

# **TOWN OF WESTHAMPTON**

## **GENERAL BY-LAWS**

### **Article I**

#### **Town Meetings**

##### **Section 1 Organization and Procedure**

- 1-1-1 The annual election of town officers shall be held on the first Saturday in June of each year and the annual meeting for the transaction of other business shall be held on the second Saturday in May.

##### **Section 2 Polling Hours**

- 1-2-1 The hours of voting in town shall be determined by the Selectboard, but the polls shall be open for at least four hours.

##### **Section 3 Warrants**

- 1-3-1 Notice of every annual town meeting shall be given by posting an attested copy of the warrant calling the meeting on the front of the Town Hall at least seven days prior to such meeting. Special town meeting warrants shall be posted in the same manner at least fourteen days prior to such meeting.
- 1-3-2 All petitions to add articles to a scheduled special or annual Town meeting warrant must be filed with the Selectboard at least 45 days prior to the date of said Town Meeting. This requirement may be waived by the Selectboard on its own motion, if it finds that failing to address the subject of the petition could pose a real, measurable and significant detriment to the health or welfare of the Town. (added 11-6-23)

##### **Section 4 Voting on Motions at Town Meetings**

- 1-4-1 All votes on motions shall be taken by a show of hands or voice vote unless a request from the floor calls for vote by secret ballot. When a question is to be determined by secret ballot, every person intending to vote shall have his or her name checked by the checklist of the registrars of voters before depositing the ballot in the receptacle provided.
- 1-4-1a. When a two-thirds vote is required by statute, the Moderator may declare the vote to be a two-thirds vote without a count, provided, however, that if the vote is immediately questioned, a count shall be taken. (added 5-8-1999, AG approved 9-22-1999)

1-4-2 Motions shall be presented in writing upon the request of the moderator. All questions asked shall be through the moderator.

1-4-3 No motion, the effect of which would be to dissolve the meeting, shall be in order until all articles in the warrant have been acted upon, but this shall not preclude the postponement of the meeting at a stated time.

#### Section 5 Limitations on Speakers

1 -5-1 No person shall address the meeting unless recognized by the moderator, nor speak more than once on the same subject to the exclusion of any other who may desire to speak.

#### Section 6 Quorum

1-6-1 A quorum for the transaction of business at any annual or special town meeting shall consist of at least 15 voters.

#### Section 7 Moderator (gender revised 11-6-23)

1-7-1 A moderator shall be elected in accordance with Article 2.

1-7-2 The moderator shall appoint all committees established by the town meeting unless the meeting otherwise directs. The moderator may direct that only voters be admitted to the place of meeting or to a definite portion thereof.

1-7-3 The moderator shall be guided by "Town Meeting Time" for all parliamentary procedures.

### Article 2

#### Municipal Officers (renamed 11-6-23)

##### Section 1 Elected Officers (renamed 11-6-23)

2-1-1 The officers to be elected on the official ballot at the annual town election shall include: a moderator, elected for a term of one year; a tree warden, elected for a term of one year.

##### Section 2 Town Clerk: Duties (gender revised 11-6-23)

2-2-1 The Town Clerk shall keep and cause to be permanently bound one or more files of the town reports and recover one copy of each past year that is possible. They shall notify all persons chosen or elected by the town or appointed on committees of their election, choice, or appointment. They shall furnish all

boards and committees with a copy of all votes affecting them. They shall not allow original papers or documents of the town to be taken from their office except as they remain in their custody or by authority of the law.

- 2-2-2 The Town Clerk shall furnish the various town officers and committees a copy of such action of the town as affects them within three days of the meeting.

### Section 3 Tax Collector: Duties

- 2-3-1 The Tax Collector shall collect, under the title Town Collector, all accounts due to the town.

### Section 4 Treasurer (added 11-6-23)

2-4-1 - The Town Treasurer is responsible for the deposit, investment, and disbursement of all Town funds and plays a principal role in borrowing, in accordance with state law, including, but not limited to, Section 35 of Chapter 41 of the General Laws, and other federal and state codes, laws, and regulations as applicable.

2-4-2 - The Treasurer of the Town shall give no note as Treasurer unless authorized by vote of the Town to borrow money and approved by vote of the Westhampton Selectboard.

2-4-3 - The Treasurer shall pay no money from the Treasury except upon a warrant signed by the Town Accountant and by the officer or by a majority of the Board or Committee authorized to make the expenditure.

2-4-4 - The Treasurer shall, before entering upon the discharge of their duties, pursuant to Section 35 of Chapter 41 of the General Laws, give bond for the faithful performance of their duties in a sum and with sureties approved by the Selectboard, which bond shall be paid for by the Town.

2-4-5 - The Treasurer shall coordinate all human resources records and actions, and administer all employee benefits. The Treasurer shall, under the direction of the Selectboard, act as the Town's retirement system and employee insurance benefits representative.

2-4-6 - In accordance with the provisions of G.L. c. 60, § 62A, payment agreements are hereby authorized between the Treasurer and persons entitled to redeem parcels in tax title, subject to the following terms and conditions:

A. Each such agreement shall be for a term of five years and shall waive 50% of the interest that has accrued on the tax title account. No tax principal or collection costs/fees may be waived pursuant to the terms of any such agreement.

