

Town of Westhampton



The Zoning Bylaw

Approved by a vote of
Westhampton Town Meeting
November 6, 2023

This document has not yet been approved by the Massachusetts Attorney General

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Section I – Title, Authority, Purposes, Objectives, Severability

1.0 - Title

These bylaws shall be known and cited as the “Westhampton Zoning Bylaws”.

1.1 - Authority

The Westhampton Zoning Bylaws are adopted pursuant to Massachusetts General Laws (hereinafter “M.G.L.”) Chapter 40A (“The Zoning Act”), as further amended.

1.2 - Purposes

These bylaws regulate the use of land, buildings, and structures fully independent of the constitutional powers of cities and towns in the Commonwealth. They establish standardized administrative procedures and foster public awareness of the Westhampton Zoning Bylaws.

1.3 - Objectives

The objectives of these bylaws are to: (1) protect the health, safety, and general welfare of all Westhampton inhabitants; (2) protect the environment and prevent its blight and pollution; and (3) encourage the most appropriate use(s) of the land within the Town.

1.4 - Severability

The invalidity of any particular provision of these bylaws shall not invalidate any other provision.

Section II – Zoning

2.0 - Types of Districts

For the purposes of these bylaws, the Town of Westhampton has the following types of districts:

- AR Agricultural/Residential
- FPD Floodplain District
- WS Water Supply Protection District
- SPD Solar Photovoltaic District

2.1 - District Locations and Boundaries

The location and boundaries of the Floodplain District (FPD), Water Supply Protection District (WS) and Solar Photovoltaic Districts (SPD) are shown on maps that are on file with the Town Clerk and Building Inspector.

1. Where boundaries are indicated in the right-of-way of watercourses, such boundaries shall be the centerline of the right-of-way.
2. Where boundaries approximately follow property lines and are not more than twenty-five (25) feet therefrom, the property line shall be the district boundary, with the exception of the Floodplain District and the Water Supply Protection District, wherein boundaries shall always follow natural features and landscape contours shown on the maps.
3. Where boundaries are parallel to a street or road and fixed by dimensions on the zoning map, the distance shall be measured from the centerline of such ways.
4. Where distances are not specified on the zoning map or otherwise determined from the above provisions, the scale of the zoning map shall be used to determine the location of the district boundary.
5. Where the location of a boundary line is uncertain, the Zoning Enforcement Officer shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map.

2.2 - Hazardous Waste

No hazardous waste disposal facility shall be sited within the Town of Westhampton.

Section III – Principal Use Regulations

3.0 - Schedule of Use Regulations

Except as provided elsewhere in these bylaws, no building or structure shall be erected or altered, and no building, structure or land shall be used for any purpose, other than as provided for in this section. If a use or condition is not specifically or generally listed herein, a landowner/interested party should contact the Building Inspector for a zoning determination. Questions of the Building Inspector/Commissioner that seek information or guidance do not require a determination form. Mixed use such as residential and commercial, or residential and industrial, located on one parcel are prohibited; however, this prohibition shall not apply to home occupations, offices and studios (see Section 5.2).

3.01 - Zoning Determination Policy

1. To ensure that applications required under zoning are applied for properly, no building permit will be issued unless and until the applicant first applies for and receives an endorsed Zoning Determination from the Zoning Enforcement Officer to determine which zoning permits or sign-offs are necessary (if any).
2. An application for a Zoning Determination may be obtained from, and must be filed with, the Building Inspector/Zoning Enforcement Officer. There shall be no filing fee. It shall be accompanied by such pertinent information, including a site plan where applicable, as the Zoning Enforcement Officer deems sufficient to assure a full review. The larger and more complex the property or project may be, the more detailed the plot plan or site plan, where applicable, should be. Inaccurate information provided as part of the Zoning Determination application process including inaccuracy of the plot plan or site plan as submitted may cause the Zoning Enforcement Officer to void/revoke such Zoning Determination as may have been issued hereunder. Such application may be distributed for review to such municipal departments that the Zoning Enforcement Officer believes are appropriate.
3. A record of all applications, plans and permits shall be kept on file at the Building Inspector/Zoning Enforcement Officer's Office. The Zoning Enforcement Officer shall take action on the application, either granting the Determination or disapproving the application, within thirty (30) days of its filing. The issuance of a Zoning Determination does not release an applicant or owner of the responsibility to obtain such other zoning or non-zoning permits and approvals as are also required. Issuance of a Zoning Determination shall not supersede the authority of any municipal, state or federal official, department, boards, committees or agencies.
4. Any appeals of the Zoning Enforcement Officer's action on a Zoning Determination shall be made in accordance with Section 6.1 of the Westhampton Zoning Bylaws.

5. The restrictions and controls intended to regulate development in each district are set forth in Table 1 (Westhampton Schedule of Use Regulations). The following notations apply to the Schedule of Use Regulations:

	Y	Yes, use is allowed
	SP/PB	Use allowed by Special Permit from the Planning Board
	SP/PB/SPA	Use allowed by Special Permit from the Planning Board with site plan approval
	SP/ZBA/SPA	Use allowed by Special Permit from the Zoning Board of Appeals with site plan approval
	N	No, use is prohibited

3.015 - Exemptions

In accordance with M.G.L. Chapter 40A, any facilities or uses whereby owned and/or operated by the federal government, the Commonwealth, a religious organization or a non-profit education organization will be exempt from special permit process.

TABLE 1 - SCHEDULE OF USE REGULATION

Y Yes Use allowed
 SP/PB Use allowed with Special Permit from the Planning Board
 SP/PB/SPA Use allowed by Special Permit from the Planning Board with Site Plan Approval
 SP/ZBA/SPA Use allowed by Special Permit from the Zoning Board of Appeals with Site Plan Approval
 N Use Prohibited

BYLAW NO.	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT			
			AR	FPD	WS	SPD

3.10 - Agricultural Uses

3.101	Agriculture, Horticulture, Floriculture, Aquaculture	See Definitions	Y	Y	Y	N
3.102	Livestock, Dairy, Poultry Farms	In accordance with G.L. c. 40A, § 3	Y	Y	Y	N
3.103	Farm Business	See Definition	Y	N	Y	N
3.104	Farm Stand	See Definition	Y	N	Y	N
3.105	Nursery/Tree Farm	See Definitions	Y	Y	Y	N
3.106	Greenhouse	See Farm Business	Y	N	Y	N

3.11 - Residential Uses

3.111	Dwelling One-Family	See Definition; See sec. 3.20	Y	N	Y	N
3.112	Dwelling Two-Family	See Definition; See sec. 3.20	Y	N	Y	N
3.113	Accessory Dwelling Unit (ADU)	See Definitions; See sec. 5.17	SP/PB	N	SP/PB	N
3.114	Dwelling Multi-Family	See Definition	N	N	N	N
3.115	Mobile Home	See Definition; See sec. 5.6	Y	N	Y	N
3.116	Mobile Home Park	See Definition	N	N	N	N
3.117	Common Driveway	See Definition; See sec. 5.48	SP/PB	N	SP/PB	N
3.118	Elderly or Handicapped Congregate Housing	See Definition; see sec. 5.8	SP/PB/SPA	N	N	N
3.119	Affordable Housing	See Definition; see sec. 5.9; see M.G.L. c. 40B	SP/ZBA/SPA	N	N	N

