

Talking Paper on Amending the Code of Lexington—Reconsideration & Reopening

What's Broken

a. The current language regarding Reconsideration is ambiguous with regard to whether a Motion to Reconsider, without there having been a Notice of Reconsideration (NOR), must also be “timely” (i.e., same session; within 30 minutes after the vote) for a majority quorum to prevail, yet Lexington’s practice has been not to permit an instant Motion to Reconsider.

b. Having a Finance Committee serve NOR on every financial Motion—just in case there’s a need to re-balance the budget or make a technical correction—is currently a necessary nuisance.

c. The Code currently provides two means for getting around the general premise that once the subject matter of any Article in the Warrant has been acted upon by Town Meeting, such Article shall be deemed to be closed. They are Reconsideration (with a simple majority voting quorum if a timely NOR has been made) and Reopening (a 2/3rd voting quorum, at any time), but there’s no definition of the different purposes. Reopening, with its higher voting quorum, was intended to provide a means to revisit an Article when a timely NOR had not been made and both Reconsideration and Reopening were intended to allow for all otherwise permitted actions to the Motion being revisited (e.g., amendment, substitution, etc.).

d. There is no means, if need be, for unlimited Reconsideration to achieve a balanced budget—which balancing is a mandated accomplishment of Town Meeting.

Principles to be Preserved:

1. Town Meeting—along with those following the Town-Meeting proceedings—deserves fair warning if and when there’s a potential for revisiting a decision of Town Meeting during that same Town Meeting.

2. Don’t impair Town Meeting’s discretion regarding how to conduct its business.

Proposed Fixes

a. Eliminate the ambiguity in §118-14A so as to affirm that only if an NOR is made within 30 minutes of a vote having being declared will a simple majority voting quorum prevail for the consequential Motion to Reconsider—and that Motion must be at a later session.

b. Define Reconsideration (even without an NOR) to include that a Motion to Reconsider will also prevail with just a simple majority voting quorum if: (1) it is moved by a simple majority of the Board of Selectmen or of either of the Finance Committees, and (2) the sole purpose is for re-balancing the budget and/or housekeeping or technical corrections. *[This should eliminate the need for routine NOR by a Finance Committee, yet preserve the simple majority voting quorum to prevail for such purposes.]*

c. Delete Reopening, and add to the definition of Reconsideration that any other Motion to Reconsider (i.e., those not under a or b above) requires the higher voting quorum (at least a 2/3 vote) to prevail—and remain unlimited in how often it can be applied to a question.

d. Allow for unlimited Reconsiderations also for the sole purpose of achieving a balanced budget and/or housekeeping or technical corrections (i.e., those under b above).

Warrant Article on Amending the Code of Lexington—Reconsideration & Reopening

ARTICLE __ AMEND BYLAW - TOWN MEETING PROCEDURE (Citizen Article)

To see if the Town will vote to amend Sections 118-12 (Motions and order of business) & 118-14 (Reconsideration), both in Chapter 118 (Town Meetings), of the Code of Lexington with regard to the procedures for reopening and reconsideration after an Article shall have been deemed to have been closed by action of Town Meeting.

(Inserted by David G. Kanter & Ephraim Weiss and eight or more other registered voters)

DESCRIPTION: (1) To clarify the currently ambiguous language so as to affirm the current practice of Town Meeting; (2) to provide a means by which to eliminate the current need for the routine serving of Notices of Reconsideration on all budget-and-housekeeping-related Motions; (3) to retain the purpose of “reopening” an Article, but in the Section of the Code which prescribes Reconsideration; and (4) to allow sufficient Reconsiderations to adjust for a balanced budget and/or making housekeeping or technical corrections.

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Motion on Amending the Code of Lexington—Reconsideration & Reopening

MOTION UNDER ARTICLE ___ AMEND BYLAW - TOWN MEETING PROCEDURE

A. Amend § 118-12E by replacing it with

After any action, except to lay upon the table or to postpone to a time certain or to commit, has been taken upon the subject matter of any article in the warrant, such article shall be deemed to be closed and no further action shall be taken thereafter except a motion to reconsider as provided in § 118-14 of this article in the Code.

B. Amend § 118-14A by replacing it with:

A. No vote shall be reconsidered except in one of the following cases:

(1) Upon a motion to that effect where that motion is a consequence of, and given at a later session of the Town Meeting than, a notice of such motion—which notice has been given at the same session of the meeting and within 30 minutes after the result of such vote has been declared. Any member may make such a notice of reconsideration. Such a consequential motion of reconsideration would prevail by a simple majority of the members present and voting.

(2) Upon a motion to that effect given at any time during Town Meeting if (1) made by a simple majority of the Board of Selectmen or by a simple majority of either of the two Finance Committees, and (2) for the sole purpose of re-balancing the budget and/or making housekeeping or technical corrections. Such a motion would prevail by a simple majority of the members present and voting.

(3) Upon a motion to that effect if not given under (1) or (2) above. Any member may make such a motion. Such a motion would prevail by a vote of at least 2/3 of the members present and voting.

C. Amend the main paragraph of § 118-14C, without affecting its subparagraphs, by replacing it with:

When a motion of reconsideration is decided, that decision shall not be reconsidered. Except for questions reconsidered under A(2) & A(3), above—for which there is no limit on the number of reconsiderations—no question shall be twice reconsidered. Notwithstanding anything to the contrary in this article of the Code, no vote shall be reconsidered upon the following motions, namely:

§ 118-12 Motions and order of business.**A.**

Unless otherwise provided by law or by bylaw, all motions shall require only a majority vote.

B.

All articles in the warrant shall be taken up in their order upon the warrant unless otherwise ordered by a vote of the meeting, and no motion or resolution, the subject matter of which is not set forth in some article in the warrant, shall be entertained.

C.

Every motion shall be reduced to writing and signed by the member presenting it when so requested by the Moderator, and before receiving any motion the Moderator may require that it be seconded; a motion may be withdrawn by the mover if no objection is made.

D.

No motion carrying an expenditure or appropriation of money, except where such expenditure is required by law, shall be acted upon at any Town meeting until some report thereon has been made by the Appropriation Committee.

E.

After any action, except to lay upon the table or to postpone to a time certain or to commit, has been taken upon the subject matter of any article in the warrant, such article shall be deemed to be closed and no further action, except a motion to reconsider, shall be taken thereafter except by a vote of 2/3 of the members present and voting to reopen such article.

F.

No motion, the effect of which would be to dissolve the meeting, shall be in order until every article in the warrant for such meeting has been finally disposed of, except by a vote of at least 2/3 of those present and voting, but this shall not preclude an adjournment of the meeting to some other date.

§ 118-14 Reconsideration.**A.**

No vote shall be reconsidered except upon a motion to that effect or upon a notice of such motion given at the same session of the meeting and within 30 minutes after the result of such vote has been declared and any member may make a motion to reconsider or give notice thereof.

B.

The debate on a motion to reconsider shall be limited to 30 minutes and no person shall speak more than five minutes at one time nor more than once without the leave of the meeting.

C.

When a motion of reconsideration is decided that decision shall not be reconsidered and no question shall be twice reconsidered, nor shall any vote be reconsidered upon the following motions, namely:

(1)

To adjourn.

(2)

For the previous question.

(3)

To lay on the table.

(4)

To take from the table.

(5)

To close debate at a specified time.