

# **COMMONWEALTH OF MASSACHUSETTS**

**S.S. FRANKLIN**

To either of the Constables of Warwick. GREETINGS:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town who are qualified to vote in elections and in Town affairs, to

**MEET AT THE TOWN HALL ON MONDAY, MAY 3, 2010, AT 7:00 P.M.**

**Then and there to act on the following articles:**

**ARTICLE 1:** Shall the Town accept the reports of Town Officers and Committees for 2009?

**ARTICLE 2:** Shall the Town authorize the Town Treasurer / Tax Collector to enter into compensating balance agreements during Fiscal Year 2011 as permitted by General Laws Chapter 44:53f, or act in relation thereto?

**ARTICLE 3:** Shall the Town authorize the Board of Selectmen to apply for and accept state or federal grants, and to expend any monies received as set forth in the appropriate grant application, or act in relation thereto?

**ARTICLE 4:** Shall the Town authorize the following revolving funds in accordance with **Massachusetts General Law, Chapter 44, Section 53E ½**, or act in relation thereto?

A. Fees for Board of Health inspections will be deposited into a revolving fund and expended to pay the personnel performing the inspections and related expenses. The fund will be under the authority of the Board of Health and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Two Thousand Dollars (\$2,000.00)

B. Fees collected for burials by the Cemetery Commission or Board of Selectmen will be deposited into a revolving fund to pay personnel for the purpose of preparing the burial lot(s). The fund will be under the authority of the Cemetery Commission, and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Two Thousand Dollars. (\$2,000.00)

C. Fees and reimbursements for costs of public hearings held by the Board of Selectmen and Zoning Board of Appeals will be deposited into a revolving fund and expended to pay the costs of advertising, recording fees, and expenses related to the hearings. The fund will be under the authority of the Board of Selectmen, and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Three Thousand Dollars. (\$3,000).

D. Fees for inspections conducted by the Plumbing and Gas Inspector will be deposited into a revolving fund and expended to pay the Inspector for performing said inspections. The fund will be under the authority of the Board of Selectmen, and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Two Thousand Dollars. (\$2,000) If this fund is not reauthorized for the fiscal year commencing July 1, 2011 the balance will close out to surplus revenue at the close of Fiscal Year 2011.

E. Cleaning deposit fees retained by the Town, related to the use of Town Hall, will be deposited into a revolving fund and expended to pay the Town Hall Janitor for extra cleaning required after the use of Town Hall by any person or group which forfeits its cleaning deposit. The fund will be under the authority of the Board of Selectmen, and expenditures shall not exceed Two Thousand Dollars (\$2,000) for the fiscal year commencing July 1, 2010.

F. Funds received from the sale of timber from Town owned land will be deposited into a revolving fund and expended to pay the costs of professional forestry management services and related expenses. The fund will be under the authority of the Forestry Committee and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Two Thousand Dollars (\$2,000).

G. Funds received from sale of dog licenses or from loose dog fees collected will be deposited into a revolving fund to pay for expenses incurred for licensing expenses, and the care and kenneling of animals in the custody of the Animal Control Officer. The fund will be under the authority of the Chief of Police and the total expenditures in the fiscal year commencing July 1, 2010, shall not exceed Seven Hundred Fifty (\$750).

H. Fees collected for Fire Department inspections will be deposited into a revolving fund and expended to pay the personnel performing the inspections and related expenses. The fund will be under the authority of the Fire Department and total expenditures for the fiscal year commencing on July 1, 2010, will be limited to Two Thousand Dollars (\$2,000).

I. Fees collected by the Planning Board's Zoning Program will be deposited into a revolving fund and expended to pay costs associated with the Planning Board's Zoning Program such as zoning related hearings, zoning public notification, and zoning training of board members. The fund will be under the control of the Selectboard, total expenditures for the fiscal year commencing July 1, 2010, will be limited to one thousand dollars (\$1,000).

J. Fees collected by the Recreation Commission will be deposited into a revolving fund and expended to pay for expenses of the Recreation Commission. The funds will be under the authority of the Recreation Commission and total expenditures for the fiscal year commencing on July 1, 2010 will be limited to Five Thousand Dollars (\$5,000).