3.12 - Community and Public Service Uses

3.121	Municipal Buildings	See Definition	Y	N	Y	N
3.122	Public Utility	See Definition	SP/PB/SPA	N	N	N
3.123	Educational Institution Public or Private	See Definition (exempt under G.L. c. 40A)	Y	N	N	N
3.124	Places of Public Worship	See Definition (exempt under G.L. c. 40A)	Y	N	N	N
3.125	Conservation Land	See Definition	Y	Y	Y	N
3.126	Park/ Playground	See Definitions	SP/PB	SP/PB	SP/PB	N
3.127	Club (Neighborhood, Community, or Private)	See Definitions	SP/PB/SPA	N	N	N
3.128	Cemetery	See Definition	SP/PB/SPA	N	N	N

BYLAW NO.	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT			
			AR	FPD	WS	SPD
3.13 - Business Uses						
3.130	Office	See Definition	SP/PB/SPA	N	N	N
3.131	Funeral Establishment, Crematorium	See Definitions	SP/PB/SPA	N	N	N
3.132	Museum/Art Gallery	See Definitions	SP/PB/SPA	N	N	N
3.133	Adult Daycare Center	See Definition	SP/PB	N	N	N
3.134	Child Care Center	See Definition	SP/PB	N	N	N
3.135	Retail Store	See Definition	SP/PB/SPA	N	N	N
3.136	Shopping Center	See Definition	SP/PB/SPA	N	N	N
3.137	Bank	See Definition	SP/PB/SPA	N	N	N
3.138	Drive-Up/Drive-Through Kiosk	See Definition	SP/PB	N	N	N
3.139	Repair Shop	See Definition	SP/PB	N	N	N
3.140	Restaurant	See Definition	SP/PB/SPA	N	N	N
3.141	Restaurant Drive-In/Fast Food	See Definition	SP/PB/SPA	N	N	N
3.142	Gas Station, Motor Vehicle Light Repair/Service Shop, & Auto Body Shop	See Definitions	SP/PB/SPA	N	N	N
3.143	Motor Vehicle Sales & Rental	See Definition	SP/PB/SPA	N	N	N
3.144	Trucking Terminal	See Definition	N	N	N	N
3.145	Newspaper/Job Printing Facility	See Definition	SP/PB/SPA	N	N	N
3.146	Wireless Communication Tower	See Definition; see sec. 5.16	SP/PB/SPA	N	SP/PB/SPA	N
3.147	Utility Substation	See Definition	SP/PB/SPA	N	N	N
3.148	Junk Yard	See Definition	N	N	N	N
3.149	Veterinary Hospital	See Definition	SP/PB/SPA	N	N	N
3.150	Hospital, Sanitarium, Rest Home, Nursing Home	See Definitions	SP/PB/SPA	N	N	N
3.151	Medical Clinic	See Definition	SP/PB/SPA	N	N	N
3.152	Commercial Forestry/Wood Harvesting	See Definitions	Y	SP/PB	Y	N
3.153	Kennel (Commercial)	See Definition	SP/PB	N	N	N
3.154	Kennel (Private)	See Definition	Y	N	Y	N
3.155	Kennel (Veterinarian)	See Definition	SP/PB	N	N	N

The Zoning Bylaw -- Section III – Principal Use Regulations

BYLAW NO.	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT			
			AR	FPD	WS	SPD
3.157	Landing Strip/Runway	See Definition	SP/PB/SPA	N	N	N
3.158	Heliport	See Definition	SP/PB/SPA	N	N	N
3.159	Commercial Recreational Facility	See Definition	SP/PB/SPA	N	N	N
3.160	Campground	See Definition; see sec. 5.5	SP/PB/SPA	N	N	N
3.161	Rod & Gun Club	See Definition	SP/PB/SPA	N	N	N
3.162	Shooting Range	See Definition	N	N	N	N
3.163	Commercial Boarding Stable, Riding Academy	See Definition	SP/PB	N	N	N
3.164	Earth Removal	See Definition; see sec. 5.15	Y	SP/PB/SPA	Y	N
3.167	Self-Service Storage Facility	See Definition	SP/PB/SPA	N	N	N
3.169	Roof Mounted Photovoltaic System	See Definition; See sec. 5.13	Y	N	Y	N
3.170	Ground Mounted Photovoltaic System (Small Scale)	See Definition; See sec. 5.14	Y	N	Y	N
	Ground Mounted Photovoltaic System (Medium Scale)	See Definition; See sec. 5.14	SP/PB	N	SP/PB	SP/PB
	Ground Mounted Photovoltaic System (Large Scale)	See Definition; see sec. 5.14	SP/PB/SPA	N	SP/PB/SPA	SP/PB
3.171	Wind Energy Conversion System (WECS)	See Definition; see sec. 5.12	SP/PB/SPA	N	SP/PB/SPA	N
3.172	Marijuana Establishment	See Definition	N	N	N	N
3.173	Registered Marijuana Dispensary (RMD) includes Marijuana Dispensary, Medical Off-Site (OMMD)	See Definitions; see sec. 5.62	SP/PB/SPA	N	N	N

3.18 - Manufacturing and Industrial Uses

3.181	Sawmills, Mobile or Portable	See Definition	Y	N	Y	N
3.182	Sawmills, Stationary	See Definition	SP/PB/SPA	N	N	N
3.183	Wood/Stump Reclamation Facility	See Definition	N	N	N	N
3.184	Construction Supply Establishment	See Definition	SP/PB/SPA	N	N	N
3.185	Light Industry Use including Processing, Manufacturing, Fabrication, and Assembly	See Definition of “Light Industry Use”	SP/PB/SPA	N	N	N

3.19 - Accessory Uses

3.191	Home Occupation/Office/ Studio	See Definitions; see sec. 5.2	Y	N	Y	N
3.192	Garage Private	See Definition	Y	N	Y	N
3.193	Barn	See Definition	Y	N	Y	N
3.194	Signs	See Definition; see sec. 5.40	Y	N	Y	N
3.195	Billboard	See Definition	N	N	N	N
3.196	Short-Term Residential Rental	See Definition; see sec. 5.18	SP/PB	N	SP/PB	N
3.197	Bed and Breakfast	See Definition; see sec 5.19	SP/PB	N	SP/PB	N

TABLE 2 - SCHEDULE OF USE REGULATION (ALPHABETICAL ORDER)

