

**ANNUAL TOWN MEETING
TOWN OF MONTAGUE
COMMONWEALTH OF MASSACHUSETTS
May 5, 2012**

Franklin, ss.

To either of the Constables of the Town of Montague in the County of Franklin:

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of Montague qualified to vote in Town affairs to meet in the Turners Falls High School Theater on Saturday, May 5, 2012, at 9:00 A.M. and to act on the following articles and any motions which may be presented.

ARTICLE 1. To see if the Town will vote to receive and act upon the reports of the Officers of the Town and to receive the report of any committees and act thereon.

ARTICLE 2. To see if the Town will vote to authorize the Board of Selectmen, or other Town departments with the approval of the Board of Selectmen, to apply for and accept grants from the Federal Government, Commonwealth of Massachusetts, or any other source, and to expend the same for purposes received without further appropriation, or pass any vote or votes in relation thereto.

(Board of Selectmen Request)

ARTICLE 3. To see if the Town will vote in accordance with Massachusetts General Law Chapter 44, Section 53E ½, as amended, to reauthorize a revolving fund for the Hazardous Materials Response Planning Committee (a.k.a. the SARA Title III Committee) into which fund will be placed the fees collected from individuals responsible for oil and hazardous material spills, and to further authorize the SARA Title III Committee to expend up to a maximum of \$7,500 for the fiscal year beginning July 1, 2012 from the Revolving Fund for the purpose of cleaning up oil and hazardous material spills, or pass any vote or votes in relation thereto.

(Emergency Manager Request)

ARTICLE 4. To see if the Town will vote to fix the salaries of all elected officials as required by law for the fiscal year beginning July 1, 2012, or pass any vote or votes in relation thereto.

ARTICLE 5. To see if the Town will vote to fix the salaries of all appointed officials as required by law for the fiscal year beginning July 1, 2012, or pass any vote or votes in relation thereto.

ARTICLE 6. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$7,448,471, or any other amount, for the maintenance of the several departments of the Town and for any other necessary changes, or pass any vote or votes in relation thereto.

ARTICLE 7. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$1,808,367, or any other amount, for the purpose of operating the Water Pollution Control Facility and associated pumping stations, or pass any vote or votes in relation thereto.

(Water Pollution Control Facility Request)

ARTICLE 8. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$89,400, or any other amount, for the purpose of funding the operations, maintenance, and debt service of the Colle Building, or pass any vote or votes in relation thereto.

(Board of Selectmen Request)

ARTICLE 9. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$37,625, or any other amount, for the purpose of operating the Turners Falls Airport, or pass any vote or votes in relation thereto.

(Airport Commission Request)

ARTICLE 10. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$737,865, or any other amount, for the purpose of paying the Franklin County Technical School District for Montague's share of the assessment for the yearly operation of the Franklin County Technical School, or pass any vote or votes in relation thereto.

(Franklin County Technical School Request)

ARTICLE 11. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$7,850,604, or any other amount, for the purpose of paying the Gill-Montague Regional School District for Montague's share of the assessment for the yearly operation of the Gill-Montague Regional Schools, or pass any vote or votes in relation thereto.

(Gill-Montague Regional School District Request)

ARTICLE 12. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$60,000, or any other amount, for the purpose of purchasing and installing a fourth dewatering zone on the Fournier Rotary Press, or pass any vote or votes in relation thereto.

(Water Pollution Control Facility Request)

ARTICLE 13. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$35,000, or any other amount, for the purpose of performing an Inflow and Infiltration Flow Metering and Rainfall Study, or pass any vote or votes in relation thereto.

(Water Pollution Control Facility Request)

ARTICLE 14. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$8,200, or any other amount, for the purpose of funding information technology equipment, parts, accessories, software and installations, or pass any vote or votes in relation thereto.

(Computer Administrator Request)

ARTICLE 15. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$20,000 or any other amount for the purpose of funding purchases of Police equipment such as bullet-proof vests, tasers, computers, firearms, radios or similar items, or to pass any vote or votes in relation thereto.

(Police Department Request)

ARTICLE 16. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$8,000 for the purpose of purchasing and installing new flooring in four offices at Town Hall to cover up old asbestos flooring, or pass any vote or votes in relation thereto.

(Department of Public Works Request)

ARTICLE 17. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$75,000, or any other amount, for the purpose of funding purchases and major repairs of DPW vehicles and equipment, or pass any vote or votes in relation thereto.

(Department of Public Works Request)

ARTICLE 18. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$54,055, or any other amount, for the purpose of funding lease payments for 2 Six Wheel Dump Trucks, or pass any vote or votes in relation thereto.

(Department of Public Works Request)

ARTICLE 19. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$200,000, or any other amount, for the purpose of purchasing or leasing a 6 wheel dump truck, or pass any vote or votes in relation thereto.

