

# WARRANT

## TOWN OF LEVERETT

FY 2009 Annual Town Meeting

Saturday April 26, 2008

9:00 A.M. Leverett Elementary School

### ***Franklin, SS.***

To one of the Constables of Leverett:

Greetings:

In the name of the Commonwealth, you are hereby directed to notify and warn the inhabitants of Leverett, qualified to vote in Town affairs, to meet in the Elementary School auditorium, on Saturday the 26<sup>th</sup> of April, 2008, at 9:00 in the morning (9:00 A.M.), then and there to act on the following articles, namely:

**Article One:** To choose all necessary town officers to serve for periods prescribed by law or Town bylaw, or take any action relative thereto.

**Article Two:** To see if the Town will vote to approve following the existing Amherst-Pelham Regional School District Agreement for allocating the total amount to be contributed by each member town of the District for Fiscal Year 2009 as required by Section VI of the Regional Agreement, or take any action relative thereto.

**Article Three:** To see if the Town will vote to approve an amendment to Section X of the Regional Agreement of the Amherst-Pelham Regional School District to shift the cost of providing transportation to elementary school students from the Regional budget to the budgets of the Elementary school districts served, or take any action relative thereto.

**Article Four:** To see if the Town will vote to approve an amendment to Section VI of the Regional Agreement of the Amherst-Pelham Regional School District to read 'If the amount of unencumbered surplus funds of the district at the end of any fiscal year exceeds 5.0 percent of the budgeted operating and capital costs for the succeeding fiscal year, an amount at least equal to the amount of such excess shall be applied by the committee to reduce the amounts certified to the Participating Towns for such succeeding fiscal year in accordance with Section VII, or take any action relative thereto.

**Article Five:** To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money as shall be necessary to meet Town expenses, or take any action relative thereto.

**Article Six:** To see if the Town will vote to revise its existing Zoning Bylaws by adopting changes to the sections listed below that are contained in the Town Meeting Version dated 3/12/2008 and to adopt a new Official Zoning Map dated March 11, 2008, or take any action relative thereto.

The following sections of the Zoning Bylaws have proposed changes or are new:

- Section 2100 Districts**
- Section 2200 Use Regulations**
- Section 2340 Dimensional Schedule**
- Section 3410 Erosion Control**
- Section 3900 Site Plan Review**
- Section 4800 Flexible Development**
- Section 4880 Residential Subdivision Development**

The complete text of the proposed revisions to the Zoning Bylaws and Official Zoning Map are available from the Town Clerk at the Town Hall during regular business hours.

**Article Seven:** To see if the Town will vote to update the Code of the Town of Leverett as outlined below, or take any action relative thereto:

### **Chapter 1 General Provisions**

#### **Article 1-2 Amendments.**

##### **Change**

**from** “these bylaws may be altered, amended, or repealed at any Town Meeting by a majority vote of those present and voting, provided that an appropriate Article or Articles have been inserted in the warrant for such meeting and that a public hearing, after having been announced once each week for two (2) successive weeks in a newspaper of general circulation, for any proposed changes has been conducted at least thirty (30) days prior to such town meeting.”

**to** “these bylaws may be altered, amended, **added to**, or repealed at any Town Meeting by a majority vote of those present and voting, provided that an appropriate Article or Articles have been inserted in the warrant for such meeting and that a public hearing, after having been announced once each week for two (2) successive weeks in a newspaper of general circulation, for any proposed changes has been conducted at least **fourteen (14)** days prior to such town meeting. **This provision for amending the Town of Leverett Bylaws is intended to require a public hearing for the alteration, adoption, amendment, or repeal of a local bylaw when such hearing is not otherwise required by the Mass. General Laws.**”

**And**

#### **Remove Chapter 34: Regional Refuse Disposal Planning Committee**

**Article Eight:** To see if the Town will vote to adopt the following bylaw, or take any action relative thereto:

### **RIGHT TO FARM BY-LAW**

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

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 111, Section 125A and Chapter 128 Section 1A. We, the citizens of Leverett, 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”).

This General By-law encourages the pursuit of agriculture and forest management, promotes agriculture-based economic opportunities, and protects farmlands and managed forests within the Town of Leverett by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law recognizes that protection and improvement of forest and other agricultural land preserves our rural landscape, sustains our local economy and provides us with local food and timber. This By-law shall apply to all jurisdictional areas within the Town.