BYLAW NO.	LAND USE CLASSIFICATION	STANDARDS & CONDITIONS	ZONING DISTRICT			
			AR	FPD	WS	SPD
3.113	Accessory Dwelling Unit (ADU)	See Definitions; See sec. 5.17	SP/PB	N	SP/PB	N
3.133	Adult Daycare Center	See Definition	SP/PB	N	N	N
3.119	Affordable Housing	See Definition; see sec. 5.9; see M.G.L. c. 40B	SP/ZBA/SPA	N	N	N
3.101	Agriculture, Horticulture, Floriculture, Aquaculture	See Definitions	Y	Y	Y	N
3.137	Bank	See Definition	SP/PB/SPA	N	N	N
3.193	Barn	See Definition	Y	N	Y	N
3.197	Bed and Breakfast	note	SP/PB	N	SP/PB	N
3.195	Billboard	See Definition	N	N	N	N
3.16	Campground	See Definition; see sec. 5.5	SP/PB/SPA	N	N	N
3.128	Cemetery	See Definition	SP/PB/SPA	N	N	N
3.134	Child Care Center	See Definition	SP/PB	N	N	N
3.127	Club (Neighborhood, Community, or Private)	See Definitions	SP/PB/SPA	N	N	N
3.163	Commercial Boarding Stable, Riding Academy	See Definition	SP/PB	N	N	N
3.152	Commercial Forestry/Wood Harvesting	See Definitions	Y	SP/PB	Y	N
3.159	Commercial Recreational Facility	See Definition	SP/PB/SPA	N	N	N
3.117	Common Driveway	See Definition; See sec. 5.48	SP/PB	N	SP/PB	N
3.125	Conservation Land	See Definition	Y	Y	Y	N
3.184	Construction Supply Establishment	See Definition	SP/PB/SPA	N	N	N
3.138	Drive-Up/Drive-Through Kiosk	See Definition	SP/PB	N	N	N
3.114	Dwelling Multi-Family	See Definition	N	N	N	N
3.111	Dwelling One-Family	See Definition; See sec. 3.20	Y	N	Y	N
3.112	Dwelling Two-Family	See Definition; See sec. 3.20	Y	N	Y	N
3.164	Earth Removal	See Definition; see sec. 5.15	Y	SP/PB/SPA	Y	N
3.123	Educational Institution Public or Private	See Definition (exempt under G.L. c. 40A)	Y	N	N	N
3.118	Elderly or Handicapped Congregate Housing	See Definition; see sec. 5.8	SP/PB/SPA	N	N	N
3.103	Farm Business	See Definition	Y	N	Y	N
3.104	Farm Stand	See Definition	Y	N	Y	N
3.131	Funeral Establishment, Crematorium	See Definitions	SP/PB/SPA	N	N	N
3.192	Garage Private	See Definition	Y	N	Y	N
3.142	Gas Station, Motor Vehicle Light Repair/Service Shop, & Auto Body Shop	See Definitions	SP/PB/SPA	N	N	N
3.106	Greenhouse	See Farm Business	Y	N	Y	N
3.17	Ground Mounted Photovoltaic System (large scale)	See Definition; see sec. 5.14	SP/PB/SPA	N	SP/PB/SPA	SP/PB
3.17	Ground Mounted Photovoltaic System (medium scale)	See Definition; See sec. 5.14	SP/PB	N	SP/PB	SP/PB
3.17	Ground Mounted Photovoltaic System (small scale)	See Definition; See sec. 5.14	Y	N	Y	N
3.158	Heliport	See Definition	SP/PB/SPA	N	N	N
3.191	Home Occupation/Office/ Studio	See Definitions; see sec. 5.2	Y	N	Y	N
3.15	Hospital, Sanitarium, Rest Home, Nursing Home	See Definitions	SP/PB/SPA	N	N	N

The Zoning Bylaw -- Section III – Principal Use Regulations

3.148	Junk Yard	See Definition	N	N	N	N
3.153	Kennel (Commercial)	See Definition	SP/PB	N	N	N
3.154	Kennel (Private)	See Definition	Y	N	Y	N
3.155	Kennel (Veterinarian)	See Definition	SP/PB	N	N	N
3.157	Landing Strip/Runway	See Definition	SP/PB/SPA	N	N	N
3.185	Light Industry Use including Processing, Manufacturing, Fabrication, and Assembly	See Definition of “Light Industry Use”	SP/PB/SPA	N	N	N
3.102	Livestock, Dairy, Poultry Farms	In accordance with G.L. c. 40A, § 3	Y	Y	Y	N
3.172	Marijuana Establishment	See Definition	N	N	N	N
3.151	Medical Clinic	See Definition	SP/PB/SPA	N	N	N
3.115	Mobile Home	See Definition; See sec. 5.6	Y	N	Y	N
3.116	Mobile Home Park	See Definition	N	N	N	N
3.143	Motor Vehicle Sales & Rental	See Definition	SP/PB/SPA	N	N	N
3.121	Municipal Buildings	See Definition	Y	N	Y	N
3.132	Museum/Art Gallery	See Definitions	SP/PB/SPA	N	N	N
3.145	Newspaper/Job Printing Facility	See Definition	SP/PB/SPA	N	N	N
3.105	Nursery/Tree Farm	See Definitions	Y	Y	Y	N
3.13	Office	See Definition	SP/PB/SPA	N	N	N
3.126	Park/ Playground	See Definitions	SP/PB	SP/PB	SP/PB	N
3.124	Places of Public Worship	See Definition (exempt under G.L. c. 40A)	Y	N	N	N
3.122	Public Utility	See Definition	SP/PB/SPA	N	N	N
3.173	Registered Marijuana Dispensary (RMD) includes Marijuana Dispensary, Medical Off-Site (OMMD)	See Definitions; see sec. 5.62	SP/PB/SPA	N	N	N
3.139	Repair Shop	See Definition	SP/PB	N	N	N
3.14	Restaurant	See Definition	SP/PB/SPA	N	N	N
3.141	Restaurant Drive-In/Fast Food	See Definition	SP/PB/SPA	N	N	N
3.135	Retail Store	See Definition	SP/PB/SPA	N	N	N
3.161	Rod & Gun Club	See Definition	SP/PB/SPA	N	N	N
3.169	Roof Mounted Photovoltaic System	See Definition; See sec. 5.13	Y	N	Y	N
3.181	Sawmills, Mobile or Portable	See Definition	Y	N	Y	N
3.182	Sawmills, Stationary	See Definition	SP/PB/SPA	N	N	N
3.167	Self-Service Storage Facility	See Definition	SP/PB/SPA	N	N	N
3.162	Shooting Range	See Definition	N	N	N	N
3.136	Shopping Center	See Definition	SP/PB/SPA	N	N	N
3.196	Short-Term Residential Rental	See Definition; see sec. 5.18	SP/PB	N	SP/PB	N
3.194	Signs	See Definition; see sec. 5.40	Y	N	Y	N
3.144	Trucking Terminal	See Definition	N	N	N	N
3.147	Utility Substation	See Definition	SP/PB/SPA	N	N	N
3.149	Veterinary Hospital	See Definition	SP/PB/SPA	N	N	N
3.171	Wind Energy Conversion System (WECS)	See Definition; see sec. 5.12	SP/PB/SPA	N	SP/PB/SPA	N
3.146	Wireless Communication Tower	See Definition; see sec. 5.16	SP/PB/SPA	N	SP/PB/SPA	N
3.183	Wood/Stump Reclamation Facility	See Definition	N	N	N	N

3.20 - Dimensional and Density Regulations

1. A building hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in the table below. No existing lot shall be changed as to size or shape to result in the violation of the requirements set forth.

TABLE 3 - SCHEDULE OF DIMENSIONAL REGULATION

District	Use	Minimum Lot Area (sq. ft.) or as Noted	Minimum Frontage (ft.)	Minimum Setback (ft.)			Max No. of Stories	Max height of Bldg. (ft.)	Max % coverage of bldg. including accessory buildings
				Front	Side	Rear			
AR	Any Permitted Use (not listed below)	50,000	250	50	20	20	2	35	20
	Dwelling Two Family	80,000	300	50	20	20	2	35	20
	Campground	10 acres	250	50	50	50	2	35	20
	Elderly / Handicapped Congregate Housing	40,000 per Dwelling Unit	100 Per Dwelling Unit	75	75	50	2	35	30
	Affordable Housing	40,000 per Dwelling Unit	100 per Dwelling Unit	75	75	50	2	35	30
	Off-site medical marijuana dispensary or registered marijuana dispensary	80,000	300	100	100	100	2	35	30
FPD	See sec. 4.0								
WS	See sec. 4.1								

2. Additional Dimensional and Density Regulations

- a. A corner lot must meet minimum frontage requirements on a single public way.
- b. The height of any building is the vertical distance from the grade level at the main entrance to the top of the parapet that comprises the majority of the perimeter of the building for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs. This limitation shall not apply to spires, domes, chimneys, antennae, cupolas, television and radio towers, belfries, monuments, tanks, water and fire towers, windmills, silos, ski lift towers, nor to farm buildings, churches, municipal and institutional buildings.
- c. No topography, vegetation, signs, walls or fences which interfere with traffic visibility at any point within thirty-five (35) feet of the intersection of two or more streets or roadways will be allowed. All signs must conform to the sign bylaw in Section 5.4.

