

How would a Rights of Wetlands Bylaw (RoW) work?

NOTE: A draft Rights of Wetlands Bylaw is in the process of being developed by the Shutesbury RoW Working Group in conjunction with a team of nationally recognized legal specialists in the Rights of Nature. Since this draft is not ready yet for a public release, the following comments are generic and may be subject to change.

A RoW Bylaw:

- It recognizes that wetlands are living ecosystems that have fundamental rights to exist despite human intervention and exploitation.
- It extends the existing rights of citizens to clean water, found in Article 97 of the Massachusetts Constitution, to include the rights to a clean water and also to healthy wetlands.
- It is aspirational and ground-breaking for Massachusetts, serving to remind residents, public officials, and corporate entities that we cannot continue to break the Earth.
- It provides a pathway for disputes and controversies to be fairly and equitably addressed through the Courts.
- It balances the scale, giving wetlands the rights of personhood, just as the legal system has given corporations the rights of personhood.
- It addresses the failure of our legal system to recognize that Indigenous people have a unique, enduring, and deep cultural and spiritual relationship to wetlands in Shutesbury and the many ceremonial stone landscapes located within and around Shutesbury wetlands. For centuries before colonization, genocide, and displacement disrupted Indigenous communities, Shutesbury and its wetlands were a place of ceremony. *For more information about ceremonial stone landscapes in Shutesbury, go to our Resources page.*
- It allows for a broader spectrum of people to be able to come forward as defenders of wetlands, including all Town residents and Indigenous Tribes and their members who have been displaced from this area due to colonization, genocide, historical erasure, and denialism.

What the RoW Bylaw does:

- It grants legal “personhood” rights to wetlands, in the same way that corporations are granted “personhood” rights in our country.
- It grants “standing” to wetlands advocates to take legal action if necessary to protect wetlands if other avenues fail.

- It provides an equitable and just process whereby residents and Indigenous Tribal members, even if they are not an abutter or have not been personally harmed, can step up to be wetlands champions, taking appropriate if needed legal action on behalf of damaged or threatened wetlands;
- It provides an equally equitable and just process whereby Indigenous Tribes and Tribal members can also have standing to defend wetlands that are culturally important to them as part of their sacred traditions and ceremonial landscape.
- A RoW Bylaw in Massachusetts can be adopted by a municipality under the Massachusetts Home Rule statutes that grant towns the power to enact legislation.

What the Bylaw does NOT do:

- It does not conflict with any existing laws, including the Wetlands Protection Act and the Shutesbury Wetlands Protection Bylaw.
- It does not interfere with normal environmental permitting processes, including the permitting authority of the Conservation Commission, Planning Board, or any other governmental body.
- It does not deprive people of their property rights.
- It does not affect pre-existing activities before the Bylaw is adopted.
- It will not bankrupt the Town.
- It does not target residential landowners as the proposed Bylaw under development would only affect governments and corporations.
- It will not lead to frivolous lawsuits since any plaintiff would still have many other legal hurdles to overcome.
- It does not target every trivial puddle or tiny property in Town.