## **Section 2 Definitions**

The word "farm" shall include any parcel of land, or body of water for the primary purpose of agriculture or forestry or accessory thereto.

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;
- growing and harvesting of forest products and the practice of silviculture upon forest land;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- raising of livestock;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, sheep, goats, 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.

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

- operation and transportation of slow-moving 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;
- composting;
- application of soil amendments including manure, fertilizers and minerals;
- application of biological and chemical weed and pest controls;
- conducting agriculture-related educational or recreational activities, provided that the activities are related to the farm's operation;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including appropriate signage;
- maintenance, repair, and 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 and forest products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

## **Section 3 Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Leverett. The agricultural work described above may occur on holidays, weekdays and weekends by night or by day. Normally accepted agricultural practices sometimes produce incidental and transient noise, dust,

odor and/or an occasional slow-moving vehicle. While annoying, these side effects are outweighed by the multiple benefits that agriculture brings to a town: No farms, no food; no local farms, no local food; no local forestry, no local timber products. In addition to strengthening the local food, local products and local jobs movements, the continuing practice of agriculture in Leverett will contribute directly and substantially to the preservation of open space and diverse habitat and landscapes that townspeople have repeatedly and enthusiastically supported in surveys and long term plans for the Town's future. Beyond these local benefits, responsible agricultural/forestry management practices play a substantial role in offsetting the destruction of the natural environment associated with the global warming crisis. 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.

### **Section 5 Limitations**

Nothing in this Right to Farm By-law shall supersede or impose any additional regulations other than those existing through state or federal land use regulations, including but not limited to the Massachusetts Wetlands Protection Act, the Massachusetts Forest Cutting Practices Act, the Massachusetts Endangered Species Act and any other town bylaw or regulation, including but not limited to Leverett zoning laws, subdivision regulations and conservation restrictions and including Board of Health regulations and bylaws. The Massachusetts Wetland Protection Act (310 CMR 10) contains a number of restrictions on farming activities in or near wetland resources.

The Act contains certain exemptions for land presently and primarily used in producing agricultural commodities for commercial purposes. The Leverett Conservation Commission is charged with local enforcement of this Act.

### **Section 6 Disclosure Notification**

Any real estate agent or private seller offering property in Leverett for sale or for lease must provide a copy of this By-law to any potential buyer or lease holder before any purchase and sales or lease-hold agreement is signed.

The Town Clerk shall annually notify residents of the substance of this By-law.

### **Section 7 Resolution of Disputes**

Any person who seeks to complain about the operation of a farm or managed forest may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, the Conservation Commission 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 Select Board, Zoning Enforcement Officer or Conservation Commission 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.

The Board of Health, except in cases of imminent danger or public health risk, 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 Board of Health within an agreed upon time frame.

## **Section 8 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 Leverett hereby declares the provisions of this By-law to be severable.

**Article Nine:** To see if the Town will vote to adopt the following bylaw, or take any action relative thereto:

## **NOISE BYLAW**

### Section 1. Excessive Noise.

It shall be unlawful for any person or persons between the hours of 10:00 p.m. and 6:30 a.m. occupying, having the charge of, or being present in or about any building, structure, premises, shelter, vehicle, boat, or conveyance, or any part thereof, in the Town of Leverett at any time to cause, suffer, allow or countenance any unnecessary loud, excessive or unusual noise, including any such noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument or reproducing devices or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or making of loud and boisterous shouting or singing by any persons or group of persons or in the use of any device to amplify the aforesaid noise, where such noise is plainly audible at a distance of one hundred and fifty (150) feet from the building, structure, premises, shelter, vehicle, boat or conveyance in which or from which it is produced.

The fact that the noise is plainly audible at said distance of one hundred and fifty (150) feet shall constitute prima facie evidence of a violation of this bylaw. Any person shall be deemed in violation of this bylaw who shall make, or aid and abet, or cause or suffer, or countenance, or assist in the making of such noise.

### Section 2. Exemptions.

None of the terms of prohibitions of the previous section shall apply or be enforced against:

- a) Emergency Vehicles. Any police or fire vehicle or any ambulance while engaged in necessary emergency business.
- b) Highway and Utility Maintenance and Construction. Necessary excavation or repairs of bridges, streets, highways, or any public utility installation by or on behalf of the Town or any public utility or any agency of the Commonwealth of Massachusetts.
- c) Public Address. The reasonable use of amplifiers or loud speakers for public addresses which are non-commercial in nature.
- d) Agricultural, farm-related, and forestry-related activities as defined by Massachusetts General Laws Chapter 128, Section 1A, as amended, including, but not limited to, the operation of farm equipment, sawmills, harvesting equipment, noises from farm animals, and the like.