3.30 - Non-conforming Uses and Structures (see M.G.L. Chapter 40A, section 6)

Continuation, Reconstruction and/or Extension of a Non-conforming use and/or Structure:

1. Any use or structure lawfully in existence or lawfully begun before the first public notice of the Planning Board's hearing on adoption of a zoning bylaw provision may continue.
2. No such non-conforming use or structure shall be changed, reconstructed, extended, or altered in any manner except as provided in subsection (3) and/or (4) below.
3. An existing non-conforming single-family or two-family dwelling or structure may be changed, reconstructed, extended or altered provided that the Building Inspector determines that such alteration, extension, reconstruction or structural change does not increase the non-conforming nature of such structure, including: (a) the maximum height of the proposed extension and pre-existing structure is not increased; and/or (b) the proposed alterations are in compliance with existing setback requirements. Any other or additional increase to the non-conforming nature of the structure requires the issuance of a special permit by the ZBA.
4. The Zoning Board of Appeals (ZBA) may authorize by special permit (SP) (pursuant to the procedure contained in M.G.L. Chapter 40A, Section 6) any change, extension, or alteration of a non-conforming structure or use, provided that the ZBA rules that such a change, extension, or alteration shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure.

5. Non-conforming structures or uses not located on an approved town road or subdivision shall require a special permit or variance from the ZBA.
6. Any non-conforming use or structure that is changed to a conforming use or structure, shall not thereafter return to a non-conforming use or structure, without a variance from the ZBA.
7. Any non-conforming structure or use that has been abandoned for a period of twenty-four (24) consecutive months, as determined by the Zoning Enforcement Officer/Building Inspector, shall thereafter comply with this Bylaw.
8. A non-conforming use or structure damaged or destroyed by fire or any other catastrophe may be rebuilt, provided such rebuilding, reconstruction, or restoration shall be undertaken within two (2) years of such catastrophe, subject to extension by the Special Permit Granting Authority; and further provided that the use or structure as rebuilt or restored shall not increase the non-conforming nature of such structure. Such rebuild, restoration, or reconstruction shall require a building permit.

Section IV- Overlay District Regulations

4.0 - Floodplain District (FPD)

1. Purposes

- a. Ensure public safety through reducing the threats to life and personal injury;
- b. Eliminate new hazards to emergency response officials;
- c. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- d. Avoid the loss of utility services, which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- e. Eliminate cost associated with the response and cleanup of flooding conditions; and
- f. Reduce damage to public and private property resulting from flooding waters.

2. District Rules

- a. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Westhampton's Flood Insurance Rated Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program (dated July 2, 1979, or as subsequently amended). This map indicates the 1% annual chance regulatory floodplain (also known as "A-Zone" or 100-year flood boundary). The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM. The effective FIRM is incorporated herein by reference and is on file with the Town Clerk.
- b. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes. The degree of flood protection required by this bylaw is considered reasonable but does not imply or ensure flood protection.
- c. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within six (6) months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s).

- d. The Town of Westhampton hereby designates the position of Building Commissioner/Inspector to be the official Floodplain Administrator (FPA) for the town.

3. Variances to Building Code Floodplain Standards

- a. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the Town's files.
- b. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increases premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance action for the referenced development in the floodplain overlay district.

4. Variance to Zoning Bylaws related to National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws may be granted for alterations to existing structures only if:

- a. good and sufficient cause and exceptional non-financial hardship exist;
- b. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- c. a variance is the minimum action necessary to afford relief.

5. Permit Application

- a. The Town of Westhampton requires a permit from the Building Inspector for all construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other property.
- b. Westhampton's permit review process includes the use of a checklist of all Local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

6. Floodway Encroachment

- a. In Zones A, A1 – 30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, and Local, or other floodway data shall be used to prohibit encroachment in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. In Zones A1 and AE, along watercourses that have a regulatory floodway designated on the Westhampton FIRM map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

7. Watercourse Alterations

The Town Clerk shall notify the following of an application for a variance involving an alteration or relocation of a watercourse:

- a. adjacent communities, especially upstream and downstream;
- b. bordering states, if affected;
- c. NFIP State Coordinator;
- d. Massachusetts Department of Conservation and Recreation;
- e. FEMA NFIP Program Specialist; and
- f. Federal Emergency Management Agency (Region 1).

4.1 - Water Supply Protection District (WS)

1. Purpose of District

The purpose of the Water Supply Protection District (WS) is to promote the health, safety, and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality of its water resources.

2. Scope of Authority

The WS District is an overlay district and shall be superimposed on other districts established by this bylaw. All regulations of the Town of Westhampton Zoning Bylaws applicable to such underlying districts shall remain in effect, exempt that where the WS District imposes additional regulations, such regulations shall prevail.

3. District Delineation

- a. The WS District is established to include all lands within the Town of Westhampton lying within the primary recharge areas of groundwater aquifers and watershed areas of reservoirs now or may in the future provide public water supply. The map entitled “Water Supply Protection District”, Town of

Westhampton, on file with the Town Clerk, delineates boundaries of the district.

- b. Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Town may engage a professional hydrogeologist to determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all of the cost of the investigation.

4. Prohibited Uses

In addition to the Schedule of Use Regulations (see Table 1), the following uses are also prohibited within the Water Supply Protection District:

- a. Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes as a principal activity or which involve on-site disposal of industrial process waste waters, including but not limited to metal plating, fuel oil sales, leather tanning, plastics processing, degreasing operations, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair.
- b. The storage and/or use of chemicals, pesticides, fuels and other potentially hazardous materials in quantities greater than those associated with normal household use.
- c. Solid waste landfills, dumps, auto recycling, junk and salvage yards, with the exception of the disposal of brush or stumps.
- d. Underground storage and/or transmission of petroleum products excluding liquefied petroleum gas.
- e. Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- f. Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1,1,1 trichlorethane, or other household hazardous wastes.
- g. The rendering impervious of more than 20% of the area of any single lot.

5. Restricted Uses

- a. The use of sodium chloride for ice control shall be minimized, consistent with the public highway safety requirements.
- b. Salt storage areas shall be covered and be located on a paved surface, with berms to prevent run-off from leaving the site.

- c. Commercial fertilizers, pesticides, herbicides, or other leachable materials shall be used with all necessary precautions to minimize adverse impacts on surface and groundwater.
- d. Above-ground storage tanks for oil, gasoline or other petroleum products shall be placed in a building on a diked, impermeable surface to prevent spills or leaks from reaching groundwater. Floor drains shall be plugged to prevent discharges or leaks.
- e. All new animal feed lots and manure storage areas shall be designed to restrict infiltration or other movement of livestock wastes to the aquifer.

6. Drainage

All run-offs from impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to extent possible. Dry Wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. The owner shall permanently maintain all recharge areas in full working order.

7. Special Permits

1. Any enlargement, intensification or alteration of an existing structure, building or use in the district shall also require a special permit.
2. In addition to all standard requirements for special permits (see Section 6.2), an application for a special permit in the Water Supply Protection District shall also contain a complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
3. The SPGA may grant the requested special permit only if
 - a. the proposed use does not, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District;
 - b. the proposed use is designed to avoid substantial disturbance of the soil, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed; and
 - c. the petitioner's application materials include sufficiently detailed, definite and credible information to support a positive decision.

