



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
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October 28, 2020

Tracy Kenney, Town Clerk  
Town of Canton  
801 Washington Street  
Canton, MA 02021

**Re: Canton Annual Town Meeting of June 22, 2020 -- Case # 9878**  
**Warrant Article # 52 (Zoning)**  
**Warrant Articles # 36 and 42 (General)**

Dear Ms. Kenney:

Article 42 - We approve Article 42 from the June 22, 2020 Canton Annual Town Meeting.<sup>1</sup>

Article 36 - The Attorney General's deadline for a decision on Article 36 is extended for an additional 30 days under the authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000. The agreement with Town Counsel for a 30-day extension is attached hereto. We will issue our decision on Article 36 on or before **December 1, 2020**.

Article 52 - Because of a procedural defect in the adoption of Article 52, the Attorney General has elected to proceed under the authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, and place this Article on "hold."

In the materials submitted to us the Town has certified the following information pursuant to G.L. c. 40, § 32, and c. 40A, § 5: (1) the Planning Board Hearing notice was posted on February 14, 2020 for a Planning Board Hearing to be held on February 19, 2020. Therefore, the Planning Board Hearing notice was not posted at least fourteen days prior to the Hearing, as required by G.L. c. 40A, § 5; and (2) the Planning Board Hearing notice was posted on the Town website, but was not posted "in a conspicuous place in the...town hall," as required by G.L. c. 40A, §5. Apart from these defects, the notice appears to satisfy the requirements of the statute.

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<sup>1</sup> The posted Warrant called for Town Meeting to be held on May 11, 2020. However, in accordance with G.L. c. 39, § 10A (as amended by Chapter 53 of the Acts of 2020), Town Meeting was postponed two times as follows: (1) from May 11, 2020 to June 11, 2020; and (2) from June 11, 2020 to June 22, 2020. Town Meeting was held on June 22, 2020.

Therefore, the 90-day period prescribed for the Attorney General's review of Article 52 is suspended in accordance with G.L. c. 40, § 32.

A signed copy of Form 299 is enclosed. Once the procedures outlined in Form 299 are completed, and after the expiration of the 21-day period required by Chapter 299 of the Acts of 2000, please return a copy of Form 299 to us along with your certification that a true copy has been posted and published as required by Chapter 299. Please feel free to contact this Office with any questions about this procedure.

**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,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
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cc: Town Counsel Paul DeRensis

**ANNUAL TOWN MEETING  
TOWN OF CANTON  
JUNE 22, 2020  
ARTICLE 42  
ADOPTED UNDER THE CONSENT AGENDA**

**ARTICLE 4**

***ACT ON "CONSENT AGENDA"***

**Article 4** To see if the Town will vote to dispose of certain articles in this warrant by a single vote, in accordance with a so-called "consent agenda" or to take any other action related thereto.

**Board of Selectmen**

**MOVED:** That the following articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: 5, 6, 9, 10, 11, 13, 17, 19, 20, 37, 38, 40, 41 and 53.

**FINANCE COMMITTEE VOTE: 8-0-0**

Tim McKenna, Chairperson of the Finance Committee, moved a substitute motion that the following articles be disposed of by a single vote, in accordance with the Finance Committee motions as printed in the report of the Finance Committee: Articles 7, 8, 11, 15 (clerical error in dollar amount, correct amount is \$965,229.28), 18, 20, 23, 28, 29, 31, 34, 36, 39 and 42

Substitute motion adopted.

**ADOPTED UNANIMOUS VOICE VOTE**

**ARTICLE 42**

***AMEND GENERAL BYLAWS - CHANGE "BOARD OF SELECTMEN" TO "SELECT BOARD"***

**Article 42** To see if the Town will vote to amend the Town of Canton's General By-laws by replacing, in each instance in which they appear: (1) the words "Board of Selectmen", "Board of Selectman", "Board", or "Selectmen", when such terms reference the entire Board, with the term "Select Board"; (2) the term "Selectman" with "Select Board member"; (3) the term "Chairman" with the term "Chair"; and the term "Vice Chairman" to "Vice Chair" and (4) the words "He", "His" or "Him" to "They", "Theirs" or "Them"; and to change any other gender specific pronouns to gender neutral pronouns or to take any action related thereto, provided, however, that this bylaw amendment shall take effect only after all the provisions of M.G.L. c. 40, s.32 have been met; or to take any other action related thereto.