B. Payment of 25% of the total tax title account balance as of the date of the agreement must be received by the Treasurer upon final approval/execution of the agreement.

C. Such agreements and waivers shall be available for and uniformly applied to parcels of real property with an assessed valuation, as of the January 1 preceding the date of the agreement, equal to or less than 150% of the mean assessed value of residential properties in the Town.

D. During the term of the agreement, the Treasurer may not bring an action to foreclose the subject tax title unless payments are not made in accordance with the schedule set out in the agreement or timely payments are not made on other municipal taxes, assessments, or charges due to the Town that constitute a lien on the subject tax title parcel. In the event of any default in payment obligations stipulated in said agreement, the Treasurer may pursue any or all remedies prescribed by MGL c. 60 for the collection of unpaid taxes, including, but not limited to, tax title foreclosure.

E. The failure of the property owner to comply with any of the conditions or requirements imposed under this bylaw or to make payments in accordance with the terms of any agreement executed pursuant hereto shall be cause to rescind the waiver of interest and to reinstitute the interest that was waived. In the event of such noncompliance, the tax account for the property shall be recalculated to reflect the amount of taxes and statutory interest that would have been then due and payable but for the initial waiver of interest.

F. Nothing in this bylaw shall preempt or preclude the authority of the Treasurer to accept partial payments or to negotiate and enter into payment agreements authorized by the provisions of MGL c. 60, §§ 22 and 22A, or any other statutory authority.

### Article 3 Elected Town Boards

#### Section 1 Boards to be Elected

3-1-1 The boards, commissions, and committees to be elected on the official ballot at the annual town election shall be:

- (a) a Selectboard of three members, elected for overlapping three-year terms:
- (b) a Finance Committee of ten members, elected for overlapping three-year terms:
- (c) deleted(05/09/2015)
- (d) a Board of Assessors of three members, elected for overlapping three year terms:
- (e) deleted (05/09/2015)
- (f) a School Committee of five members, elected for overlapping three year terms:  
(amended 05/09/2015)
- (g) a Planning Board of five members, elected for overlapping three year terms:

- (h) one or more members of the Hampshire Regional School Committee, for a term of three years, as Westhampton's enrollment dictates:
- (i) three Constables, one each for the North, Center and South Districts of the town, elected for overlapping three year terms:
- (j) a Board of Library Trustees of six members elected for overlapping terms of three years, in accordance with Sects. 7 and 8 of M.G.L. Chap. 78:

## Section 2 Recreation Commission: Duties

3-2-1 deleted (05/09/2015)

## Section 3 Vacancies

- 3-3-1 A vacancy arising in the Selectboard shall be filled by special election, in accordance with the provisions of general law.
- 3-3-2 Vacancies arising in other boards established under this article shall be filled by the Selectboard together with the remaining members of the respective boards, in accordance with the provisions of general law.

## Section 4 Notice of Meetings

- 3-4-1 All town boards, commissions, and committees shall notify the Town Clerk of their organization and of the time of their regular meetings.

# Article 4

## The Selectboard

### Section 1 Election

- 4-1-1 The Selectboard shall be elected in accordance with Article 3.

### Section 2 Board to Represent Town

- 4-2-1 The Selectboard may appear either personally or by the town counsel, or by special counsel before any court, or any state or county board or commission to protect the interests of the town, but are not authorized by these by-laws to commit the town to any course of action.

### Section 3 Policy Leadership

- 4-3-1 The Selectboard shall have the general direction and management of the property and affairs of the town in all matters not otherwise provided for by law or by these by-laws.

#### Section 4 Board to be Custodians of Town Deeds

- 4-4-1 The Selectboard shall be the custodian of all deeds, bonds, and insurance policies belonging to the town.

#### Section 5 Power of Appointment

- 4-5-1 The Selectboard shall annually appoint: a Town Counsel; a Superintendent of Streets; a Fire Chief; a Police Chief; Registrars of Voters; Election Officers; a Trench Permitting Authority; all inspectors; and all such other appointed officers and employees of the town for whom no other appointive authority is provided by general law or by-law.
- 4-5-2 The Selectboard shall also appoint:
- (a) Five members and three associate members of a Zoning Board of Appeals in accordance with M.G.L. Chap. 40A
  - (b) a Historical Commission of five members for overlapping terms of three years, in accordance with Sect. 80 of M.G.L. Chap. 40;
  - (c) a Conservation Commission of five members for overlapping terms of three years, in accordance with Sect. 8C of M.G.L. Chap. 40;
  - (d) a Council on Aging of seven members for overlapping terms of three years, in accordance with Sect. 88 of M.G.L. Chap. 40;
  - (e) an Insurance Committee of five members, appointed for overlapping terms of three years, which shall be expected to make budget recommendations.
  - (f) an Agriculture Commission of seven members, appointed for overlapping terms of three years, to represent the Westhampton farming and forestry communities.
  - (g) A Board of Health of three members appointed for overlapping three-year terms, in accordance with M.G.L. Chapter 41, Section 1B (05/09/2015).
  - (h) A Cemetery Commission of three members, appointed for overlapping three-year terms, in accordance with M.G. L. Chapter 114, Section 27 (05/12/2018).
  - (i) One Alternate Member of the Planning Board, in accordance with Section 81A of Chapter 41 of the General Laws. (05/13/23)
- 4-5-3 The Selectboard shall also appoint a Town Clerk, for a term not to exceed three (3) years, in accordance with G.L. c.41, §1B.
- 4-5-4 The Selectboard shall also appoint a Tax Collector, for a term not to exceed three (3) years, in accordance with G.L. c.41 §1 B