8. Non-Conforming Use

Non-conforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this bylaw may be continued. Such non-conforming uses may be extended or altered, as specified in M.G.L. Ch. 40A, Sec. 6, provided that there is a decision by the Board of Appeals that such change does not increase the danger of surface or groundwater pollution from such use.

4.2 - Solar Photovoltaic District (SPD)

The Solar Photovoltaic District (SPD) is established as an overlay district. The District includes all of the Westhampton capped landfill location. The District is to be used for Large Scale or Medium Scale solar installations. A map of the SPD is on file with the Town Clerk.

Section V - Special Use Regulations

5.0 - Junkyards

1. Junkyards shall not be permitted in any district.
2. General requirements for Junkyards in existence prior to the adoption of this bylaw.

The following standards shall be used as additional requirements in the special permit process for all existing junkyards:

- a. The total area of the premises shall be at least five (5) acres;
- b. No burning of salvage material or junk shall be permitted on the premises;
- c. All buildings comply shall with the setback requirements of these bylaws;
- d. The entire junkyard must be fenced with a solid board or solid metal fence or a solid buffer of evergreen plantings at least six (6) feet high;
- e. The fence must be set back at least 100 feet from the front property line;
- f. All junk must be stored within the fenced area; and
- g. The operation and adjacent area shall be operated in such a manner as to prevent unsightliness of the adjacent area.

5.10 - Sawmills

1. Special Permit Required

Sawmills shall be permitted upon issuance of a Special Permit from the Special Permit Granting Authority as specified in Section 6.2 of this bylaw; and in addition, with the additional requirements specified herein. The temporary use of a portable sawmill shall not require a Special Permit. For purposes of this specific bylaw, “temporary” shall mean not more than 60 calendar days per year upon any single lot.

2. Additional General Requirements

No special permit shall be issued unless the applicant demonstrates through documentation that the following minimum standards shall be met:

- a. The distance from the nearest residence to the proposed sawmill shall be at least five hundred (500) feet;

- b. A buffer strip of either fencing or plantings between the mill and traveled way and/or abutting property shall be provided as required by the SPGA;
- c. Hours of operation shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday, with no operation permitted on all state and federal holidays;
- d. Provisions shall be made for noise abatement (i.e., minimizing decibel levels at the property line) through any and all practical means;
- e. The town transfer station shall not be used for disposal of by-products;
- f. Adequate precautions shall be taken to ensure containment of by-products (chips, sawdust, etc.) to the site; and
- g. Adequate storage for fuel must be provided to ensure containment in the event of a leak or spill.

5.12 - Wind Energy Conservation Systems (WECS)

1. Purpose

The purpose of this bylaw is to provide for construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the town, minimize impacts to neighbors and the community, and provide adequate financial assurances for decommissioning.

This section applies to all WECS (such as wind charger, wind turbine, or windmill) proposed to be constructed after the effective date of this section. This section also includes building integrated wind systems, and physical modification to existing WECS that materially alter the type, configuration, location or size of such facility or other equipment.

2. Exemptions

Wind turbines constructed, reconstructed, or renovated for the primary purpose of commercial agriculture and primarily used for onsite consumption shall be considered a structure under M.G.L. c. 40A, sec. 3, and therefore, shall be exempt.

Temporary Meteorological Towers (Met Towers): Met towers shall be handled by the Building Inspector as a temporary structure. A special permit is not required. A permit for a Met Tower shall be valid for a maximum of three (3) years. Met Towers and any supporting structures including guy wires/anchors shall not be located within setback distance from the sideline of any utility right of way or within the setback requirements in the zoning district in which it is located.

3. Permitting Process

The construction of a WECS shall require a special permit and site plan approval from the special permit granting authority (SPGA) as specified in Table 1, schedule of use regulations.

- a. Special permit applicants shall provide the SPGA technical performance and safety data obtained from an appropriate testing facility that illustrates sufficient safety levels in the operation of the system and that the site is feasible for wind power including wind speeds and anticipated energy to be generated by the WECS. The SPGA may require signed engineering data for applications of large scale.
- b. The Planning Board shall consider but is not limited to the following findings in considering granting a special permit:
 - i. the specific site is an appropriate location for such use;
 - ii. there is no expected serious hazard to pedestrians or vehicles;
 - iii. there is no nuisance expected to be created by the use;
 - iv. adequate and appropriate facilities will be provided for the proper operation and maintenance of the use; and
 - v. the siting and design will mitigate any adverse impact on historic resources, scenic views, avian or wildlife, or neighboring properties.
- c. No plan for the installation of a WECS shall be considered until evidence has been given that the electric utility company has been informed and an "Interconnection Agreement" has been executed. Off-grid systems shall be exempt from this requirement.
- d. The applicant shall submit documentation of actual or prospective control of the site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation, or inconsistent or interfering use, within the setback area.
- e. The SPGA shall use Federal Aviation Administration (FAA) standards or appearance, color, finish, and lighting of the facility. Whenever possible utility connections should be underground.
- f. Signs shall comply with the sign bylaw, and be limited to identifying the owner, emergency contact phone number and warning of danger. No signs containing advertisements are allowed.

- g. The SPGA shall ensure compliance with Department of Environmental Protection's Division of Air Quality & Noise Regulations (310 CMR 7.10) prior to issuing any permit.
- h. The Special Permit application shall be accompanied by the following:
 - i. A site plan in accordance with site plan submittal requirements but also showing:
 - a) All property lines;
 - b) Location, dimensions and types of existing major structures on the property;
 - c) Location of the proposed tower, foundations, guy anchors and associated equipment;
 - d) The right-of-way of any public road that is contiguous with the property;
 - e) Location of all existing above-ground or overhead gas or electric infrastructure including Critical Electric Infrastructure, and utility right-of-way (ROW) easements; and
 - f) Location and approximate height of tree cover;
 - g) All abutting parcels within 500 feet of the proposed site along with existing or permitted structures and distances from maximum tower height to such structures.
 - ii. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower description;
 - iii. An electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnects and overcurrent devices;
 - iv. Foundations for towers shall have blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
 - v. Name, address, phone number, contact information, with emergency phone number of applicant(s), co-applicant(s), property owner(s) or agent(s) along with their signature(s);
 - vi. A detailed plan for maintenance; and
 - vii. A detailed plan for removal of WECS.

- i. Professional and Technical Review. The Planning Board may hire professional and technical consultants to assist in analyzing the special permit application to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, inspecting the site during the application review, recommendations for conditions of issuing the special permit, and monitoring or inspecting a project for compliance with Zoning or the special permit if needed by the Planning Board or by the Building Inspector. The expenses for engaging professional and technical assistance and review in connection with a Wind Energy System shall be borne by the Applicant.

4. Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and desired plan to the Westhampton Fire Chief. Upon request the applicant shall cooperate with the Fire Chief in developing an emergency response plan.

5. Unauthorized Access

WECS facilities or other structures of a wind facility shall be designed to prevent unauthorized access. There shall be no climbing means readily accessible to the public for the height of twelve (12) feet above the ground. A fence at least six (6) feet high with a locking portal shall surround the facility.

6. Setbacks

A WECS may not be sited within:

- a. a distance equal to one and one-half (1.5) times the maximum tip height (MTH) of the wind turbine from buildings, critical infrastructure including Critical Electric Infrastructure and above-ground natural gas distribution infrastructure or private or public ways that are not part of the WECS; or
- b. a distance equal to one and one-half (1.5) times the maximum tip height (MTH) of the turbine from the nearest property line and private or public way.