(Department of Public Works Request)

ARTICLE 20. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$4,000, or any other amount, for the purpose of providing Children’s Programming at the libraries, or to pass any vote or votes in relation thereto.

(Libraries Request)

ARTICLE 21. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$8,000, or any other amount, for the purpose of providing technology at the libraries, or to pass any vote or votes in relation thereto.

(Libraries Request)

ARTICLE 22. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$15,000, or any other amount, for the purpose of maintaining the Montague Center School, or to pass any vote or votes in relation thereto.

(Board of Selectmen Request)

ARTICLE 23. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$85,000, or any other amount, for the purpose of repairing and resurfacing the parking lot at the Sheffield School, or to pass any vote or votes in relation thereto.

(Gill-Montague Regional School District Request)

ARTICLE 24. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$15,000 or any other amount for the purpose of funding ADA projects in the Gill-Montague Regional School District, or to pass any vote or votes in relation thereto.

(Gill-Montague Regional School District Request)

ARTICLE 25. To see if the Town will vote to support the Town entering into a Memorandum of Understanding between the Town of Montague and the Massachusetts Division of Fisheries and Wildlife for maintenance of a replacement walking bridge in the Sawmill River Conservation Land.

(Board of Selectmen Request)

ARTICLE 26. To see if the Town will vote to amend Article VI of the By-Laws of the Town of Montague by striking the entire Section entitled “Unregistered Motor Vehicles” and replacing it with the following new language:

INOPERABLE OR UNREGISTERED MOTOR VEHICLE BYLAW

Section 1: Purpose

It is the intent of this by-law to provide a mechanism for regulating, subject to reasonable and appropriate controls, the storage of Inoperable and/or Unregistered Motor Vehicles within the Town of Montague.

Section 2: Definitions

FARMER – a person substantially engaged in the occupation of farming, as further defined in Massachusetts General Law (M.G.L.) Chapter 90, Section 1.

GARAGE: A building, as defined by the Montague Zoning By-Law for the storage of motor vehicles.

MOTOR VEHICLE: Any motor vehicle defined as such in M.G.L. Chapter 90, Section 1, requiring registration pursuant to M.G.L. Chapter 90, Section 2 to be operated on a public way.

INOPERABLE VEHICLE: any Motor Vehicle or Trailer, that is not capable of being used as such in its existing condition by reason of being damaged, dismantled or failing to contain parts necessary for operation. Any Unregistered Vehicle, as defined herein, shall be considered an Inoperable Vehicle for purposes of this Bylaw.

OPERABLE VEHICLE: any Motor Vehicle or Trailer, that is capable of being used in its existing condition for the purpose for which it was designed and that is registered in accordance with Massachusetts General Laws, Chapter 90, Section 2.

UNREGISTERED VEHICLE: any Motor Vehicle or Trailer that is not registered in accordance with Massachusetts General Laws, Chapter 90, Section 2.

TRAILER: Any vehicle defined as such in M.G.L. Chapter 90, Section 1.

Section 3: Storage of one (1) Inoperable Vehicle Permitted

A property owner, or other person having the permission of the property owner, may store one (1) Inoperable Vehicle on said premises.

Section 4: Storage of more than one (1) Inoperable Vehicle

- (a) No property owner, or any person, may store or permit to be stored more than one (1) Inoperable Vehicle on said property owner's premises unless:
 - 1. The vehicles are stored in a garage, or;
 - 2. An Inoperable Vehicle Storage Permit is granted by the Board of Selectmen after a public hearing as described in Section 5 of this By-law, or;
 - 3. The property owner or person in control of the property holds a Class I or Class II or Class III License for the sale of motor vehicles or trailers issued pursuant to M.G.L. Chapter 140, Section 57 to Section 69.
- (b) This Section shall not apply to a Farmer or a Farm Equipment dealer as defined in M.G.L. Chapter 93G, Section 1.

Section 5: Inoperable Vehicle Storage Permit

- (a) Any property owner or other person with the permission of the property owner, seeking to store more than one Inoperable Vehicle, un-garaged on a premise must make application for an Inoperable Vehicle Storage Permit to the Board of Selectmen.
- (b) The application shall be accompanied by a fee of \$100. Said fee may be amended by the Board of Selectmen from time to time.
- (c) Upon receipt of an application for an Inoperable Vehicle Storage Permit, the Board of Selectmen shall hold a public hearing on the issue within 30 days.
- (d) An Inoperable Vehicle Storage Permit may be granted by the Board of Selectmen if it finds that no hazard to health or safety are involved and no unsightly conditions visible from public streets or ways, or abutting properties, exist or will be created and upon such terms and conditions as the Board deems appropriate, including but not-limited-to a limit on the number of Inoperable Vehicles that may be stored at any one time.
- (e) Prior to any public hearing the Selectmen may request the Board of Health or any other agent of the town to conduct an inspection of the property in question. The Board of Health or other agent of the town, as requested, shall submit a report to the Board of Selectmen describing any issues of concern.
- (f) The Board of Selectmen may waive the public hearing requirement to allow more than one (1) Inoperable or Unregistered Vehicle on a premises for a period of (30) days or less if it finds that no hazards to health or safety are involved and no unsightly conditions visible from public streets or ways, or abutting properties, exist or will be created by the storage of said vehicles for such temporary period of time.

