

SEP 10 2012

2012
Town Meeting
Final

**TOWN OF CHARLTON
BY-LAW APPROVAL**

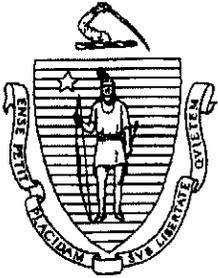
TOWN BULLETIN

**BY-LAWS VOTED AT
May 21, 2012
ANNUAL TOWN MEETING**

**WARRANT ARTICLE
20, 28, 29, and 30**

POSTED Sept. 10, 2012
By
Darlene L. Tully
Town Clerk

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MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
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September 9, 2012

Darlene L. Tully, Town Clerk
Town of Charlton
37 Main Street
Charlton, MA 01507

RE: Charlton Annual Town Meeting of May 21, 2012 - Case # 6397
Warrant Articles # 28 and 29 (Zoning)
Warrant Articles # 20, 25 and 30 (General)

Dear Ms. Tully:

Articles 20, 28, 29 and 30 - We approve the amendments to the Charlton by-laws adopted under these Articles on the warrant for the Annual Town Meeting that convened on May 21, 2012. Our comments on Article 30 are detailed below.

Article 25 – We take no action on the vote taken under Article 25, because the vote authorized the Board of Selectmen to petition the General Court for special legislation, and was not a vote concerning a by-law. As such, the vote taken under Article 25 is not subject to review and approval by the Attorney General pursuant to G.L. c. 40, § 32. In the future you need not include such votes in your by-law packet. Please feel free to contact us with any questions.

Article 30 – The amendments adopted under Article 30 (upon a citizen petition) add a new Section 6, "Outside Drop Boxes," to Article XXXV of the Town's general by-laws. The stated purpose of Section 6 is to promote the maintenance of outdoor "drop boxes" located on or abutting public ways and private ways in a safe and clean condition. We approve these amendments but the Town may wish to consult with Town Counsel regarding a future amendment to clarify the text of Sub-Section D of Section 6, which reads:

D. No person or entity other than those required by Sections 1 & 2 of this Article shall be required to secure or maintain a license for a drop box, but such boxes shall be subject to any drop box rules, regulations and restrictions, if any, as the Selectmen may adopt pursuant to Section 2 of this Articles, and the penalties set forth in Section 5 hereof shall apply to drop boxes.

Based upon our review of the amendments adopted under Article 30, it is not clear what "Sections 1 & 2 of this Article" refers to. In addition, there is nothing in the amendments adopted under Article 30 which authorizes the Board of Selectmen to adopt rules and restrictions regarding drop boxes. We recommend the Town consult with Town Counsel concerning future amendments to this by-law to clarify this text.

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,

MARTHA COAKLEY
ATTORNEY GENERAL



by: Margaret J. Hurley, Assistant Attorney General
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4402

cc: Town Counsel James F. Cosgrove (via electronic mail)



VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 20.

ARTICLE 20. C. 6, SEC. 172B ½ CIVIL FINGERPRINTING LICENSE BY-LAW
To see whether the Town will vote, as authorized by Chapter 256 of the Acts of 2010, and incorporated into the Massachusetts General Laws as Chapter 6, Section 172 B 1/2, to amend the Town of Charlton General Bylaws by adding thereto the following by-law, such bylaw to be assigned such article number in the General Bylaws as the town clerk determines appropriate:

“ARTICLE __ CIVIL FINGERPRINTING LICENSE BY-LAW

Criminal History Check Authorization

The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172 B 1/2, conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to- Door Salespeople (Licensing Authority: Charlton Police Department)
- Manager of Alcoholic Beverage License (Licensing Authority: Charlton Board of Selectmen)
- Owner or Operator of Public Conveyance (Licensing Authority: Charlton Board of Selectmen)
- Dealer of Second-hand Articles (Licensing Authority: Charlton Board of Selectmen)
- Pawn Dealers (Licensing Authority: Charlton Board of Selectmen)
- Scrap Metal Dealers (Licensing Authority: Charlton Board of Selectmen)
- Hackney Drivers, and (Licensing Authority: Charlton Board of Selectmen)
- Ice Cream Truck Vendors (Licensing Authority: Charlton Board of Selectmen)

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records.