**Christine Smith and 16 others**

**MOVED:** That the General By-Laws be amended by replacing, in each instance in which they appear: (1) the words "Board of Selectmen", "Board of Selectman", "Board", or "Selectmen", when such terms reference the entire Board, with the term "Select Board"; (2) the term "Selectman" with "Select Board member"; (3) the term "Chairman" with the term "Chair"; and the term "Vice Chairman" to "Vice Chair" and by changing any other gender specific pronouns to gender neutral pronouns, provided, however, that this bylaw amendment shall take effect only after all the provisions of M.G.L. c. 40, s.32 have been met.

**FINANCE COMMITTEE VOTE: 7-0-0**

Attest:

  
Tracy K. Kenney, Canton Town Clerk

and allowed to discharge to a water of the U.S through Canton's drainage system, as required by the Town of Canton's Small Municipal Separate Storm Sewer System (MS4) Permit Issued by the United States Environmental Protection Administration (EPA).

## 2. APPLICABILITY

A. No person may undertake a construction activity or land disturbance, including clearing, grading, excavation or redevelopment that will disturb or alter equal to or greater than 20,000 square feet without a Stormwater Management Permit approved by a majority of the Stormwater Authority members or as otherwise provided in this Bylaw. Any person that fails to follow the requirements of a Stormwater Management Permit and the related Erosion Control Plan, and Operations and Maintenance Plan, shall be in violation of this Bylaw.

1. This Bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to Section 2.C of this Bylaw. All new development and redevelopment under the jurisdiction of this Bylaw as prescribed in this Bylaw shall be required to obtain a Stormwater Management Permit.

2. The holder of a Stormwater Management Permit must employ sediment and erosion control at the permitted construction site in accordance with an Erosion Control Plan approved by the Stormwater Authority. The Erosion Control Plan must be prepared in accordance with the Canton Stormwater Regulations and the "Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas", May 2003 (or as modified).

B. Hotspots - An alteration, redevelopment, or conversion of land use to a hotspot such as, without limitation: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping businesses, outdoor storage and loading areas of hazardous substances, shall require a Stormwater Management Permit.

C. Exemptions - The following activities are exempt from the requirement to obtain a Stormwater Management Permit:

1. Any activity that will alter an area less than 20,000 square feet, with the exception of any projects which file for a Stormwater Management Permit between the effective date of this Bylaw and prior to August 30, 2020, for which the threshold will be 5,000 square feet of disturbance or less than 25% of a contiguous property, whichever is less. This exception may not be applied for contiguous properties held in common ownership at the time of adoption of this Bylaw that may have been previously subdivided and/or are attributed to multiple separate owners.

2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act.

3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling.

4. Repair or replacement of an existing roof of a single-family dwelling.

5. The construction of any fence that will not alter existing terrain or drainage patterns.

6. Construction or repair of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.

7. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Conservation Commission.

8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

D. Nothing in this Bylaw is intended to replace the requirements of the Town of Canton Zoning Bylaw, Flood Plain Overlay District, the Town of Canton Wetlands Protection Bylaw, the Consolidated Drainage Bylaw or any other Bylaw that may be adopted by the Town of Canton. Any activity subject to the provisions of the above cited Bylaws must comply with the specifications of each. Nothing in this Bylaw is intended to replace the requirements of construction site operators to comply with the terms and conditions of EPA's Construction General Permit.

### 3. AUTHORITY

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### 4. ADMINISTRATION

A. The Conservation Commission or its authorized Agent(s) shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Commission may be delegated in writing by the Commission to its employees or agents.

B. Stormwater Regulations. The Conservation Commission may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement (including sanctions for violation), fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Bylaw by majority vote of the Commission after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw. As revisions to this Bylaw may precede updates to the Stormwater Regulations, in case of conflict, this Bylaw shall govern and the Conservation Commission and its Agent may waive provisions of the Stormwater Regulations which are in conflict with this Bylaw. Applicants should consult with the Conservation Agent.

C. Massachusetts Stormwater Handbook. The Conservation Commission, at a minimum, may utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Handbook for execution of the provisions of this Bylaw. This Handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Handbook may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with the Handbook will be presumed to be protective of Massachusetts water quality standards.