(g) Legal notice of any public hearing held pursuant to this section shall be given by:

- (1) Posting legal notice in a newspaper of general circulation at least seven (7) days prior to the date of the public hearing and,
- (2) Sending notification to all abutters, within three hundred (300) feet of any part of the storage property, via first class letter.

Section 6: Enforcement

This By-law may be enforced by the Police Department, Board of Health, Zoning Enforcement Officer, or other designee of the Board of Selectmen.

Section 7: Violations and Penalties

- (a) Non-Criminal Disposition - Whoever violates any provision of this by-law may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D and may be punished by a non-criminal fine of fifty dollars (\$50) for the 1st offense, one hundred dollars (\$100) for the 2nd offense, and two hundred dollars (\$200) for the 3rd and subsequent offenses. Each day a violation continues shall constitute a separate offense.
- (b) Criminal Complaint - Whoever violates any provision of this by-law may be penalized by indictment or on complaint brought in the district court. The maximum penalty for violation of this by-law shall be three hundred dollars (\$300) for each offense. Each day on which a violation exists shall be deemed to be a separate offense; or
- (c) The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

Section 8: Existing Inoperable Motor Vehicles

A property owner, or other person having the permission of the property owner, who, at the time this by-law takes effect, is in violation of any section(s) of this by-law shall have ninety (90) days to come into compliance.

Section 9: Severability

In the event any section or provision of this by-law is declared invalid or unconstitutional, the remaining sections and provisions shall remain in full force and effect.

ARTICLE 27: To see if the Town will vote to add a new section at the end of the By-Laws of the Town of Montague by placing a Right to Farm Bylaw into the Town by-laws as follows:

Section 1: Purpose and Intent

The Town of Montague understands that farming is an essential and valued activity which provides fresh food, economic diversity and local employment, open space, and scenic vistas to all the citizens of our town, and is a draw for tourism. Therefore, this bylaw is intended to encourage the pursuit of agriculture and agricultural-based economic activities and employment, and protect farmland. The purpose is to allow agricultural practices to function in harmony with the community, town agencies, and others.

This By-law restates 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 111, Section 125A and Chapter 128 Section 1A. We, the citizens of Montague, 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").

Section 2: Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture, as allowed by zoning regulations. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Production of crops for biofuels;
- growing and harvesting of forest products on forest land, and any other forestry or lumbering operations;
- raising and keeping of livestock, including horses;
- keeping of horses as a commercial enterprise;
- keeping and raising of poultry, rabbits, sheep, swine, cattle, horses, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- operation and transportation of any farm equipment over roads within the Town;
- control of pests, including but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- application of manure, fertilizers and pesticides in accordance with state and federal regulations;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including related signage;
- maintenance, repair, or storage of equipment or apparatus owned or leased by the farm owner or manager, that is used expressly for the purpose of agricultural activities;
- on-farm relocation of earth and the clearing of ground for farming operations, including burning brush in accordance with Massachusetts agricultural fire permit regulations;
- operation of composting facilities;
- irrigation of crops;
- construction and use of farm structures and facilities for the purpose of: storing animal wastes, farm equipment, pesticides, fertilizers, or agricultural products; housing of livestock; processing of animal wastes and agricultural products; season extension; hydroponic production of agricultural products; sale of agricultural products; and use by farm labor; all as permitted by local and state building codes and regulations;
- rejuvenating drainage or irrigation ditches; picking stone; construction, repair, and maintenance of fences; rejuvenating and maintaining pastures;
- herding or moving of livestock including horses from area to area, including along roads.

Section 3: Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Montague, in recognition of the benefits of farming to the neighborhood, community, and society in general. The above-described agricultural activities could occur on weekdays, weekends, and holidays, by night or day, and include the attendant incidental noise, odors, dust, and fumes associated with accepted agricultural practices. 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. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such

practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. The Town endorses the use of best management practices to limit use of pesticides, protect animal health, and minimize negative environmental impacts.

Nothing in this Right-To-Farm Bylaw 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. Moreover, this By-Law does not supersede any state or federal laws or regulations or private covenants.

Section 4: Effective Date

This Bylaw shall be effective upon approval by the Massachusetts Attorney General and the publication and posting as required by law.

