

**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF WEST BOYLSTON**

**SEMI-ANNUAL TOWN MEETING WARRANT  
OCTOBER 20, 2014**

Worcester ss.

To the Constables of the Town of West Boylston,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of West Boylston qualified to vote in elections and town affairs, to meet in the Auditorium of the Middle/High School, 125 Crescent Street in said Town on Monday, October 20, 2014 at 7:00 p.m. in the evening, then and there to act on the following articles.

**ARTICLE 1 - AUTHORIZATION TO HEAR THE REPORTS OF OFFICERS AND  
COMMITTEES OF THE TOWN**

To see if the Town will vote to hear special reports of the officers and standing committees of the town, or take any other action relative thereto.

**ARTICLE 2 - AUTHORIZATION TO AMEND THE GENERAL BYLAWS BY ADDING A  
WETLANDS PROTECTION BYLAW**

To see if the Town will vote to amend the General Bylaws of the Town by adding Article XXXVIII Wetlands Protection Bylaw to read as follows:

**ARTICLE XXXVIII – WETLANDS PROTECTION BYLAW**

**1. Purpose and Intent**

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of West Boylston by controlling activities determined by the Conservation Commission to be likely to have a significant or cumulatively detrimental effect upon any wetland resource area of value protected by this bylaw, including but not limited to the following interests and values:

- A. Protection of public or private water supplies, especially the Wachusett Reservoir and its feeder streams;
- B. Groundwater;
- C. Flood control;
- D. Erosion and sedimentation control;
- E. Storm damage prevention;
- F. Water quality;
- G. Water pollution control;
- H. Fisheries and wildlife habitat;

- I. Habitat of rare plant and animal species;
- J. Agricultural and aquaculture; and
- K. Recreation and aesthetic values.

To this end, it is the intent of this local wetlands bylaw to protect additional wetland resources areas and interests, and to impose additional standards and procedures stricter than those of MGL c. 131, §40, the Massachusetts Wetlands Protection Act.

## **2. Jurisdiction**

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into or otherwise alter any of the following resource areas:

- A. Any freshwater wetlands, marsh, wet meadow, bog, swamp, flat, bank, or beach bordering any reservoir, lake, or pond; intermittent stream, river, or brook; and adjoining lands out to a distance of 100 feet known as the Buffer Zone;
- B. Any land under the aforementioned waterways and water bodies;
- C. Any certified vernal pool and adjoining lands out to a distance of 100 feet known as Vernal Pool Habitat;
- D. Any perennial stream, river, or brook; the land thereunder; and adjoining lands out to distance of 200 feet known as the Riverfront Area, and
- E. Any land subject to flooding or inundation by stormwater, groundwater or surface water.

(Collectively the “resource areas protected by this bylaw”).

## **3. Exemptions**

- A. The applications and permits required by this bylaw shall not be required for any emergency project or agricultural emergency as defined in MGL c. 131, §40, or regulations thereunder. No application or permit shall be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, sewer, water, telephone, or other telecommunications service, provided that written notice has been given to the Commission prior to commencement of work, and provided that all work conforms to performance standards and design specifications in the regulations adopted pursuant to this bylaw.
- B. The following activities are exempt in any resource area and in the buffer zone:
  - 1. Routine mowing and maintenance of lawns, gardens, and landscaped areas (including tree pruning) in existence on the effective date of this bylaw or which are created after such date in accordance with the terms of this bylaw;
  - 2. Work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act regulations in 310 CMR 10.00;
  - 3. Removal of dead and dying trees, without the use of machinery, excepting chainsaws; and
  - 4. Fencing around existing vegetable gardens.

#### 4. Definitions

- A. Except as otherwise provided in this bylaw or regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, which terms, as used herein, shall include the provisions of MGL c. 131, §40, and regulations thereunder at 310 CMR 10.00 et seq. (the ‘Regulations’).