The Police Chief shall periodically check with the Executive Office of Public Safety and Security (“EOPSS”) which has issued an Informational Bulletin which explains the requirements for town by-laws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

Upon receipt of the fingerprints and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this by-law to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this by-law.



VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 20.

SPONSOR: POLICE CHIEF

Motion and second that Article 20 be accepted as printed.

Board of Selectmen approve this motion. Majority vote needed.

Motion and second to amend the main motion so as to accept Article 21 as printed but deleting the words "one hundred dollars (\$100)" under the section entitled "Fees" and substituting therefor the words "fifty dollars (\$50)".

The motion to amend carried by a counted vote of: Yes - 82 No - 45

Main motion as so amended then passes by a vote of Yes - 72 No - 61

A true copy, Attest

Darlene L. Tully
Town Clerk

Town Seal



Article 28
Sub. 2 Form 2

VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 28.

ARTICLE 28. ZONING BY-LAW DIAGNOSTIC REVIEW: REFORMATTING & REVISIONS

To see if the Town will vote to amend the Charlton Zoning By-Law by reformatting and revising parts of the by-law identified by the Charlton Planning Board in its Zoning By-Law Diagnostic Review, detailed as follows:

1. Correct miscellaneous misspellings, punctuation errors and typographical errors throughout the Zoning By-Law document, as highlighted in bold in copies available at the Charlton Planning Board Office and Office of the Town Clerk.
2. Add the page number of the site plan review sub-section of the zoning by-law to the Table Of Contents.
3. Delete the current "Accessory Building or Uses" definition in Section 2-Definitions and replace it with separate "Accessory Building" and "Accessory Use" definitions, as follows:

Accessory Building: An accessory building is one which is subordinate or incidental to the main use of a building on a lot. The term "accessory building" when used in connection with a farm shall include all structures customarily used for farm purposes and they shall not be limited in size.

Accessory Use: A land use which is subordinate and incidental to a predominant or main use. See Section 3.2 (Use Regulations), Sub-Section 3.2.2.8 (Accessory Uses) for accessory use listing per zoning districts.

4. Relocate the definition of "Fast Food Restaurants" from Section 3.2.2.5-7 to Section 2-Definitions.
5. Revise land use activity description language in Sub-Section 3.2.2.2-Residential Uses, items #1, #3, #8 and #9, as follows:

#1 Change "Detached one-family dwelling" to "Dwelling one-family"

#3 Change "Detached two-family dwelling" to "Dwelling two-family"



78.2

VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 28.

#8 Change "Dwelling units over first floor commercial uses" to "Dwelling units over first floor business uses"

#9 Change "In one and two-family dwellings, a mix of residential and commercial uses" to "In one and two-family dwellings, a mix of residential and business uses"

6. Replace the current "Light Manufacturing establishments" land use activity description in Sub-Section 3.2.2.7-1 with the following language:

1. Light Manufacturing establishments.

Storage of goods or materials shall not be permitted on any lot except in an appropriate enclosure and also in compliance with Section 4.1.5. hereof.

7. Revise the land use activity description in Sub-Section 3.2.2.8-8, as follows:

Delete: 8. Child care facility as accessory use to serve employees of principal use.

Add: 8. Day Care Center or any child care facility-including day care and family care as accessory use to serve employees of principal use.

8. Revise Section 5.3 (Storage of Unregistered Motor Vehicles), Sub-Section 5.3.5 (Special Permit Fee) to read as follows:

5.3.5 Special Permit Fee

Each special permit application submitted under section 5.3.1 shall include an application fee in an amount established by majority vote of the special permit granting authority.