7. Other Design Standards:

- a. WECS towers shall be a monopole or tubular structure (no guy wire support and no lattice towers). Towers may not be attached to any structure, residential or otherwise.
- b. WECS shall not exceed one hundred and fifty (150) feet maximum tip height.
- c. WECS shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10). Except during short-term events such as high windstorms or utility outages. In any event, the sound created by a

WECS facility shall not increase the broadband sound level by more than 10 dB(A) above ambient or produce a pure tone condition or exceed more than 45 decibels using the A scale (dBA) measured at the property line and at the nearest inhabited structure. If noise levels are found to exceed allowable limits, the Building Inspector shall notify the owner of the property in writing to correct the violation. The Wind Energy System shall remain inactive until the noise violation is remedied. If the owner does not remedy the noise violation within thirty (30) days or without an extension by the Planning Board, the WECS may be determined discontinued by the Planning Board. Three blade turbines are preferred to minimize wobbling and noise impacts.

- d. Visual impact of the WECS facility shall be minimized by site selection, turbine design, and buffering/screening including but not limited by:
 - i. The WECS shall meet Federal Aviation Administration (FAA) standards for appearance, color, finish and shall have a low reflective finish and unobtrusive color.
 - ii. All equipment necessary to operate and monitor the facility shall be contained within the tower or in enclosed accessory structures.
 - iii. All electrical wires shall be underground.
 - iv. Wind towers and turbines shall be lighted only if required by the FAA. Other lighting on the facility shall be limited to that required for safety and operational purposes, only operated when personnel are on site, and shall be shielded from adjacent properties and roadways, not directed skyward, and of minimal foot candles.
 - v. WECS shall be sited to prevent shadowing or flicker impacts beyond the property boundary. The applicant has the burden of proving that shadowing/flicker does not have an adverse impact on neighboring or adjacent uses through siting, design, or mitigation.
 - vi. WECS shall cause no disrupting electromagnetic interference including but not limited to radio or television reception, internet/WiFi, mobile phones. If it is determined that a Wind Energy System is causing interference, the operator shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Inspector.
 - vii. WECS shall minimize bird and bat mortality impacts for both resident and migratory species through siting, design, detection, and operational adjustments.

- viii. Clearing of trees and natural vegetation shall be limited to only that which is necessary for the construction, operation and maintenance of the WECS and is otherwise prescribed by applicable laws, regulations and subject to existing easements, restrictions and conditions of record.
- ix. Siting in previously developed or open areas whenever possible is preferred. Siting is preferred off ridgelines and where visual impact to scenic vistas is least detrimental. WECS proposed in wooded areas shall maintain at least a fifty (50) foot treed buffer around the entire perimeter except for the access driveway.
- e. No hazardous materials or waste shall be discharged on the site.
- f. Signs shall comply with the sign bylaw, and be limited to identifying the owner, emergency contact phone number and warning of danger. No signs containing advertisements are allowed.

8. Financial Surety and Liability Insurance

The SPGA may require the applicant for small scale facilities to provide a form of surety to cover the cost of removal or failure to maintain in the event the town must remove or maintain the facility. The amount and form of the surety shall be determined by the SPGA, but in no event may exceed more than 125% of the cost of removal. The applicant shall submit a fully inclusive estimate of the cost associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for increasing due to inflation.

9. Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration, sufficient to cover loss or damage to persons and property occasioned by the failure or malfunctioning of the facility.

10. Visualizations: On-Site Project

The SPGA may select up to three sight lines, including from the nearest building with a view of the facility, for pre-and post-construction view representation. Sites for the view representations shall be selected from population areas or public ways within a two (2) mile radius of the proposed facility. View representations shall:

- a. be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the facility (e.g. superimposition of the wind facility onto photographs of existing views);
- b. include existing, or proposed, buildings or tree coverage; and
- c. describe the technical procedures followed in producing the visualization (distance, angles, lens, etc.).

11. Balloon Test

The SPGA may require a balloon test to demonstrate the height of the WECS. Written notice of the date and time, as well as a rain date, shall be provided to the town and abutters at least two weeks in advance of the test.

5.13 - Roof-Mounted Solar Energy Systems

Roof-Mounted systems are allowed By Right, and shall be reviewed by the Building Inspector and Fire Chief before issuance of a building permit.

5.14 - Ground-Mounted Solar Energy Systems

1. Purpose

The purpose of this section is to provide standards for the design, placement, construction, operation, modification and removal of ground mounted solar energy system installation while addressing public safety and minimize impact on scenic, natural and historic resources.

2. Applicability

- a. This section applies to all ground mounted solar energy installation applied for after the effective date of this bylaw. This section also pertains to physical modifications that alter the type, configuration, or size of these installations or related equipment.
- b. Only within the Solar Photovoltaic Overlay District (SPD) are Large Scale and Medium Scale Ground Mounted Solar Photovoltaic Installations permitted subject to Special Permit, so long as the lot coverage of all of the arrays, structures and buildings does not exceed an aggregate of 1.5 acres. The calculations of the lot coverage area shall include required setbacks and wetlands.

3. Dimensions and Placement of Ground Mounted Solar Energy Systems

- a. All ground mounted solar energy systems shall be no higher than thirty-five (35) feet.
- b. All ground mounted solar energy systems shall meet front setback of fifty (50) feet, side setback of twenty (20) feet, and rear setback of twenty (20) feet.
- c. No ground mounted solar energy system shall be placed within the fifty (50) foot front setback.
- d. All ground mounted solar energy systems shall be positioned such that they do not interfere with access to, or functioning and maintenance of, existing on-site septic system components.
- e. Small Scale: a Small Scale Ground Mounted Solar Energy System is an active solar energy system that occupies 2,100 square feet or less of

surface area of solar panels. Small-scale ground mounted solar energy systems are allowed By Right, but shall be reviewed by the Building Inspector before issuance of a building permit.

- f. Medium Scale: a Medium Scale Ground Mounted Solar Energy System is an active solar system that occupies more than 2,100 but less than 32,000 square feet of surface area of solar panels. Medium scale ground mounted systems shall require a Special Permit from the Special Permit Granting Authority (SPGA) before issuance of a building permit.
- g. Large Scale: a Large Scale Ground Mounted Solar Energy System is an active solar system that occupies 32,000 square feet or more of surface area of solar panels. Large-scale ground mounted solar energy systems are encouraged to be placed in the Solar Photovoltaic District (SP). Large-scale ground mounted solar energy systems not located in the (SPD) district shall apply for a Special Permit/Site Plan Approval from the Planning Board (SP/PB/SPA). Large-scale ground mounted solar energy systems located in the Solar Photovoltaic District (SPD) require a Special Permit from the Planning Board (SP/PB).
- h. No ground mounted solar energy system shall be installed upon or at the Westhampton capped landfill or transfer station without the written consent and permitting from the Massachusetts Department of Environment Protection (DEP).

4. Utility Notification

No ground mounted solar energy system installation shall be constructed until evidence has been given to the Special Permit Granting Authority (SPGA) and the Building Inspector that the utility company that operates the electrical grid where the installation is to be located has been notified of the solar energy installation Project Proponent's intent to install an interconnected customer owned generator. Off-Grid systems shall be exempt from this requirement.