#### 5. Presumptions

- A. Adjacent upland resource areas (the ‘buffer zone’) are presumed significant to the protection of wetland resources and interests because activities undertaken in close proximity to resource areas have a high likelihood of adverse impacts upon wetlands and other water resources, either immediately, as a consequence of land disturbance and construction, or over time, as a consequence of daily operations or maintenance of such activities. Such adverse impacts include, without limitation: erosion, siltation, loss of groundwater recharge, degradation of water quality, and loss of wildlife habitat.

- B. Limits on Activities within Adjacent Upland Resource Areas:

For the aforementioned reasons, the adjacent upland resource areas, within 200 feet of perennial rivers and streams (the ‘riverfront area’) and 100 feet of other wetland resource areas (the ‘buffer zone’) protected by this bylaw, are deemed valuable resources under this bylaw. This bylaw therefore limits disturbance within adjacent upland resource areas by prohibiting the following activities and/or uses. The West Boylston Conservation Commission may alter the following setbacks within the buffer zone in circumstances in which their strict application is infeasible due to special site and/or engineering considerations. It shall specify the reasons for such alteration in the Order of Conditions issued for the pertinent project.

1. Disturbance of any existing vegetation or land disturbance within twenty-five (25) feet of any freshwater wetland or river or stream; except for removal of invasive vegetation only, if done in compliance with the standards of this bylaw and/or any regulations of the West Boylston Conservation Commission.
2. Erection of any permanent structures, including but not limited to barns, garages, sheds or attached structures, within twenty-five (25) feet of any freshwater wetland, river or stream.
3. Construction of parking lots or use of land for parking motor vehicles within fifty (50) feet of any freshwater wetland, river or stream.
4. Construction or installation of any portion of a new sanitary waste disposal system, including the grading required for the primary and reserve systems within one-hundred (100) feet of any freshwater wetland, river or stream.
5. Storage of petroleum products or hazardous materials, either underground or above-ground within one-hundred (100) feet of any freshwater wetland, river or stream.

6. Placement or maintenance of dumpsters or refuse containers (on a pad or other impervious surface) within twenty-five (25) feet of any freshwater wetland, river or stream.
7. Placement of fill on top of the existing land surface and vegetation within fifty (50) feet of any freshwater wetland, river or stream.
8. Construction of driveways or retaining walls except if done in compliance with the provisions of this bylaw within fifty (50) feet of any freshwater wetland, river or stream.
9. Grading or earthwork except for minor grading as defined in the exemptions section of this bylaw within fifty (50) feet of any freshwater wetland, river or stream.

C. Exceptions to the prohibitions within Adjacent Upland Resource Areas

The following activities are not subject to the setback prohibitions listed above:

1. Routine maintenance, repairs and construction on legally pre-existing structures so long as there is no expansion of the structure;
2. Continuation of a legally pre-existing use;
3. Construction and maintenance of publicly maintained unpaved trails that restrict the use of motorized vehicles.

**6. Applications, Fees and Consultants**

- A. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application (whether for a Notice of Intent, Request for Determination of Applicability or other permit) shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving, and complying, with a permit issued pursuant to this bylaw.
- B. The Commission may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (MGL c. 131, §40) and Regulations (310 CMR 10.00 et seq.).
- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RDA) shall include information and plans as are deemed necessary by the Commission. When the person filing the request is other than the owner, the request shall be sent by the person making the request to the owner, and the determination shall be sent by the Commission to the owner as well as to the person making the request.
- D. At the time of an application, the applicant shall pay a filing fee specified by the Conservation Commission, which may be amended from time to time after public hearing in any regulations adopted by the Commission. This fee is in addition to that required by the Wetlands Protection Act (MGL c. 131, §40) and Regulations (310 CMR 10.00 et seq.).

- E. Pursuant to MGL c. 44, §53G, and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants in order to aid in the review of proposed projects.