- 4-5-5 The Selectboard shall also appoint a Town Treasurer, for a term not to exceed three (3) years, in accordance with G.L. c.41 §1 B

#### Section 6 Board to Act as Trustees

- 4-6-1 The Board shall be authorized to act as trustees, on behalf of the town, to administer the Whiting Street bequest.

### Article 5

#### The Finance Committee

#### Section I Composition

- 5-1-1 A Finance Committee of ten members shall be elected in accordance with Article 3.
- 5-1-2 Members of the committee shall serve without compensation.

#### Section 2 Powers

- 5-2-1 The Finance Committee shall be the principal budget making and fiscal management advisory board of the town.
- 5-2-2 The committee shall have the power to consider matters relating to the appropriation, the borrowing, and the expenditure of money by the town, its indebtedness, the methods of administration of its various officers and departments, property valuation and assessments, and other town affairs, and may make recommendations to the town, to any board, officer or committee relative to such matters.

#### Section 3 The Budget Process

- 5-3-1 On or before January 15 of each year, town officers, boards, commissions and committees planning to request appropriations from the town meeting shall prepare detailed estimates of the amounts deemed by them to be necessary for the administration of their respective offices for the ensuing fiscal year.
- 5-3-2 The committee shall duly consider said estimates and may confer with said officers, boards, commissions and committees, and may hold a public hearing, if deemed desirable.
- 5-3-3 After further deliberation, the committee shall issue its recommendations to the town meeting to either approve or disapprove the amounts requested, in whole or in part, for all officers, boards, commissions and committees of the town.

- 5-3-4 The committee shall issue a report detailing the matters it has considered and include the recommendations or suggestions relative to the departmental requests.
- 5-3-5 The report shall be published and distributed at least three days before the business session of the annual town meeting. This report shall also contain a statement of the doings of the committee during the year and may include recommendations on any matter pertaining to the welfare of the town.
- 5-3-6 The committee shall also consider the proposed fiscal requests of all officers, boards, commissions and committees to be made at any special town meeting. The committee shall make a report on all said requests and issue recommendations relative thereto. Said report shall be published or distributed at least three days before any special meeting.
- 5-3-7 Any proposed article for any town meeting which anticipates an expenditure of town funds shall be referred to the finance committee at least 15 days before the posting of the warrant. The finance committee shall consider all such articles and shall issue its recommendations to the town meeting to approve or disapprove in whole or in part of the proposed expenditure and shall notify the board, officer, committee or individual (s), which submitted the request.
- 5-3-8 When an expenditure or appropriation is sought by a department under the control of the Selectboard, the proposal for such expenditure or appropriation shall be submitted to the Finance Committee by the Selectboard.

#### Section 4 Other Fiscal Matters

- 5-4-1 The Town shall establish and maintain a revolving fund for the payment of police officers employed in off-duty work, in accordance with Sect. 53C of M.G.L. Chap. 44.
- 5-4-2 The Town shall annually set aside one percent of the town's total payroll in anticipation of having to pay the unemployment benefits of town employees, in accordance with M.G.L. Chap. 151A.
- 5-4-3 The Assessors shall grant elderly persons the appropriate real estate tax exemptions, as provided by Sect. 5 of M.G.L. Chap. 59.
- (added 5/14/22) 5-4-4 The Town shall establish and maintain the following revolving funds in accordance with Section 53E-1/2 of Chapter 44 of the General Laws:



5-4-4-1 - For the purchase of Fire Department materials, supplies and training, to be funded by inspection fees, and to be expended without further appropriation by the Fire Chief.

5-4-4-2 – For the maintenance, upkeep and groundskeeping of the Westhampton Cemetery, to be funded by sales of plots and burial fees, and to be expended without further appropriation by the Cemetery Superintendent.

## Article 6

### Town Employees

#### Section I Appointive Authority

6 -1 -1 The Selectboard shall appoint all town employees.

#### Section 2 Group Life Insurance

6-2-1 The Town shall pay a subsidiary or additional amount in addition to 50 percent of the premium of group life and health insurance of town employees, in accordance with Sec. 7A of M.G.L., Chap. 32B.

#### Section 3 Damage to Vehicles

6-3-1 The Selectboard is authorized to pay for damages to police officers' and firemen's vehicles damaged while in the line of duty, the total amount not to exceed the deductible amount, and not to exceed \$1,000.00. (amended 05/10/2014).

6-3-2 The Town shall compensate any person for damage to men or equipment while rendering aid at a fire, in accordance with Sect. 59 of M.G.L. Chap. 48.

## Article 7

### Miscellaneous Provisions

#### Section 1 Town Caucus

7-1-1 The Town Caucus for the nomination of officers shall be held on the second Monday in April (amended 05/12/2012).

