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Conservation
Commission

WILLIAMSTOWN CONSERVATION COMMISSION PROPOSED WETLANDS BYLAWS

The proposed bylaws represent the Conservation Commission's effort to implement the sections of the Williamstown Master Plan of 2002 for which the Commission is responsible. This includes the Open Space section that calls upon the town to protect "natural resources, aquifer recharge areas, wetlands, riparian zones and slopes," through zoning and other means (16), and the Land Use section, which calls for "encouraging sustainability by...the enhancement of water and air quality, with zero or reduced impact as a goal of the community and region" (37). These proposed bylaws are the result of over three years of research, careful thought and deliberation by the experts on the Commission, who have decades of combined experience and expertise on water resources. We ask that you give it careful consideration and please contact Philip McKnight, the Chair, or any Commission member, with any questions or concerns you may have. The proposals, Articles 25 & 26, may be read on the Town website, linked below.

Why Extend Protections to Unprotected Wetlands?

Changes to streams and wetlands, such as filling, water pollution, and paving or removal of vegetation in buffer zones may diminish the water quality, water quantity, and biological diversity of small freshwater ecosystems, thereby affecting downstream rivers and streams. The Conservation Commission, charged with ensuring that development is responsible and environmentally protective, proposes to extend the Commission's jurisdiction to cover those intermittent streams, vernal pools and isolated wetlands not already protected by the State's Wetlands Protection Act. Nearly 2/3 (194 of 341) of the municipalities in the Commonwealth have passed bylaws to protect their local wetlands.

- 1) Intermittent (Headwater) Streams:** Intermittent streams are headwaters that have flowing water at certain times of the year but not during dry periods; they are upslope of perennial streams, which have water flowing year-round. Intermittent

streams were covered by the original Wetlands Protection Act of 1972, but were exempted by amendment decades later.

It is important to protect intermittent streams for the following reasons. 1) Flood Protection: Changes in surrounding vegetation, development, paving, and the elimination of small streams reduces the amount of rainfall, runoff, and snowmelt the stream network can support before flooding; increased water volumes scours channels and promotes downstream flooding. 2) Water Supply: Alteration of small streams disrupts the quantity and quality of the water; Two-thirds of Americans obtain their drinking water from surface water; headwater streams contribute significantly to the water volume of downstream rivers. 3) Water Quality: Headwaters are critical to the healthy functioning of downstream rivers; channels and buffer zones that are altered are less effective at trapping sediment, recycling nutrients, and recharging groundwater and as a result downstream streams and rivers have poorer water quality, less reliable flow, and less diverse aquatic life. 4) Habitat: Small streams provide habitat for an array of plant, animal and microbial life, are critical to biodiversity, and vital to maintaining many fish and animal populations as they provide a rich resource base that contributes to the productivity of food webs. 5) Biodiversity: Headwater streams usually support a large number of species, some of which are unique to such ecosystems.

- 2) **Vernal Pools**: Vernal pools are small, isolated wetlands that retain water on a seasonal basis. Sometimes referred to as “spring pools,” vernal pools fill up with melting snow and spring rains, then usually dry up by mid to late summer. Vernal pools in Massachusetts are protected by the Wetlands Protection Act, but only if they are within 100 feet of other wetlands.

It is important to protect vernal pools primarily because they provide essential habitat for breeding amphibians and invertebrate animals that require an environment free of fish predators. A vernal pool, because of its periodic drying, does not support fish populations. The existence of many species of frogs and salamanders is dependent on the presence of vernal pools: without these habitats they will become locally extinct.

- 3) **Isolated Wetlands**: An isolated wetland is one that is not connected seasonally or permanently to a river or stream. However, such wetlands are not actually isolated at all—they have subterranean discharge and are therefore hydrologically connected to streams, wetlands, and groundwater. While larger isolated wetlands are protected by State laws, medium-sized ones can be protected only by local law.

It is important to protect isolated wetlands because they provide valuable ecosystem and community services, such as, 1) Flood Control: Wetlands act like sponges, absorbing, holding and slowing releasing water unlike paved areas which promote rapid runoff and flooding; 2) Water Purification: Wetlands recharge aquifers and improve water quality by naturally cleaning the water by trapping and holding sediment and pollutants and filtering water before it is slowly discharged into streams or seeps into groundwater. 3) Habitat/biodiversity: Isolated Wetlands provide a critical, productive habitat for aquatic and semi-aquatic species from insects to raccoons, as well as at-risk plant and animal species.

The Role of the Conservation Commission:

The Conservation Commission is the local board that administers the Massachusetts Wetlands Protection Act (WPA). The Commission is charged with protecting the water quality of surface and groundwater (drinking water), protecting aquatic habitat, and protecting property from flood damage on behalf of the residents of the Town and the State. To this end, the Commission reviews all applications for construction that may have an impact on wetlands, streams and rivers. The Commission works with developers and residents to find solutions that permit them to build what they want on their land while also protecting our wetlands. The Williamstown Conservation Commission has never prevented a project that was in compliance with the law from going forward, but has recommended or required revisions of plans in order to protect water resources as required under the law. Home rule provisions in Massachusetts allow towns to extend the jurisdiction of the Commission to wetland areas (such as intermittent streams, isolated wetlands, and vernal pools) that are not currently covered by the WPA. Please note that “jurisdictional buffers” mean that projects must be reviewed by the Conservation Commission—not that construction is necessarily forbidden in these areas. Review of construction projects in these areas will afford better protection to property owners and down-stream residents, from flood damage and to the town from road damage, which will reduce problems and costs in the long run.

Are Wetlands Regulations Takings?

Opponents of the Commission’s bylaw have suggested that wetlands regulations are a “taking,” meaning that the restriction is so extreme that the government would be required to compensate property owners for it. However, this bylaw is not nearly so restrictive as to prohibit all use, which is the standard for a “taking.” Regulations to protect common resources such as water and air have been considered constitutional for nearly 100 years, and the wetlands protections proposed here have been found to

be legal by the Massachusetts Attorney General in all the municipalities that have already adopted them.

For more information: "Where Rivers are Born: The Scientific Imperative for Defending Small Streams and Wetlands." By Judy Meyer, et al, American Rivers and Sierra Club, February 2007; A Field Guide to the Animals of Vernal Pools (2001) by Leo Kenney and Matthew Burne; The Vernal Pool Association.

Town Meeting Warrant: <http://s230494718.onlinehome.us/wp-content/uploads/2008/05/2008-annual-town-meeting-warrant.pdf>