5. Structures & Batteries

- a. All structures for ground mounted solar energy systems shall be subject to existing bylaws. All appurtenant structures, including but not limited to, equipment shelters, battery storage, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Battery installations shall meet all state building, electric and fire codes. Batteries located in exterior areas must be in a secure containment designed for such purpose, or in a secure building designed for such use. All storage units for batteries must be at least 10 feet from any enclosure fence and located inside the fence. All units must be clearly marked with signage to describe its usage.

6. Design Standards

Projects shall be designed to:

- a. Minimize the volume of cut and fill, the number of removed trees 10” in diameter or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of storm water flow increase from the site, soil erosion, and threat of air and water pollution;
- b. Maximize pedestrian and vehicular safety when on the site, entering, and exiting the site;
- c. Minimize obstruction of scenic views from publicly accessible locations;
- d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- e. Minimize glare from headlights and light trespass;
- f. Ensure adequate access to each structure to fire and service equipment and adequate provisions for utilities and storm water drainage;
- g. Site Lighting – Lighting of solar energy installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy installations shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution. All solar energy installations shall also comply with Section 5.3 (“Lighting”);
- h. Signage – No signage on ground mounted solar energy installations is permitted other than those required to identify voltage and electrocution hazards as well as the owner, and provide a 24-hour emergency contact phone number. Ground mounted solar energy installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy installation;
- i. Utility Connections – Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the ground mounted solar energy installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider;

7. Safety/Environmental Standards

- a. Emergency Services – The ground mounted solar energy installation project proponent shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the project proponent shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy installation shall be clearly marked. The project proponent shall identify a responsible person for public inquiries through the life of the installation.
- b. Land Clearing/Soil Erosion and Habitat Impacts – Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground mounted solar energy installation or otherwise prescribed by applicable laws, regulations, and bylaws. Such installations shall not occur on any slope greater than 15% in order to minimize erosion. No more than 50% of the land parcel utilized for ground mounted solar energy installations shall contain land requiring clearing of forest.
- c. Topsoil – No topsoil shall be removed from the land parcel under consideration for ground mounted solar energy installations. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time earthwork operations are completed and topsoil can be re-spread over parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to 1,000 cubic yards per acre effected by the installation. A detailed earthworks estimate is a required submittal component providing this quality is maintained.
- d. Impact on Agricultural and Environmentally Sensitive Land – The solar energy generating installation shall be designed to minimize impact to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than 50% of the total land area proposed for the solar electric field may be occupied by solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.
- e. Vegetation Management – Mowing or grazing is helpful to minimize the amount and height of “fuel” available in case of fire.
- f. Ground-mounted solar energy systems may be installed on previously-paved or impervious surfaces, such as parking lots. However, no natural or vegetative ground area shall be paved or otherwise rendered impervious for the sole or primary purpose of installing a ground-mounted solar energy system.
- g. Ground-mounted solar energy systems installed on natural or vegetative surfaces shall maintain the pervious nature of the surface to

maximize on-site infiltration of storm water. Impervious paving of areas beneath or between solar arrays is prohibited. To the greatest extent possible, a diversity of plant species shall be used, with preference given to species that are native to New England. Use of plants identified by most recent copy of the “Massachusetts Prohibited Plant List” maintained by the Massachusetts Department of Agricultural Resources is prohibited. Herbicides shall be applied only licensed personal in conformance with all applicable state regulations.

- h. All Medium and Large Scale ground mounted solar energy system installations and associated structures shall be enclosed by a secure fence. A secure locking system approved by the fire chief, shall be in place for emergency entrance.

8. Monitoring and Maintenance

- a. Ground Mounted Solar Energy Installations Conditions - Project proponent shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, fencing and integrity of security measures. The project proponent shall be responsible for the cost of maintaining the solar energy installation and any access road(s), unless accepted as a public way.
- b. Modifications – All material modifications to a ground mounted solar energy installation made after issuance of the required building permit shall require approval of the Special Permit Granting Authority.

9. Outside Consultant Fee

In addition to the normal filing fee, the Planning Board may, at its discretion, charge the applicant with a fee to hire outside consultants to assist the Board in administering and reviewing applications. See M.G.L. c. 44, § 53G.

10. Additional Requirements for Medium and Large-Scale Ground Mounted Solar Energy Systems

In addition to the requirements set forth above, all Medium and Large Scale Ground Mounted Solar Energy Systems shall comply with the following:

- a. General – All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
- b. Required Documents

The project proponent shall provide the following documents and site plan showing:

- i. Property lines and physical features, including roads for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar energy installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - iv. One- or three-line electrical diagram detailing the solar energy installation, battery installation, associated components and electrical interconnection methods, with all Massachusetts Electric Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the photovoltaic (PV) panels, mounting system, and inverter;
 - vi. Name, address, and contact information for proposed system installer;
 - vii. Name, address, phone number and signature of the project proponent; and
 - viii. Name, contact information and signature of any agent representing the project proponent.
- c. Storm water Management Plan.
 - d. Erosion & Sediment Control Plan.
 - e. Documentation of actual or prospective access and control of the project site.
 - f. An operation and maintenance plan.
 - g. Proof of liability and builder's risk insurance.
 - h. A public outreach plan, including the project development timeline, which indicates how the project proponents will meet the required site plan review notification procedures and otherwise inform abutters and the community.
 - i. Site control – The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy installation.

- j. Operation and Maintenance Plan – The project proponent shall submit a plan for the operation and maintenance of the ground mounted solar energy installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

- k. Abandonment & Decommissioning Plan – The project proponent shall submit a Decommissioning plan. Any solar energy generating installation which has reached the end of its useful life or has been abandoned (i.e. when either it fails to complete within a commercially reasonable time (such that the power generation can commence), or it fails to operate for an elapsed time of more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning, and recycled whenever possible. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and the plans for removal. The abandonment and decommissioning plan shall include a detailed description of how all of the following will be addressed:
 - i. Physical removal of all structures, equipment, buildings, security barriers and transmission lines from the site, including any material used to limit vegetation.
 - ii. Dispose of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designed below grade foundations in order to minimize erosion and disruption to vegetation.
 - iv. Financial Surety for Decommissioning – Project proponents of Ground Mounted Solar Energy Installations shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the estimated cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Planning Board. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive detailed itemized cost estimate of the town’s estimated cost (including “prevailing wages”) associated with removal and full decommissioning of the facility and the site, prepared by a

qualified engineer. The amount shall include a mechanism for calculating increased removal cost due to inflation at the end of the facility's useful life. Said estimated costs shall not include or deduct the value of material recycling. Said surety in its full amount shall be presented to the Planning Board prior to the project proponent applying for a building permit or the commencement of construction.

- v. All legal documents required to enable the town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation.

1. Visual Impact Mitigation

The plan for a Medium or Large Scale Ground Mounted Solar Energy System shall be designed to preserve the on-site and abutting natural and developed features. In natural (undeveloped) areas, existing vegetation shall be retained to the greatest extent possible, especially where such vegetation provides a benefit to the natural environment. In developed areas, the design of the installation shall consider and incorporate human-design landscape features to the greatest extent, including contextual landscape amenities that complement the physical features of the site and abutting property. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts and be architecturally compatible with each other. Vegetation shall be varieties native to New England and a mix of deciduous and evergreen species. Vegetation screening shall reach a mature form to effectively screen the installation within five (5) years of installation. Planting of the vegetative screening shall be completed prior to final approval of the installation by the Planning Board and Building Inspector.

- m. Informational Meetings – All informational meetings for Medium and Large Scale Ground Mounted Solar Energy Systems shall be held in Westhampton at a time and place convenient for residents to attend, ideally starting no earlier than 5:00 p.m. on weekdays.