### Section 3. Penalties.

The first violation of this bylaw shall be punished by a fine of one hundred dollars (\$100.00). A second violation of this bylaw within 12 months after the first violation shall be punished by a fine of two hundred dollars (\$200.00). Any further violation within 12 months after such second violation shall be punished by a fine of three hundred dollars (\$300.00). Each such violation

which continues or is repeated within twenty-four (24) hours after issuance of a written notice of violation of this bylaw shall constitute a separate offense and shall be prosecuted as such. If a violation occurs on the premises of rental property, the owner must be notified in writing that the violation has occurred. For any violation within six (6) months thereafter at the same premises, said owner shall be considered to have aided and abetted, or caused or suffered, or countenanced, or assisted in the making of such noise.

#### Section 4. Other Remedies.

- a) If a person responsible for a violation of this bylaw cannot be identified and apprehended, the person(s) in lawful custody or control of the premises of the violation, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.
- b) Any person responsible for an activity that violates this bylaw may be arrested without a warrant, provided that the violation occurs in the presence or view of any officer authorized to serve criminal process.

#### Section 5. Enforcement

The Police Department has the authority to enforce this bylaw.

#### Section 6. Severability.

If any provision of this bylaw is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the bylaw shall not be invalidated.

**Article Ten:** To see if the Town will vote to reserve the following from FY 2009 Community Preservation Annual Fund revenues: \$15,011.24 for open space purposes (excluding recreational purposes); \$15,011.24 for historic resources; \$15,011.24 for community housing; and \$103,078.71 to the FY 2009 Community Preservation Fund Budgeted Reserve, or take any action relative thereto.

**Article Eleven:** To see if the Town will vote to appropriate \$2,000 from FY 2009 Community Preservation Annual Fund revenues for administrative and operating expenses, including legal expenses, of the Leverett Community Preservation Committee, or take any action relative thereto.

**Article Twelve:** To see if the Town will vote to appropriate \$62,560.35 from the Community Preservation Fund Balance Reserved for Community Housing and \$15,011.24 reserved in FY 2009 for Community Housing revenues to the Leverett Affordable Housing Trust Fund that was created by the November 13, 2007 Special Town Meeting, or take any other action thereto.

**Article Thirteen:** To see if the Town will vote to acquire, pursuant to the Community Preservation Act, a property interest amounting to 13.13 acres of land, more or less, and to appropriate \$21,000 from the Community Preservation Fund Balance Reserved for Open Space purposes to purchase said land on Brushy Mountain, under Massachusetts General Laws Chapter 44B; said parcel shown as Assessors Map 8, Lot 3; said land to be known as the Stetson Adams Memorial Woodland on Brushy Mountain and to be managed and controlled by the Conservation Commission; that the Town be authorized to grant a permanent Chapter 184, Section 32 conservation restriction on the land; and that the Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to affect said purchase, or take any other action thereto.

**Article Fourteen:** To see if the Town will vote to acquire, pursuant to the Community Preservation Act, a property interest amounting to 2 acres, more or less, and to appropriate \$172,000 from the Community Preservation Fund Balance to purchase three parcels of land on the west side of Leverett Pond, under Massachusetts General Laws Chapter 44B; said parcels shown as Assessors Map 5A, Lot 22, Map 5A, Lot 17, and Map 5B, Lot 1; said land to be managed and controlled by the Selectboard; that the Town be authorized to grant a permanent Chapter 184, Section 32 restriction on the land; and that the Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to affect said purchases, or take any other action relative thereto.

**Article Fifteen:** To see if the Town will vote to appropriate \$20,000 from the Community Preservation Fund Balance Reserved for Historic Resources and \$95,000 from the Community Preservation Fund Balance for the restoration of the North Leverett Sawmill, located on a parcel shown as Assessors Map 1, Lot 11; said restoration to be completed in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties; a permanent historic preservation restriction under the control of the Leverett Historical Commission shall be placed on the deed to the property; and that the Selectboard be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Leverett to affect said restrictions, or take any action relative thereto.

