amendment is that a convening of a Town Charter Committee and the associated extended process is not required. All that is required is a Town Meeting vote by the citizens.