#### Section 2 Contracts

7-2-1 No contract, involving an obligation of the town, exceeding fifty dollars shall be made at any time, except by vote of the committee or board thereunto duly

authorized having supervision of the department to which the same relates. Such vote shall be recorded and such records shall be open to inspection.

- 7-2-2 The Town accepts Chapter 687 of the Acts of 1989 M. G. L. Chapter 30B, the so-called Uniform Procurement Act.

### Section 3 Parking on Public Streets

- 7-3-1 The Chief of Police may cause illegally parked vehicles to be towed away, in accordance with Sect. 20A2 of M.G.L. Chap. 90.

### Section 4 Snow Removal and Other Highway Maintenance Operations

- 7-4-3 The Superintendent of Streets, or any other officer having charge of the ways of the Town, shall have the authority for the purpose of removing snow and ice or repairing any way in the Town, to remove or cause to be removed to some convenient place any vehicle or obstruction interfering with such work. The cost of removal, disposition, and storage of any vehicle or obstruction from a Town right of way, shall be paid by the owner before such vehicle or obstruction is released to them. The schedule of such costs is to be fixed from time to time by the Selectboard. No vehicle or obstruction will be removed under this ordinance if the owner or person in charge has contacted town officials explaining the situation and expressed the intention of immediately removing said vehicle or obstruction.
- 7-4-2 It shall be unlawful for any person to place, or have placed in the street or roadway any snow or ice being removed from driveways or other portions of the property. The property owner or tenant shall be held responsible for any such snow or ice found in the street or roadway and shall be subject to a fine of \$50.00 for each offense plus any costs or prosecution.
- 7-4-3 It shall be unlawful for any person to place, or have placed, any leaves, brush, excavation material, or debris of any kind, in any public rights of way, which includes roadways, shoulders, ditches, culverts, bridges and or any public property. Any person guilty of such offenses shall be subject to a fine of \$50.00 for each offense plus any costs of prosecution.

### Section 5 Annual Report

- 7-5-1 An annual report shall be printed and distributed for the use of the inhabitants of the Town.

## Section 6 Land for Recreational Purposes

- 7-6-1 It is a policy of the Town that town boards should pursue a policy of town owned and town regulated land for recreational purposes.

## Section 7 Logging Operations Adjacent to Public Right of Way

- 7-7-1 Any landowner, or logging contractor, working on property adjacent to a public right of way shall comply with the following rules.

There shall be no cutting of trees on the right of way without permission from the Tree Warden. No landings shall be on the streets or roadways and all trucks shall stand on private property while loading or unloading logs, wood, or equipment. No skidders, bulldozers, or other log dragging equipment are to be operated on streets and roadways; except rubber tired equipment, with grouzered tire chains removed, which are being moved to or from an operation site. Access roads and driveways are to be maintained in a firm condition so not to damage streets or roadways, shoulders, or ditches. Pipes shall be used wherever needed to cross ditches or waterways.

All State laws governing timber practices, including Chapters 48 and 132 will be observed and enforced.

A fine of \$50.00 plus all repair and prosecution costs will be levied against the offender for each offense.

## Section 7 Mandatory Recycling By-Law

- 7-7-2 There is hereby established a program for the mandatory separation of certain recyclable material from all other rubbish by all residents of the town in order to extend the life of our landfill.

### GENERAL

1. Beginning one week after the Material Recovery Facility commences operation, no dumping of rubbish will be allowed at Westhampton Landfill unless in accordance with the following regulations of this by-law.
2. Separate household rubbish into the following categories before depositing
  - A. Glass, aluminum and other metal items, except containers that contained paint, or petroleum based material, and pressurized aerosol cans.

B. Paper & Cardboard

C. Other Rubbish

3. Recyclables shall not be placed in the same container or otherwise mixed with other forms of rubbish for collection removal or disposal.

## Section 8 Operation of Heavy Equipment on Public Streets or Roadways

- 7-8-1 No bulldozers or other equipment with metal cleats or grouzers shall be operated on public streets or roadways, except that equipment which is being used in the construction or maintenance of said roads.

Whenever it shall be necessary for these pieces of equipment to cross public streets or roadways, any measures necessary to protect road surfaces shall be carefully followed.

A \$50.00 fine plus all repair and prosecution costs will be levied the offender for each such offense.

## Section 9 Dog Regulations

### 7-9-1 PURPOSE

To achieve the objectives of the Animal Control Officers responsibilities as contained in Chapter 140, sections 136A-174E of the Massachusetts General Laws, which includes the regulation of domestic animals, the licensing of dogs, and the establishment of fines for this bylaw within the boundaries of the Town of Westhampton. This bylaw is not set forth to establish a leash law.

### 7-9-2 APPLICATION

This bylaw shall apply to those persons owning or keeping dogs within the boundaries of the Town of Westhampton in their role as responsible pet owners; understanding that public safety and animal welfare are priority. Any owner/keeper seeking relief from any portion of this bylaw may file or appeal for same with the Selectboard.

### 7-9-3 SEVERABILITY

Should any section, portion, or provision of this bylaw be found invalid for any reason, that finding shall not affect the validity and force of any other section, portion, or provision of this bylaw.