D. Stormwater Management Permit. The Conservation Commission shall have the authority to adopt rules and regulations further defining the Stormwater Management Permit (SMP) for projects as described in section 2.A.

E. Actions by the Conservation Commission. The Conservation Commission may take any of the following actions as a result of an application for a Stormwater Management Permit as more specifically defined as part of Stormwater Regulations promulgated pursuant to this Bylaw: Approval, Approval with Conditions, Denial, or Denial without Prejudice.

F. Appeals of Action by the Conservation Commission. A decision of the Conservation Commission shall be final. Further relief of a decision by the Conservation Commission made under this Bylaw shall be appealed to a court of competent jurisdiction.

G. Stormwater Utility. The Board of Selectman may adopt, pursuant to any applicable law or Bylaw, a Stormwater Utility pursuant to M.G.L. Chapter 83 Section 16 and Chapter 40 Section 1A. The Board of Selectman shall administer, implement, and enforce this Utility. Failure by the Canton Board of Selectman to promulgate such

a Stormwater Utility through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of the other provisions of this Bylaw.

H. **Stormwater Credit System.** The Canton Conservation Commission may adopt, through the Regulations authorized by this Stormwater Management Bylaw, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the Commission, to take credit for the use of stormwater low impact design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the Commission to promulgate such a credit system through its Regulations or a legal declaration of the invalidity of the credit system by a court shall not act to suspend or invalidate the effect of the other provisions of this Bylaw.

## 5. PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4.B. of this Bylaw. As revisions to this Bylaw may precede updates to the Stormwater Regulations, in case of conflict, this Bylaw shall govern and the Conservation Commission and its Agent may waive provisions of the Stormwater Regulations which are in conflict with this Bylaw. Applicants should consult with the Conservation Agent.

## 6. ENFORCEMENT

The Conservation Commission, or an authorized agent of the Conservation Commission shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations promulgated as permitted under Section 4.B. of this Bylaw.

## 7. COORDINATION WITH OTHER TOWN DEPARTMENTS

Any person filing a permit application with the Conservation Commission shall submit a copy thereof at the same time, by email, certified mail, or hand delivery, to the Board of Selectmen, Planning Board, DPW Engineering Department, Board of Appeals, Board of Health, and the Building Inspector. The person filing such application shall at the same time submit to the Conservation Commission a written notice that these copies have been submitted to these other departments. The Conservation Commission shall not take final action on an application until such boards and officials have had fourteen calendar days from their receipt to submit written comments, if any, to the Conservation Commission. The applicant shall have the right to receive such written comments, if any, and to respond to them, if desired, prior to final action.

## 8. DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this Bylaw. Additional definitions may be adopted by separate regulation:

A. **ALTER:** Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbing activities."

B. **BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts (e.g. policies or procedures such as enhanced street sweeping), and/or promote pollutant reduction by eliminating the pollutant source.

C. **EROSION AND SEDIMENT CONTROL PLAN:** A document containing narrative, drawings, and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sediment Control (CPESC) which includes best management practices or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities in accordance with requirements of this bylaw.

- D. **EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.
- E. **GRADING:** Changing the level or shape of the ground surface.
- F. **HOTSPOT:** Land uses or activities with higher potential pollutant loadings, such as auto salvage yards, auto fuelling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.
- G. **LAND-DISTURBING ACTIVITY (also referred to as LAND DISTURBANCE, DISTURBANCE OF LAND and LAND ALTERATION):** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters, involves clearing (of soil, trees or vegetation) and grading, and/or results in an alteration of drainage characteristics.
- H. **LOW IMPACT DESIGN (formerly Better Site Design):** Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural stormwater management practices. Also known as environmentally sensitive design, low impact design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.
- I. **MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS:** The Standards issued by the Massachusetts Department of Environmental Protection, as further defined in the Massachusetts Stormwater Handbook, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
- J. **MS4 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Canton.
- K. **NEW DEVELOPMENT:** Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.
- L. **NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.
- M. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.
- N. **OPERATION AND MAINTENANCE PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.
- O. **PERSON:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Canton and any other legal entity, its legal representatives, agents, or assigns.
- P. **POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works, watercourse, or waters of the Commonwealth. Pollutants include, but are not limited to:
- I. **Paints, varnishes, and solvents;**