**Article Sixteen:** To see if the town will vote to transfer the former Bradford M. Field Memorial Library building and the lot on which it is situated, located at 1 Shutesbury Road (Assessors Map 7, Lot 214), from the general municipal use to be held by the Selectboard for the purpose of sale; and further to authorize the Selectboard to sell the above described property to a non-profit educational and historical organization for the purpose of operating a facility for collecting, storing, maintaining and making available for display to the public historical artifacts and archives of Leverett, such sale to take place within two years, or take any action relative thereto.

**Article Seventeen:** To see if the Town will vote to transfer from available funds the sum of \$40,500 to purchase and equip a new four-wheel drive pick-up with plow for the Highway Department, or take any action relative thereto.

**Article Eighteen:** To see if the Town will vote to transfer from available funds the sum of \$30,051 to purchase and equip a new cruiser for the Police Department, or take any action relative thereto.

**Article Nineteen:** To see if the Town will vote to transfer from Free Cash the sum of \$4,650 to complete front foyer ceiling repair, lighting modifications and painting, to resurface three concrete overhangs and to undertake other repairs and projects at the Leverett Elementary School, or take any action relative thereto.

**Article Twenty:** To see if the Town will vote to transfer from Free Cash the sum of \$4,540 to complete computer server repairs and reconfiguration at the Leverett Elementary School, or take any action relative thereto.

**Article Twenty-One:** To see if the Town will vote to transfer from Free Cash the sum of \$12,000 to repair and replace the roof on the Town Hall and to undertake any other repairs and projects needed at the Town Hall, or take any action relative thereto.

**Article Twenty-Two:** To see if the Town will vote to transfer from Free Cash the sum of \$1,500 to clean the furnace ductwork at the Town Hall, or take any action relative thereto.

**Article Twenty-Three:** To see if the Town will vote to transfer from Free Cash the sum of \$2,068 to fund the annual operating cost for high-speed wireless internet service at the Library, or take any action relative thereto.

**Article Twenty-Four:** To see if the Town will vote to transfer from Free Cash the sum of \$8,553.72 to reimburse the Elementary School for funds received from Medicaid for Special Education Costs, or take any action relative thereto.

**Article Twenty-Five:** To see if the town will vote to transfer from Free Cash the sum of \$4,675.55 for the FY 2008 emergency repairs completed on the Highway Department Backhoe, or take any action relative thereto.

**Article Twenty-Six:** To see if the Town will vote to transfer the sum of \$81,580 from Free Cash into the Stabilization Account to fund the Capital Plan, or take any action relative thereto.

**Article Twenty-Seven:** To see if the Town will vote to expend the sum of \$85,000 from the Stabilization Account to offset the tax rate for debt payments, or take any action relative thereto.

**Article Twenty-Eight:** To see if the Town will vote to transfer the sum of \$657.20 from Bond Premiums Reserved to the Town Interest Account, or take any action relative thereto.

**Article Twenty-Nine:** To see if the Town will vote to transfer the sum of \$751.33 from Bond Premiums Reserved and the sum of \$18,405.79 from the Reserved for School Debt Payment to the School Interest Account, or take any action relative thereto.

**Article Thirty:** To see if the Town will vote to reauthorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2008 as presented in the accompanying table, or take any action relative thereto.

<b>Revolving Fund</b>	<b>Who is Authorized To Spend</b>	<b>Revenue Source</b>	<b>Use</b>	<b>FY 2009 Spending Limit</b>
Library	Library Director	Fees for copying and printing	Copier and printer expenses	\$1,000
Library	Library Director	Fines	Purchase books, audios & videos	\$3,000
Town Grounds Maintenance	Selectboard	Sale of plants, donations	Maintain town gardens & landscape town property	\$1,000
Fire Inspections	Fire Chief	Inspections	Fire Inspectors and fire inspection expenses	\$2,500

**Article Thirty-One:** To see if the town will vote to authorize a revolving account in accordance with the provisions of Massachusetts General Laws Chapter 44, Section 53E½ to account for revenues generated through the sale of compost bins or donations to the bin program, such funds to be under the authority of the Transfer Station Administrator. Monies from the fund will be used to purchase additional bins and for other expenses directly related to furthering the home composting bin distribution program and shall not exceed the amount of \$1,000 in Fiscal Year 2009, or take any action relative thereto.

**Article Thirty-Two:** To see if the Town will vote to authorize the Selectboard to enter into contracts with the Massachusetts Highway Department for construction and/or maintenance of highways or other permissible expenditures from the Transportation Bond monies (Chapter 90) and authorize the Selectboard to accept any monies from the Commonwealth of Massachusetts for highway construction and/or maintenance related work, or take any action relative thereto.