Section 5: Disclosure Notification

In order to allow prospective purchasers or tenants to make informed decisions prior to a real estate transaction or rental agreement, and to promote harmony between farmers and their neighbors after such transactions, the Town of Montague requests that sellers and landlords and/or their agents (and assigns) provide written notification to prospective buyers and renters substantially as follows:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities could include, but are not limited to, activities that cause noise, dust, and odors, and could occur by day or night on weekdays, weekends, and holidays. Occupying land within the Town of Montague means that one could expect and accept such conditions as a normal and necessary aspect of living in such an area”.

Written notification to buyers or renters may occur in one of several ways, including but not limited to disclosure forms, or as an addendum to a Purchase and Sale Agreement or rental agreement.

Within 30 days after this Bylaw becomes effective, a copy of the above notification will be displayed at the Town Hall and posted on the Town’s website. A copy of the notification shall be included in the Town’s annual report. The notification shall also be available for distribution upon request in the offices of the Select Board, Board of Assessors, and Town Clerk.

Section 6: Resolution of Disputes

Any person having a complaint about a farm or farming activity is encouraged to seek an amicable solution directly with the owner or operator of the farm at issue. Such person may, notwithstanding the pursuit of any other available remedies, request resolution assistance directly from the Agricultural Commission, or file a complaint with the Town Administrator, Select Board, Board of Health, or Zoning Enforcement Officer. The filing of a grievance does not suspend the time within which to pursue any other available remedies. The Town officials may forward the complaint to the Agricultural Commission if deemed appropriate and the Commission can help to seek an amicable resolution through facilitating discussion between the parties. The Agricultural Commission will report back to the Town officials on the outcome within a reasonable time frame. Any complaints brought directly to the Agricultural Commission will also be forwarded to Town officials, so that they may help determine whether any public health or other laws and regulations are being violated.

Section 7: Severability Clause

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 Montague hereby declares the provisions of this By-law to be severable.

ARTICLE 28. To see if the Town Meeting Moderator will appoint a committee to investigate revising the regional agreement between the member towns creating the Gill-Montague Regional School District in order to change the composition and method of selecting the School Committee of said district. The appointed committee will report to the next town meeting, special or annual.

(Petitioned Article)

ARTICLE 29. To see if the town will vote to instruct our members of Congress to support an amendment to the United States Constitution to clarify that corporations do not have the same rights as people and that money is not speech for purposes of election- related spending, and/or take any action relative thereto. We further direct the Montague Town Clerk, upon passage of this resolution, to send copies to Montague’s state representative, state senator, congressional representatives, U.S. senators, and the governor of Massachusetts with an accompanying cover letter, stating that this resolution was passed by the residents of Montague at their annual town meeting, Sat., May 5, 2012.

WHEREAS, the United States Constitution and the Bill of rights are intended to protect the rights of individual human beings (“real people”); and,

WHEREAS, corporations are not mentioned in the Constitution and The People have never granted constitutional rights to corporations;

WHEREAS, the United States Supreme Court in *citizens United v. Federal Election Commission* presents a serious threat to self- government by allowing unlimited corporate spending to influence elections;

WHEREAS, Article V of the United States Constitution empowers and obligates the people of the United States to use the constitutional amendment process to correct egregiously wrong decisions of the United States Supreme Court that go to the heart of our democracy;

NOW THEREFORE, BE IT RESOLVED that the voters of Montague, Massachusetts hereby instruct the Senators representing the Commonwealth of Massachusetts and the member of the United States House of Representatives representing this Congressional District to propose and our state legislators to ratify an amendment to the United States Constitution to provide that corporations are not entitled to the constitutional rights of real people and that money is not speech for purposes of campaign- related expenditures and contributions. The text of the proposed amendment is as follows:

Amendment

Section 1 (*A corporation is not a person and can be regulated*)

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities, such as corporations, limited liability companies, and other entities, established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by The People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by The People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

Section 2 (*Money is not speech and can be regulated*)

Federal, State and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate’s own contributions and expenditures, for the purpose of influencing in any way the election of any candidate for public office or any ballot measure.

Federal, State and local government shall require that any permissible contributions and expenditures be publicly disclosed.

The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.

Section 3

Nothing contained in this amendment shall be construed to abridge the freedom of the press.
(Petitioned Article)

Given under our hands this 9th day of April in the Year of Our Lord Two Thousand and Twelve.

Patricia A. Allen

Mark Fairbrother

Christopher M. Boutwell, Sr.
Selectmen, Town of Montague

Franklin, ss Montague, MA April ____, 2012

Pursuant to the within warrant, I have warned the Inhabitants of the Town of Montague by posting attested copies of the same in a conspicuous place in each of the Post Offices, Libraries, and the Town Hall of the Town of Montague at least seven days before said meeting as within directed.

Constable of Montague