PS. 3

VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 28.

9. Add the following sentence to the end of Section 5.7 (Flexible Development), Sub-Section 5.7.3.5:

Three (3) copies of a preliminary conventional subdivision plan are required to be submitted as part of the flexible development preliminary subdivision plan application for use by the Planning Board in determining preference of either flexible or conventional subdivision design.

10. Add the following items #3 and #4 to the list of affordable housing types exempt from the Phased Growth section of the Charlton Zoning By-Law, detailed in Section 5.12 (Phased Growth), Sub-Section 5.12.6 (Exemptions), as follows:

3. Housing that is eligible for inclusion on the Mass. DHCD Subsidized Housing Inventory (SHI) listing.
4. Affordable housing created in accordance with Section 5.15 (Inclusionary Zoning Special Permit) of the Charlton Zoning Bylaw.

11. Revise the definition of "Affordable Housing Unit (AHU)" listed in Section 5.15 (Inclusionary Zoning Special Permit), Sub-Section B (Definitions) by adding the following language to the definition as highlighted in bold below:

1. Affordable Housing Unit (AHU): A dwelling unit available at a cost of no more than 30% of gross household income of those households at or below 80% of the Worcester Primary

20

Metropolitan Statistical Area (PMSA) median household income as reported by the US Department of Housing and Urban Development, including units listed under MGL Chapter 40B and the Commonwealth's Local Initiative Program **and qualifying for the Mass. DHCD Subsidized Housing Inventory (SHI) listing.**

12. Add to the Charlton Zoning By-Law an "Appendix B: Design Illustrations" that includes a total of nine (9) design samples to visually illustrate examples of the following zoning design concepts:



78.4

VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 28.

- Figure 1: Accessory Building/Structure
- Figure 2: Awnings and Canopies
- Figure 3: Buffer
- Figure 4: Building Coverage
- Figure 5: Floor Area Ratio
- Figure 6: Corner Lot & typical lots
- Figure 7: Building Height
- Figure 8: Yard & Frontage
- Figure 9: Sign Types

Please note that these samples are for illustrative example purposes only. For complete details regarding Zoning By-Law performance standards for each of these site or structural design elements, please refer to the appropriate section of the Zoning By-Law text or contact the Building Commissioner/Zoning Enforcement Officer (ZEO) or Planning Board.

SPONSOR: PLANNING BOARD

Motion and second that Article 28 be accepted as printed.

Planning Board supports this motion. 2/3rds vote needed.

Motion and second to amend the main motion so as to accept Article 28 as printed with the exception of deleting number 6.

Motion to amend defeated by Majority Voice Vote as determined by the Moderator.

Main motion to accept Article 28 as printed passes by more than two-thirds Voice Vote as determined by the Moderator.

A true copy, Attest

Darlene L. Tully
Town Clerk

Town Seal



VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 29.

ARTICLE 29. PETITION- ZONING

Request that the May 2012 Annual Town Meeting vote to amend the Town of Charlton Zoning Map by re-zoning approximately 5.25 acres of the 140-acre parcel owned by Green Hill Realty Trust, located southerly of Route 20, Map 31, Block D, Parcel 4, from Low-Density Residential (R-40) zoning designation to Industrial-General (IG) zoning designation, so as to designate the entire 140-acre parcel as uniformly within the Industrial-General Zone.

SPONSOR: Petition

[Note: Further description provided by owner of land who initiated the petition for the above article and which he had Para Land Surveying, Inc. prepare and provide to the Town:

Zone Change

Suggested Description of Zone Change from Residential-Low Density (R-40) to Industrial-General (IG) at the south side of Sturbridge Road AKA Route 20, Charlton, Massachusetts.

BEGINNING at a point on the southerly side of Route 20 at the current Zone line between IG and R-40 Zone line west of Mayberry Road.

THENCE west by Route 20 and the crossing the current Residential 40 Zone to at a point at another IG Zone at or near McKinstry Brook also called Globe Brook.