**Article Thirty-Three:** To see if the Town will vote to transfer the sum of \$548.16 from the Highway Machinery Account to the Highway Machinery Operating Account, or take any action relative thereto.

**Article Thirty-Four:** To see if the Town will vote to transfer the funds for engineering work on the Bull Hill Road culvert voted by Article Twelve of the April 29, 2006 Annual Town Meeting to any expenses involved in addressing the flooding problems in the Long Plain Brook drainage area, or take any action relative thereto.

**Article Thirty-Five:** To see if the Town will vote to transfer from Free Cash the sum of \$2,200 to participate in an emergency notification system, or take any action relative thereto.

**Article Thirty-Six:(by petition)** To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

WHEREAS the town of Leverett lies approximately twenty miles to the southeast of the Entergy Nuclear corporation's Vermont Yankee nuclear power reactor in Vernon, Vermont;

WHEREAS the residents of Leverett and other neighboring towns have an inalienable right to have their voices heard regarding possible threats to the health, safety, and general well-being of themselves, their property, and the surrounding environment arising from the continued operation of the Entergy Nuclear reactor; and,

WHEREAS the people of Leverett, and people everywhere, want a safe, renewable, and affordable energy supply for themselves and future generations;

THEREFORE, we the citizens of Leverett call for:

1. The decommissioning of the Entergy Nuclear reactor on or before the expiration of its 40-year license in March of 2012, and for immediate efforts to decontaminate the reactor site employing current workers at full pay and utilizing the safest and most effective technologies available;

2. The development and implementation of strategies for full re-employment of displaced workers after decontamination operations have been completed; and,

3. Immediate efforts to replace the electricity now provided by the Entergy Nuclear reactor with a combination of energy conservation and efficiency measures and sustainable sources of power that are safe, renewable, and affordable, and that provide safe jobs at livable wages.

We further direct the Leverett town clerk, upon passage of this resolution, to send copies to Leverett's state representative, state senator, congressional representative, U.S. senators, the governor of Massachusetts, and the Vermont Senate, House of Representatives, and Governor, with an accompanying cover letter stating that this resolution was passed on (date) by the residents of Leverett at their Annual Town Meeting.

**Article Thirty-Seven: (by petition)** To see if the Town will vote to adopt the following resolution, or take any action relative thereto:

**Resolution Urging Direct U. S. Diplomacy With Iran and  
Requesting Leadership Against any Military Action Towards Iran**

Whereas, plans for a major bombing campaign have already been drawn up by the U. S. Strategic Air Command under the Bush Administration's direction; and,

Whereas, active duty and retired generals and admirals have told the Administration that a bombing campaign could lead to serious economic, political, and military consequences for the United States; and,

Whereas, a U. S. bombing campaign would result in the deaths of thousands of innocent civilians and would have devastating consequences for the environment; and,

Whereas, the United Nations' Atomic Energy Agency and the top U. S. intelligence agencies agree that Iran does not at the present have an active nuclear weapons program; and,

Whereas, for psychological, moral, and financial reasons, the United States must forego their reliance on war as a principal means of foreign policy,

Now, Therefore Be It Resolved that the Town of Leverett, acting through its annual 2008 Town Meeting, calls upon our representatives in Congress to take the lead in actively:

- (1) Promoting direct negotiations between the U. S. and Iran;
- (2) Preventing, by its sole powers to wage war, any unilateral attack on Iran;
- (3) Urging Iran to allow open international inspections of its nuclear program.
- (4) Urging Iran not to initiate a program to develop nuclear weapons
- (5) Insuring that information provided by this administration on the Iranian nuclear issue is accurate,

And, upon passage, directs the Town Clerk to send copies of this resolution to Senators Kennedy and Kerry, and Congressman Olver.

And you are directed to serve this Warrant by posting up attested copies thereof on the Post Office, in the Town Hall and Congregational Church at Leverett, also the Baptist Church at North Leverett and the Village Co-op at Moores Corner, seven days at least before the day of said meeting.

**Given under our hands this 16th day of April, 2008.**

**SELECTBOARD OF LEVERETT**

\_\_\_\_\_  
Richard P. Brazeau, Chairperson

\_\_\_\_\_  
James C. Lyons

\_\_\_\_\_  
Peter d'Errico

A true copy I attest:

Lisa Stratford, Town Clerk

I have served this Warrant as directed therein:

Date: \_\_\_\_\_ Constable: \_\_\_\_\_