K. Fees for inspections conducted by the Electrical Inspector will be deposited into a revolving fund and expended to pay the Inspector for performing said inspections. The fund will be under the authority of the Selectboard, and total expenditures for the fiscal year commencing on July 1, 2010 will be limited to Two Thousand Dollars (\$2000)

**ARTICLE 5:** Shall the Town raise and appropriate by taxation such sums of money as may be necessary to defray expenses, the amount estimated by the Board of Selectmen and the Finance Committee for the Fiscal Year commencing July 1, 2010, or act in relation thereto, for the purposes designated in the budget that follows, or any other amounts for such purposes, which shall not exceed the amounts stated in the column designated "FY 2011 requested"? Each item shall be considered a separate appropriation. This article shall also act to fix the salaries and compensation of elected officials as required by Massachusetts General Law, Chapter 41, Section 108.

Requested salaries and compensation for elected officials:

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Moderator	\$125	Selectboard	\$1200
Assessors	\$1500	Town Clerk	\$5700
Tree Warden	\$500	Board of Health	\$1500
Cemetery Commission	\$600		

**ARTICLE 6:** Shall the Town transfer from the Capital Stabilization Fund the sum of \$10,000 to fund the Warwick Community School Improvement Account established by vote of the Annual Town Meeting held May 3, 2004, or act in relation thereto? (2/3 vote required)

**ARTICLE 7:** Shall the Town raise and appropriate the sum of \$2,500 to the Revaluation Account, or act in relation thereto?

**ARTICLE 8:** Shall the Town transfer \$3,997 from Overlay Surplus to reduce the FY 2011 tax levy or act in relation thereto?

**ARTICLE 9:** Shall the Town raise and appropriate the sum of \$4,950 to carry out the PVRSD Central Office capital projects or take action thereto?

**ARTICLE 10:** Shall the Town raise and appropriate the sum of \$7,150 to carry out capital projects at Pioneer Valley Regional School or take action thereto?

**ARTICLE 11:** Shall the Town appropriate a total of \$45,000 to the Transfer Station Enterprise Fund effective July 1, 2010 and raise from taxation \$20,000 of the appropriation for operation of the Transfer Station?

**ARTICLE 12:** Shall the Town appropriate a total of \$55,000 by borrowing \$40,000 and transferring \$15,000 from Capital Stabilization Fund for the purchase of a one-ton highway truck with dump-body, plow and frame or take other action thereon? (2/3 vote required)

**ARTICLE 13:** Shall the Town appropriate \$549 from "Free Cash" to reduce the FY 2011 tax levy or act in relation thereto?

**ARTICLE 14:** Shall the Town raise and appropriate \$25,000 to the Capital Stabilization Fund? (2/3 vote required)

**ARTICLE 15:** Shall the Town appropriate \$90,000 to the Broadband Enterprise Fund effective July 1, 2010 for operation of the Warwick Broadband Service?

**ARTICLE 16:** Shall the Town transfer from Capital Stabilization the sum of \$52,170 to the Town Hall Improvement Account? (2/3 vote required)

**ARTICLE 17:** Shall the Town transfer from Capital Stabilization the sum of \$13,000 to acquire the Moore's Pond Beach or take other action thereon? (2/3 vote required)

**ARTICLE 18:** Shall the Town borrow up to \$70,000 for five years to fund repairs of the Warwick Community School automatic sprinkler system?

**ARTICLE 19:** Shall the Town transfer from Capital Stabilization the sum of \$10,000 for energy consulting at Warwick Community School or take other action thereon? (2/3 vote required)

**ARTICLE 20:** Shall the Town raise and appropriate \$2,394 fund an operating deficit in the police department off duty detail account or take other action thereon? (Requires 90% vote).

**ARTICLE 21:** Shall the Town adopt the attached right to farm by-law or take other action thereon?

**ARTICLE 22:** Shall the Town vote to add the town of Leverett as a member of the Franklin county solid Waste Management District ("District") and therefore amend Article 1 paragraph 4 of the Franklin county Solid Waste Management District Agreement pursuant to article 7 of said Agreement by adding "Leverett" to the list of District member municipalities, subject to the following terms:

The Town of Leverett shall be admitted as a member of the District, effective July 1, 2010, by paying a one-time membership fee to the District of \$4,550 plus an annual assessment of \$4,624 for Fiscal Year 2011 and all future assessments based upon the same assessment formula applied to all other District member municipalities and shall comply with all other provisions of the District Agreement

**ARTICLE 23:** Shall the Town vote to enter into immediate discussions with other Western Massachusetts municipalities with the intent of entering an inter-municipal agreement, by and through the Select Board, pursuant to Chapter 40, Section 4A of the Massachusetts General Laws, for the purpose of establishing a universal, open access, financially self-sustaining communication system for the provision of broadband service, including high-speed Internet access, telephone and cable television to the residents, businesses and institutions of these municipalities; or act in relation thereto?