### 7-9-4 ANIMAL CONTROL OFFICER

The Selectboard shall annually appoint an Animal Control Officer. The salary shall be fixed by vote of Annual Town Meeting.

#### 7-9-5 LICENSES AND TAGS

1. The Town Clerk shall issue dog licenses and tags. The Town Clerk shall record for each license issued, the name, address and telephone number of the owner or keeper of each dog so licensed, the tag number issued, date of expiration of last rabies vaccination, breed, age, color, or other description of the dog. Each tag shall contain the tag number, the name "WESTHAMPTON" and the year of issue.

2. The owner or keeper of a dog, once it becomes six months or older, kept within the Town of Westhampton shall cause that dog to be licensed annually. The license year shall be from April 1 to the following March 31, inclusive.

3. The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which he/she shall securely attach the tag issued. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk, at a cost of \$2.00 each.

4. The fee for each dog licensed shall be \$10.00, unless a certificate of a veterinarian stating that the dog has been spayed or neutered has been presented to the Town Clerk, in which case the fee shall be \$5.00. Any owner or keeper of four or more dogs, six months of age or over, may elect to secure a kennel license as follows:

- a. 4 dogs - \$18.00
- B. Up to 10 dogs - \$35.00
- c. Over 10 dogs - \$65.00

No license fee or part thereof shall be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog. A late fee of \$50.00 per dog will be charged for late renewals after June 1. This does not apply for newly acquired dogs or for individuals who have moved into Town less than 30 days prior to licensing. All dogs must be licensed every year.

5. A license shall not be issued for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies or indicating that, because of infirmity, other physical condition or regimen of therapy, said vaccination is deemed inadvisable. The rabies vaccination expiration date shall be recorded on the license record.

6. No fee shall be charged for a dog specially trained to lead or serve a disabled person, upon presentation of certification of said training.

7. The owner or keeper of any dog shall provide proof of said license upon request of the Animal Control Officers, Police Officers or Selectboard.

8. The penalty for violation of this section, in addition to any other penalties provided by law, shall be \$50.00. The penalty for failure to license said dog within 30 days of notification of violation of this section shall be \$75.00.

#### 7-9-6 RUN AT LARGE; FINES

1. No owner or keeper of a dog shall allow such dog whether licensed or unlicensed to run at large within the boundaries of the Town of Westhampton. Run at large shall be defined as any dog outside the boundaries of its owners property not wearing a collar or harness with the appropriate tags attached as described in section 5(3); any dog roaming at will onto the property of those who have no ownership of said dog or have not granted permission for said dog to be within the boundaries of said persons property; any dog that puts itself in the way of harm.

2. No owner or keeper of a dog shall allow such dog to be under the responsibility and care of a person not adequate or capable to properly control said dogs actions or unable to use discretion regarding said dog.

3. Any dog found to be at large in violation of this section may be caught and confined by an officer authorized to do so, or returned to the owner or keeper of record forthwith. The Animal Control Officer, or authorized agent, shall attempt to notify the owner/keeper of record of a confined dog. The owner/keeper of said dog shall have a period of time, not to exceed 7 days, within which to recover said dog. Return of the dog to the owner/keeper of record shall be dependent upon admission of ownership or the keeping of said dog, and assumption of responsibility by the owner or keeper. If said dog is unlicensed, a current license shall be obtained and all impound fees paid prior to release of the dog. In addition to fees charged for boarding, medical or other care costs, there shall be an impound fee paid to the Town of Westhampton of \$25.00 for licensed dogs and \$40.00 for dogs unlicensed (in addition to licensing) at time of impound.

4. This section shall not be construed to limit or prohibit the use of hunting dogs during the hunting season, the conducting of field trials for hunting dogs or the training or use of police K-9 units.

5. The penalty for violations of this section shall be \$25.00 for each offense.

#### 7-9-7 NUISANCE DOGS; DISTURBING THE PEACE; FINES

No owner or keeper of a dog shall allow such dog to soil or defile (unless picked up by owner or keeper), or dig, or commit a nuisance other than within the boundaries of its owner or keeper, or disturb the peace and quiet of any neighborhood with excessive barking or howling. Violators shall be warned by an Animal Control Officer.

Fines within a one year period shall be as follows:

1. first offense-warning
2. second offense-\$20.00 and reported to the Selectboard
3. third offense-not to exceed \$50.00
4. fourth offense-not to exceed \$100.00 and the Selectboard shall take action as allowed in section 13 of this Bylaw

#### 7-9-8 VICIOUS OR DANGEROUS DOGS; FINES

No owner or keeper of a dog shall allow such dog to endanger the safety of any person or other domestic or kept animals. Violators shall be warned by an Animal Control Officer and reported to the Selectboard and action may be taken as described in section 13 of this Bylaw.