## **7. Notice and Hearings**

A. Any person filing a Notice of Intent, Abbreviated Notice of Intent, or Abbreviated Notice of Resource Area Delineation, or an amendment to any of the above permits with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within three-hundred (300) feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall state where copies may be examined and obtained by abutters.

### **B. Public Hearing**

The Commission shall conduct a public hearing on any permit application and a public meeting on the Request for Determination of Applicability, with written notice given, at the expense of the applicant, at least ten (10) business days prior to the hearing, in a newspaper of general circulation in West Boylston. The Commission shall commence the public hearing within twenty-one (21) days from receipt of a completed permit application, unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information or plans required of the applicant or others as deemed necessary by the Commission. In the event that the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

1. In order to provide sufficient review time the Commission may continue a public hearing or public meeting if new information is submitted by the applicant, or applicant's agent, less than seven (7) business days before the scheduled public hearing or public meeting.
2. The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (MGL c. 131, §40) and Regulations (310 CMR 10.00 et seq.).

## **8. Permits and Conditions**

### **A. Decision**

If the Commission, after a public hearing and consideration of the general and specific factors set forth below, determines that the activities which are subject to the application, or the land and water uses which will result there from, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within twenty-one (21) days of the close of the hearing, unless the applicant authorizes an extension in writing, shall issue or deny a permit for the activities requested. The decision shall be in writing.

### **B. Factors in Decisions**

In making such a determination, the Commission shall take into account the following factors:

1. the extent to which the applicant has avoided, minimized and mitigated any such effect;

2. any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt; and
3. foreseeable future activities.

#### C. Resource Area Loss

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

#### D. Conditions

Upon the issuance of a permit, the Commission shall impose conditions it deems necessary or desirable to protect said wetland resource area values, and all activities shall be conducted in accordance with those conditions.

#### E. Permit Denial

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. The Commission may also deny a permit:

1. for failure to submit necessary information and plans requested by the Commission;
2. for failure to comply with the procedures, design specifications, performance standards, and other requirements in this bylaw and/or any regulations of the Commission; or
3. for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

#### F. Waivers

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its bylaw and regulations, provided that:

1. the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said bylaw or regulations;
2. that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and either
3. the project, considered in its entirety, would result in a net benefit of resource area values; or
4. that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

### **9. Regulations**

After public notice and public hearing, the Commission may promulgate regulations to effectuate the purposes of this bylaw, such as to define additional terms not inconsistent with the bylaw, to provide

additional details on filing fees and procedures, to provide for consultant fees, and to specify enforcement procedures, as the Commission deems necessary or appropriate.

The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no disturbance areas, no build areas and other work limits for protection of the resource areas covered by this bylaw.

Failure to promulgate such regulations, or the invalidation by a court of law of one or more of such regulations, shall not act to suspend or invalidate any provision of this bylaw.

## **10. Enforcement**

A. The Commission, its agents, officers, and employees shall have authority to enter upon privately-owned land within the jurisdiction of resource areas protected by this bylaw for the purpose of performing, their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling, as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

B. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, non-criminal citations under MGL c. 40, §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

## **11. Relationship to the Wetlands Protection Act**

This bylaw is adopted pursuant to the Town of West Boylston's Home Rule powers and is independent of MGL c. 131, §40 and/or the Regulations thereunder. It is the intent of this bylaw to create resource areas, interests, definitions and performance standards that impose more stringent regulation than that imposed by MGL c. 131, § 40.

## **12. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## **13. Appeals**

A decision of the Commission shall be reviewable on the record of proceedings in Superior Court in accordance with MGL c. 249, §4.

## **14. Severability**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination issued hereunder.

Or take any other action relative thereto.