THENCE southerly along the current IG and Residential 40 Zone line at or near said Brook through Assessor Map 31 Block D Parcel 4 to a point on the boundary line between Assessor Map B1, D4, and 31D 7.1.

THENCE northerly along said boundary line and through the R40 Zone to and along the current first described IG Zone line to the point of beginning. The above-described tract contains an approximate area of 5 acres.]

Motion and second that Article 29 be accepted as printed.

Planning Board supports this motion. 2/3rds vote needed.

Motion passes by Unanimous Voice Vote.

A true copy, Attest

Daflene L. Tully
Town Clerk

Town Seal

Article 30
Form 2 sub 4 e



VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 30.

ARTICLE 30. PETITION- GENERAL BY-LAW

We, the undersigned registered voters of the Town of Charlton, hereby petition the Board of Selectmen to place the following article within the warrant (agenda) of the Town Meeting of (date): May 21, 2012

In accordance with Chapter 39, section 10 of the Massachusetts General Laws:

Town Meeting directs the Board of Selectmen and other appropriate committees to amend the Charlton General By Law Article XXXV: Junk, Old Metal, and *Second Hand Articles* to govern the placement and maintenance of outdoor "drop boxes" in areas of public access for the purposes of maintaining safe and clean streets and sidewalks.

"Drop box" shall mean any box, container or device placed in an area of public access on a temporary or permanent basis, including devices designed to collect, distribute, or sell any item.

Section 1: Prohibition

4. No person shall keep a "drop box" designed to collect, distribute, or sell any item without a license issued by the Selectmen.

Section 3: Rules, Regulations and Restrictions

3. "Drop boxes" should be properly maintained in a clean and neat condition and in good repair at all times. "Drop boxes" shall be emptied on a regular basis, at least monthly, to prevent overflow.

4. "Drop boxes" shall contain clear identification and phone number of the organization responsible. "Drop boxes" shall clearly state to donors the intended use of the donation.

5. "Drop boxes" shall only be permitted in areas zoned I-G (Industrial General) or CB (Community Business) and shall be set back from property lot lines by a minimum of 15 feet.

SPONSOR: Petition- Kristen Kustigian

Motion and second that Article XXXV: Junk, Old Metal, and *Second Hand Articles* of the Charlton General Bylaws be amended by adding the following at the end of the present text thereof:

"Section 6: Outside Drop Boxes

A. Purpose: The purpose of this section of the bylaw is to promote the maintenance of outdoor "drop boxes" located on or abutting public ways and private ways open to use by the general public, and sidewalks abutting such ways in a safe and clean condition.



pg. 2

VOTE CERTIFICATE

TOWN OF CHARLTON

At a legal meeting/election of the qualified voters of the Town of Charlton, held May 21, 2012 the following business was transacted under Article 30.

B. "Drop box" as used in this section shall mean any box, container or device, including any such designed to collect, distribute, or sell any item, which is located, on a temporary or permanent basis, in or adjoining a public way or a private way open to use by the general public, or in or adjoining a sidewalk abutting such a way.

C. Each drop box shall:

- (1) be properly maintained in a clean and neat condition and in reasonably good repair at all times;
- (2) be emptied on a regular basis, at least monthly, to prevent overflow;
- (3) contain clear identification, and the telephone number, of the organization responsible for maintenance of the drop box; and
- (4) clearly state thereon, for the benefit of prospective donors, the use to which any donation will be made.

D. No person or entity other than those required by Sections 1 & 2 of this Article shall be required to secure or maintain a license for a drop box, but such boxes shall be subject to any drop box rules, regulations and restrictions, if any, as the Selectmen may adopt pursuant to Section 2 of this Article, and the penalties set forth in Section 5 hereof shall apply to drop boxes.

Majority vote needed.

Motion passes by Majority Voice Vote as determined by the Moderator.

A true copy, Attest

Darlene L. Tully
Town Clerk

Town Seal