Fines within a one year period shall be as follows:

1. first offense-warning and reported to the Selectboard
2. second offense-\$50.00 and the Selectboard shall cause the dog to be restrained as provided in section 13 of this Bylaw
3. third offense-not to exceed \$100.00 and cause the Selectboard to take action, or destroying, as described in section 13 of this Bylaw

#### 7-9-9 PERSONAL PROPERTY LIVESTOCK/FOWL DAMAGE; APPRAISAL; REIMBURSEMENT

1. Whoever suffers loss by the worrying, killing or maiming of his livestock or fowl by dogs shall inform the Animal Control Officer who shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dogs and, if so, appraise the amount of damage if it does not exceed \$50.00.

2. If in the opinion of the Animal Control Officer the damage exceeds \$50.00, the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by the person alleged to have suffered the loss and the third appointed by the other two.

3. Said appraisers shall consider and include in such damages the number and kind of animals damaged the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for medical treatment in an effort to save them, the number and kind of such animals. Such report shall be filed with the Selectboard within 10 days of said appraisal. The Selectboard may require the appraisers to provide any additional information that they deem appropriate. The appraisal will be reviewed and submitted for payment as deemed appropriate. Reimbursement may be denied or limited in accordance with Chapter 140, section 161A, of the Massachusetts General Law.

#### 7-9-10 LIABILITY OF DOG OWNER

1. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable for such damage, and the Selectboard shall order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and appraisal conducted as outlined in Section 9 have concluded that said dog is at fault.

2. In the event that the owner or keeper of such dog known to have done damage to livestock or fowl refuses to pay upon the order of the Selectboard, the Animal Control Officer shall enter or cause to be entered a complaint in District Court for the enforcement of the order.

#### 7-9-11 VACCINATION AGAINST RABIES

1. The owner or keeper of a dog six months of age or older, housed or sheltered in the Town of Westhampton, shall cause such animal to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Massachusetts Department of Public Health. Such owner or keeper shall procure a veterinarian's certification that such animal has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued, or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

2. Vaccinated animals shall be revaccinated periodically in accordance with rules and regulations adopted and promulgated by the Massachusetts Department of Public Health.

3. The owner or keeper of a dog shall present certification of rabies vaccination upon demand of the Animal Control Officers, police officers or other authorized officials of the Town.

4. The penalty for violation of this section shall be \$50.00 for each offense. The penalty for failure to vaccinate said animal within 30 days of notification of a violation of this section shall be \$75.00.

#### 7-9-12 QUARANTINE OF DOGS SUSPECTED OF HAVING CONTAGIOUS DISEASE

1. The Selectboard, or his authorized agent, may order any dog which said person has reason to believe is affected with a contagious disease, to be quarantined or isolated for at least 10 days upon the premises of the owner or of the person in whose charge it is found, or in such other place as the Selectboard or agent may designate.

2. A dog which has been quarantined or isolated by order of the Selectboard or his agent shall, during the continuance of such quarantine or isolation, be deemed to be affected with a contagious disease. The owner or keeper shall be responsible for any fees incurred for any off-premises quarantine. Whoever knowingly breaks or authorizes or causes to be broken a quarantine so imposed; or whoever contrary



to such order of quarantine or isolation knowingly removes a dog or authorizes or causes it to be removed from a building, place or enclosure where it is quarantined or isolated; or whoever contrary to an order or notice of quarantine knowingly places or causes or authorizes to be placed any other animals within a building, place or enclosure where a dog is quarantined or in contact therewith; or knowingly causes or authorizes to be concealed, sold, removed or transported a dog, knowing or having reasonable cause to believe that it is affected with a contagious disease; or whoever knowingly authorizes or permits such dog to go at large within the Town of Westhampton shall be punished by a fine of \$200.00. Any such dog found at large by the Animal Control Officer, or other authorized agent of the Town, shall be captured and confined at the expense of said owner or keeper. This section shall not apply to authorized Town officials in the performance of their duties.

#### 7-9-13 COMPLAINT INVESTIGATION; ORDER TO RESTRAIN

If any person shall make a complaint in writing to the Selectboard that a dog owned or kept in the Town of Westhampton is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Selectboard shall cause to be investigated such complaint, including an examination on oath of the complainant, and may make such order concerning the restraint or disposal of such dog as may be deemed necessary. Within 10 days after such order the owner or keeper of such dog may petition for relief of said order in accordance with the provisions of Massachusetts General Law, Chapter 140, section 157. Any person owning or keeping a dog subject to any order of the Selectboard, who shall fail to comply with said order of the Selectboard, shall be punished by a fine of \$100.00 for each offense. The owner/keeper of any dog subject to an order of the Selectboard shall be responsible for any and all costs of carrying out said order.

#### 7-9-14 VIOLATIONS AND PENALTIES

Unless otherwise stated, violation of any provision of these regulations shall be punished by a fine not to exceed \$300.00. The provisions of these regulations may be enforced by the Animal Control Officer utilizing the procedures contained in Massachusetts General Law Chapter 140, section 21D, as a non-criminal disposition of the violation. The fine for violations pursued utilizing the provisions of Chapter 140, section 21D shall be \$50.00 unless otherwise specified within the regulation.

#### 7-9-15 BYLAW SUPERIORITY

This Bylaw supersedes any policies, directives, dog control, or dog restraint Bylaws now in effect. Unless otherwise provided for or mandated by law.

### Section 10 Repeal

- 7-10-1 All General By-Laws, with the exception of the Zoning By-Law are repealed as of the date these General By-Laws take effect.