**Hereof fail not and make return of this warrant with our doings thereon at the time and place of said meeting. Given under our hand this \_\_\_ day of April, 2009**

\_\_\_\_\_  
Frederick H. Abbott III

\_\_\_\_\_  
Nicholas Arguimbau

\_\_\_\_\_  
Patricia Lemon

**And you are directed to serve this Warrant by posting up attested copies thereof at Town Hall, the Senior Center (Town Hall Dining Hall), the Transfer Station and the Warwick Free Public Library seven (7) days before the date of the meeting, as within directed.**

**FRANKLIN S.S.**

**Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of WARWICK by posting attested copies of the same at the Town Hall, the Senior Center (Town Hall Dining Hall), the Transfer Station and the Warwick Free Public Library seven (7) days before the date of the meeting, as within directed.**

This \_\_\_\_\_ Day of April, 2009

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Constable

Right To Farm By-Law

### **Section 1: Legislative Purpose and Intent**

- (a) The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter III, Section 125A and Chapter 128 Section 1A. We the citizens of Warwick restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, (“Home Rule Amendment”).
- (b) This General By-law encourages the pursuit of agriculture, promotes agriculture- based economic opportunities, and protects farmlands within the Town of Warwick by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

### **Section 2: Definitions**

- (a) The word “farm” shall include areas of land or water bodies used for the primary purpose of an agricultural enterprise, or accessory thereto.
- (b) The words “farming” or “agriculture” or their derivatives shall include, but not be limited to the following:
  - (1) farming in all its branches and the cultivation and tillage of the soil;
  - (2) dairying;
  - (3) production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
  - (4) growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
  - (5) raising of livestock including horses;
  - (6) keeping of horses as a commercial or not-for-profit enterprise; and keeping and raising of fowl, swine, cattle, sheep, goats, ratites (such as emus, ostriches and rheas) and camelids (such as llamas, alpacas and camels), and other domesticated animals including bees and fur-bearing animals for food and other agricultural purposes.
- (c) “Farming” shall encompass activities including, but not limited to, the following:
  - (1) operation and transportation of slow-moving farm equipment, stock and produce over roads within the town;

- (2) control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- (3) application of manure, fertilizers, herbicides and land based application of pesticides only;
- (4) conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- (6) maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- (7) on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3: Right To Farm**

The Right to Farm is hereby recognized to exist within the Town of Warwick. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. "Generally accepted agricultural practices" for purposes of this section do not include practices that interfere with organic farming operations on adjacent property, and do not include propagation of genetically engineered crops that might interfere with agricultural operations or the public health and welfare at any location in the town. No abutter to an organic farmer's property shall allow spray drift from herbicide, chemical fertilizer, or pesticide application to contaminate the organic farmer's property. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law, nor shall it be deemed to exempt any person or property from town zoning bylaws or other laws or regulations.

### **Section 4: Disclosure Notification**

- (a) Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Warwick, the landowner shall present the buyer or occupant with a disclosure notification which states the following:
  - (1) "It is the policy of this community to encourage the local production of food and other agricultural products and to conserve and protect farmland for its natural,

scenic, and ecological value. This disclosure informs buyers or occupants that farming activities, including the raising and keeping of livestock, take place in the Town of Warwick and that such activities (which may occur on holidays, weekdays, and weekends by night or day) may cause noise, dust and odors. Those occupying land in Warwick should expect and accept such conditions as a normal and necessary aspect of living in a rural town.”

- (b) A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the buyer prior to the sale, purchase, exchange or occupancy of such real property. A copy of the signed disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall appear each year in the Town Report and may be provided by the Town to landowners by mail.
- (c) A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Board of Selectmen or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D.
- (d) No violation of this section shall be deemed to create any exception to or limit of rights set forth in Section 3.

#### **Section 5: Resolution of Disputes**

- (a) Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Police Department, the Conservation Commission, Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer, Police Department, Conservation Commission, Board of Health or Select Board shall, but in the case of imminent danger or risk to public health may, forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

#### **Section 6: Severability Clause**

- (a) If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Warwick hereby declares the provisions of this By-law to be severable.