**ARTICLE 3 – VOTE TO APPROPRIATE FUNDS FOR COMMUNITY PRESERVATION FUND PROJECTS AS RECOMMENDED BY THE COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will vote that the following amount be appropriated from Community Preservation Fund Revenues, or transferred from prior year reserves for Community Preservation purposes:

	<b>Project</b>	<b>Total Appropriation</b>	<b>Source of Appropriation</b>
	<b>Appropriations:</b>		
A	To Fund for Affordable Housing Purposes: A grant to hire a community housing specialist consultant to assist with the administration of 40B projects. Submitted by the West Boylston Affordable Housing Trust be expended under the direction of the Town Administrator.	\$ 20,000	\$20,000 from the fund balance designated for affordable housing

or take any other action relative thereto.

**ARTICLE 4 – VOTE TO APPROPRIATE FUNDS FOR CAPITAL IMPROVEMENT PURCHASES**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to purchase capital items, with each appropriation being treated as a separate item, or take any other action relative thereto.

**ARTICLE 5- AUTHORIZATION TO PAY BILLS FROM A PREVIOUS FISCAL YEAR**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay bills now being held by the Finance Director in his capacity as Town Accountant from a prior fiscal year for which no encumbered funds are available; or take any other action relative thereto.

**ARTICLE 6 – AUTHORIZATION TO TRANSFER FUNDS FROM THE SALE OF LOTS ACCOUNT**

To see if the Town will vote to transfer the sum of \$10,000 from the Sale of Lots Account for cemetery improvements to include wages which may need to be paid to employees and to lay out part of the new cemetery, or take any other action relative thereto.

**ARTICLE 7 – AUTHORIZATION TO APPROPRIATE FUNDS FOR AN ELECTRONIC SIGN FOR THE COMMON**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money, in addition to the sum of \$7,500 that was appropriated under Article 8 of the October 21, 2013 Semi-Annual Town Meeting, to purchase an electronic sign for The Common, or take any other action relative thereto.

**ARTICLE 8 - AUTHORIZATION TO MODIFY FISCAL YEAR 2015 APPROPRIATIONS  
AND OTHER NECESSARY ADJUSTMENTS TO THE FISCAL YEAR 2015 BUDGET**

To see if the Town will vote to raise and appropriate or transfer from available funds or from any unexpended balances of Fiscal Year 2015 appropriations, hitherto made, to Fiscal Year 2015 appropriation accounts; or take any other action relative thereto.

**ARTICLE 9 – AUTHORIZATION TO TRANSFER FUNDS TO THE  
STABILIZATION FUND**

To see if the Town will vote to transfer a sum of money to the Stabilization Fund, or take any other action relative thereto.

**ARTICLE 10 – AUTHORIZATION TO TRANSFER FUNDS TO THE CAPITAL  
INVESTMENT FUND**

To see if the Town will vote to transfer a sum of money to the Capital Investment Fund, or take any other action relative thereto.

And you are directed to serve this Warrant by posting an attested copy thereof at the place of said meeting as aforesaid and at the Post Office in said Town fourteen (14) days at least before the time of said meeting.

Hereof, fail not, make due return of this warrant with your doings thereon to the Town Clerk at the time and place of said meeting as aforesaid.

Given under our hands this 24<sup>th</sup> day of September in the year of our Lord, Two Thousand and Fourteen.

Kevin M. McCormick  
Kevin M. McCormick, Chairman

John W. Hadley, Vice Chairman  
Christopher A. Rucho  
Christopher A. Rucho, Clerk

Michael J. Kittredge, Jr., Selectman  
Siobhan M. Bohnson  
Siobhan M. Bohnson, Selectman  
Board of Selectmen  
Town of West Boylston

A true copy attest:

Kim D. Hopewell  
Kim D. Hopewell, Town Clerk

Honorable Board of Selectmen:

I have served this Warrant by posting duly attested copies thereof at the following places:

- Municipal Office Building 1341
- West Boylston Middle/High School 1337
- West Boylston Post Office 1312
- Pruneau's Barber Shop 1323
- Municipal Lighting Plant 1333
- Beaman Memorial Library 1330

[Signature]  
Constable

10/1/14  
Date