#### Section 11 Building Numbering

- 7-11-1 That the Town Clerk is authorized to assign street numbers to all buildings located within the Town. Numbers shall be affixed by the owner at the end of the driveway of said structure. Numbers shall be 4" or larger, of a reflective material, and kept visible from both directions.

#### Section 12 Unregistered Automobiles and Trucks

- 7-12-1 The keeping of more than one unregistered automobile or truck, assembled or disassembled, except by a person permitted under State Law, on any premises shall not be permitted unless the said automobiles or trucks are stored within an enclosed building or otherwise out of sight of all abutters and public ways.

A permit to keep more than one unregistered automobile on any premises not within an enclosed building or otherwise out of sight of all abutters and public ways may be granted by the Selectboard, if it finds that such keeping (1) is in harmony with the general purposes and intent of this by-law; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

All such permits granted shall limit the number of unregistered automobiles and trucks to be kept on the premises by the permit holder, shall not run with the land and shall be limited to a reasonable length of time.

This article shall not apply to motor vehicles which are designed and used for farming, or to motor vehicles which are used on a seasonal basis for business or recreational purposes.

An application for a permit may be made at any regularly scheduled Selectboard meeting, and must be accepted or rejected on or before the fifth meeting after the application is submitted. The Selectboard must notify all abutters of any such application. The Selectboard may set a fee for such an application.

Whoever violates any provisions of this Section of the By-law shall be liable to a penalty of five dollars (\$5.00) per day for each day of violation, commencing ten days following receipt of written notice from the Selectboard.

#### Section 13 Swimming Pools General Safety Requirement

Any accessory below-ground swimming pool shall be completely enclosed by a fence at least four (4) feet in height, having a self-closing gate with a latch.

Whoever violates any provisions of this Section of the By-Law shall be liable to a penalty of \$10.00 per day for each day of violation, commencing ten days following receipt of written notice from the Selectboard.

Section 14 Non-Criminal Ticketing

7-14-1 Whoever violates any provisions of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in Mass. General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and sections of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers who in all cases shall be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections; each day on which any violation exists shall be deemed to be a separate offense.

7-14-2 Zoning By-Laws enforced by the Building Inspector.	Fine	100.00
---	------	--------

### 7-14-3 General ByLaws:

## Article 7: Section 3: Parking on Public Streets

7-3-1 Illegally parked vehicles	15.00
---------------------------------	-------

## Section 4: Snow Removal and other Highway Maintenance operations

7-4-1 Removal of Vehicles	(Highway Superintendent)	cost of removal
---------------------------	--------------------------	-----------------

7-4-2 Snow Plowed into street (Highway Superintendent)	50.00
--	-------

7-4-3 Debris on right of way (Highway Superintendent)	50.00
---	-------

Section 7 Logging Operations Adjacent to Public Right of Way

7-7-1 Logging	(Tree Warden)	50.00
---------------	---------------	-------

Section 8 Operation of Heavy Equipment on Public Streets or Roadways  
7-8-1 Heavy Equipment (Highway Superintendent) 50. 00

Section 9 Dog Regulations  
7-9-1 Licensing (Selectboard, Dog Officer) 50. 00

Section 12 Unregistered Automobiles and Trucks  
7-12-1 Unregistered Vehicles (Selectboard) 5.00

Section 13 Swimming Pools General Safety Requirement 50. 00

#### Section 15: Deny Permits/Licenses for Non-Payment of Taxes

7—15-1 The Town may deny any application for, or revoke or suspend any local license or permits, including renewals and transfers, issued by any board, officer, or department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges. This Bylaw shall be in accordance with the provisions of Mass. General Laws, Chapter 40, Section 57, the terms of which are expressly included as if fully set out herein, having been adopted by the Town on March 27, 2000.

#### Section 16: Right to Farm Bylaw

##### 7-16-1 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 Westhampton 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, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Westhampton by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

##### 7-16-2 Section 2 Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, 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;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial and or recreational enterprise; and
- keeping and raising of poultry, swine, cattle, 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 wide, slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or 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 products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

#### 7-16-3 Section 3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Westhampton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural

practices. Moreover, nothing in this Right To Farm By-law 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.

#### 7-16-4 Section 4 Disclosure Notification

At the time a municipal lien certificate is issued, the Town will inform the buyer:

“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 may include, but are not limited to, activities that cause noise, dust and odors, for example, manure on roadways, noise associated with forestry equipment such as sawmills or chainsaws, and stray livestock. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to use water services for such property under certain circumstances.”

A copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

#### 7-16-5 Section 5 Resolution of Disputes

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

#### 7-16-6 Section 6 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 Westhampton hereby declares the provisions of this By-law to be severable.

## Section 17 Stretch Energy Code [Adopted 10/29/2018 STM by Art.2]

### 7-17-1 Section 1 Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the [International Code Council](#). It is a model code adopted by many state and municipal governments in the [United States](#) for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

### 7-17-2 Section 2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

### 7-17-3 Section 3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

### 7-17-4 Section 4 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Westhampton General Bylaws, Article 7, section 17.

The Stretch Code is enforceable by the inspector of buildings or building commissioner and effective as of January 1, 2019.

## Section 18 Marijuana Establishments [Adopted 05/11/2019 ATM by Art. 8; Approved by A.G. 09/13/2019]

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical adult use “marijuana establishments” as defined in G.L. c.94G, §1 and 935 CMR 500.002, including marijuana

cultivators, independent testing laboratories, marijuana product manufacturers, marijuana retailers or any other types of adult use licensed marijuana-related businesses, shall be prohibited within the Town of Westhampton

Section 19 Restriction on Marijuana Public Use and Consumption, [Adopted 05/11/2019 ATM by Art. 8; Approved by A.G. 09/13/2019]

#### 7-19-1 Section 1 Restrictions on Marijuana Public Use and Consumption

No person shall smoke, vaporize, ingest or otherwise consume marijuana or delta-9-tetrahydrocannabinol (THC) (as defined in G.L. c.94C, §1) or marijuana products, while in or upon any public way or any way to which the public has a right of access, street, sidewalk, footway, passageway, stairs, bridge, park playground, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Westhampton, or any place to which members of the public have access as invitees or licensees, or private land, building, structure or place without the consent of the owner or person in control thereof.

#### 7-19-2 Section 2 Violations and Penalties

This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by complaint pursuant to G.L. c.40, §21D, or by non-criminal disposition pursuant to G.L. c.40, §21D by the Westhampton Selectboard, or their duly authorized agents, or any police officer. The fine for the violation of this Bylaw shall be \$50.00 for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c.94C, §32L.

### Section 18 Restriction on Marijuana Public Use and Consumption {Adopted

#### 7-18-1

Restrictions on Marijuana Public use and Consumption:

No person shall smoke, vaporize, ingest or otherwise consume marijuana, medical marijuana or delta-9-tetrahydrocannabinol (THC), while in or upon any public way or any way to which the public has a right of access, street, sidewalk, footway, passageway, stairs, bridge, park playground, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Westhampton, or any place to which members of the public have access as invitees or licensees, or private land, building, structure or place without the consent of the owner or person in control thereof.

#### 7-18-2

Violations and Penalties:



This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint by the Westhampton Selectboard, or their duly authorized agents, or any police officer. The fine for the violation of this Bylaw shall be \$50.00 for each offense.

## Section 19 Restriction on Marijuana Public Use and Consumption

### 7-19-1

#### Restrictions on Marijuana Public use and Consumption:

No person shall smoke, vaporize, ingest or otherwise consume marijuana or delta-9-tetrahydrocannabinol (THC) (as defined in G.L. c.94C, §1) or marijuana products, while in or upon any public way or any way to which the public has a right of access, street, sidewalk, footway, passageway, stairs, bridge, park playground, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Westhampton, or any place to which members of the public have access as invitees or licensees, or private land, building, structure or place without the consent of the owner or person in control thereof.

### 7-19-2

#### Violations and Penalties:

This Bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by complaint pursuant to G.L. c.40, §21D, or by non-criminal disposition pursuant to G.L. c.40, §21D by the Westhampton Selectboard, or their duly authorized agents, or any police officer. The fine for the violation of this Bylaw shall be \$50.00 for each offense. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c.94C, §32L.

## Article 8

### Capital Improvement Planning Committee

#### Section 1 Committee

- 8-1-1 The Westhampton Selectboard shall establish and appoint a committee to be known as the Capital Improvement Planning Committee, composed of five members who shall be residents of the Town of Westhampton and appointed annually as follows: The Selectmen shall appoint three members at large. The Finance Committee and Selectboard shall each select one of their members for

appointment. Any vacancy shall be appointed by the Selectboard or the appropriate board for the remainder of the term. The Committee shall choose its own officers.

## Section 2. Duties

- 8-2-1 The Committee shall develop a list of Town assets, and study proposed capital projects and improvements involving major non-recurring tangible assets and projects which:
- 1) have a useful life of at least five years; and
  - 2) cost over \$10,000.
- 8-2-2 All department heads, boards and commissioners, including the Selectmen, shall, by December 1st of each year, give to the Committee, on forms prepared by it, information concerning all anticipated projects requiring Town Meeting action during the ensuing six years. The Committee shall consider the relative need, impact, timing, cost, completeness of the plan, community support, availability of outside funding, and other factors deemed appropriate to the individual expenditures and the effect each will have on the financial position of the Town.

## Section 3. Annual Report

- 8-3-1 The Committee shall by February 1st prepare an annual report recommending a Capital Improvement Budget for the next fiscal year, and a Capital Improvement Program including recommended capital improvements for the following five fiscal years. Said report shall include its recommendations for the scheduling and financing of capital outlays. The report shall be submitted to the Board of Selectmen and Finance Committee for consideration and agreement.

## Section 4. Capital Improvement Program

- 8-4-1 The Selectboard shall submit the approved Capital Budget/Program to the Annual Town Meeting for adoption by the town. After adoption, the Capital Program shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

## Section 5. Publication

- 8-5-1 The Committee's report and the Selectboard's recommended Capital Budget shall be published and made available at Annual Town Meeting. The Committee shall file its original report with the Town Clerk.