5.15 - Earth Removal

1. Purpose

Earth removal operations, including gravel pits, have been an important industry and have helped maintain a strong rural economy in the Town for many years. This bylaw is set forth in order to ensure the continuation of earth removal operations by right (except in the Floodplain District and Solar Photovoltaic District), while at the same time promoting the health, safety, and quality of life for the citizens of Westhampton.

2. General Regulations and Standards of Operation

- a. Earth removal activities in excess of 100 cubic yards shall not occur until a completed "Notice of Earth Removal Form" has been filed with the Zoning Enforcement Officer.
- b. Earth removal loading or processing activities shall be allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to 4:00 p.m. on Saturday. This shall not be interpreted to limit delivery of processed or finished materials in case of public emergencies.
- c. Earth removal operations shall maintain the following setbacks:
 - i. Twenty (20) feet from any property line.
 - ii. A 50-foot temporary buffer adjacent to a public way will be maintained. This buffer may be removed and reclaimed in maximum 250-foot sections and in a maximum of 120-day activity periods. Final reclamation setback shall be based on approval from the Highway Superintendent.
 - iii. 200 feet from a private water supply unless written agreement is obtained from the owner. Public water supplies will follow State and Federal regulations and SWAP (Source Water Assessment Program) reports.
 - iv. Unless a written agreement is received from the dwelling owner, a 250-foot radius will be maintained from any dwelling until the rest of the parcel's operations have been completed. If this buffer is removed as the final phase, it will be completed and reclaimed within a one hundred twenty (120) day working period.
 - v. No crushing, screening or other processing operations will take place within 300 feet of a dwelling unless written permission is obtained from the current owner.
- d. The area under removal at any one time may not exceed a total of five (5) acres, not including roadways. An additional three (3) acres may be used if processing and storage are being done on the same site. If a quarry and a gravel excavation are both on the same parcel, they will each be allowed eight (8) acres.
- e. Existing vegetation shall be left undisturbed in all non-removal areas for screening, erosion control, and noise reduction purposes.
- f. Buildings, equipment, interior roadways, and areas of operation shall be placed and screened to minimize noise and visual impact by use of vegetation, topography, stockpiling, etc.

- g. Sufficient on-site parking shall be provided for all vehicles associated with the earth removal operations.
- h. Erosion control and drainage shall be provided during and after removal operations. Earth removal operations shall minimize dust emanating from the site and minimize the deposit of earth materials on roadways. Any proposed treatment shall not pose a pollution hazard. The operator shall be responsible for removing any spillage on roadways.
- i. Excavation for removal of earth, sand, gravel, and other soils shall not extend closer than 5 feet above the annual high groundwater table unless the approved creation of ponds or standing water is part of the plan. If the excavation takes place in the Water Supply Protection District (WS), the property owner shall install a monitoring well to verify groundwater elevation. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal.
- j. The use of explosives shall be conducted in accordance with the regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts, and only after the issuance of a permit by the Fire Chief.
- k. All operations shall be conducted in such a manner as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution, air pollution, and safety.
- l. There shall be no more than fifty thousand (50,000) cubic yards of material removed from any parcel of land in any one calendar year. A “parcel of land” as used in this section shall be shown as a lot on the Town of Westhampton Assessors Map.
- m. Access driveways and private roadways to earth removal operations shall be considered part of the operation. Access road(s) to extractive operation sites shall include a gate.

3. Reclamation Requirements

- a. Reclamation of the site must commence within 120 days whenever:
 - i. Five (5) acres have been excavated, in which case reclamation must occur before any further excavation shall be permitted;
 - ii. Twenty-four (24) months have passed since any excavation activities occurred; or
 - iii. Whenever excavation activities of any size are completed.

- b. Upon completion of reclamation, no slope shall be greater than 1:2 (50%). Terracing and less steep slopes may be used to ensure stability.
- c. Final grading shall blend with the surrounding land and shall generally maintain the original drainage patterns and drainage to surrounding properties.
- d. Reclamation areas shall be covered with topsoil and subsoil to a minimum depth of four (4) inches and shall be: (1) planted with vegetation using non-invasive perennial species, or (2) used for suitable agricultural purposes. In areas where no topsoil or subsoil previously existed, a stable medium shall be established for the growth of non-invasive perennial vegetation or for agricultural use.
- e. All equipment shall be removed from the site and all structures shall be removed or continued in use for another purpose. Reasonable efforts shall be made to prevent excessive stockpiling of stumps. No single pile shall exceed ten (10) feet in height if visible from a public way or a dwelling.

5.16 - Wireless Communication Facility (Tower)

1. Purposes

The purposes of this Section are to:

- a. minimize adverse impacts of wireless communication facilities on adjacent properties and residential neighborhoods (including but not limited to aesthetic, public safety, and property value impacts);
- b. limit the number and height of these facilities to only what is essential;
- c. promote shared use of existing facilities;
- d. reduce the need for new facilities; and
- e. protect the interest of the general public.

2. Authority & Limitations

This Section is promulgated under the authority of G.L. c. 40A, the Home Rule Amendment of the Massachusetts Constitution, and the 1996 Telecommunications Act, 47 U.S.C. Section 332(c)(7)(A). No Wireless Communications Facility (“WCF”) shall be constructed except in compliance with the provisions of this Section unless exempted in accordance with Section 5.162 and 5.167, and any WCF shall require a special permit from the Planning Board, serving as the Special Permit Granting Authority (SPGA). An eligible facilities request shall follow the procedure set forth in Section 5.168.

3. Exemptions

The following shall be exempt from this bylaw:

- a. Wireless communication facilities used exclusively for Town or State emergency services;
 - b. Amateur radio towers used in compliance with the terms of any amateur radio service licensed by the Federal Communications Commission and used solely for that purpose; and
 - c. Wireless communication structures and devices used expressly for home television reception.
4. Special Permit General Requirements
- a. Lattice-type towers and similar facilities requiring three or more legs and/or guy wires for support are prohibited.
 - b. To the greatest extent feasible, all service providers shall co-locate at existing facilities. Wireless communication facilities shall be designed to accommodate the maximum number of users as technically practical.
 - c. When co-location on an existing WCF is not feasible, the applicant must demonstrate that another site is required to address a substantial gap in coverage. A new WCF shall be located at one of the sites described in Section 5.164(b) below; however, if there is no feasible alternative location set forth in Section 5.164(b) below that would address the gap in coverage, only then may other locations be considered.
 - d. The height of a WCF shall be constructed at the minimum height necessary to accommodate the anticipated and future use of the facility. The maximum allowed height for a WCF shall be 120 feet.
 - e. The Board may adjust height and setback requirements by a four-fifth vote if the Board finds that such adjustments will result in:
 - i. A more desirable design of the development, or enhanced buffering for adjacent residential properties;
 - ii. Improved transmission for wireless telecommunication services, signals, and long-distance communications; and/or
 - iii. Improved public safety.
5. Location of Wireless Communication Facilities
- a. All applications for a new WCF must demonstrate inability to co-locate at an existing WCF, and that there is a gap in coverage that a new WCF will address in whole or in part, before consideration will be given to another site.

- b. Should the applicant demonstrate that there is a technical inability to co-locate, and that there is a gap in coverage that the new WCF will address (in whole or in part), the following locations may be allowed by Special Permit and should be considered by the Applicant to the extent that any of these locations serve as a feasible location for a proposed WCF:
 - i. Any land located within an electrical transmission easement; or
 - ii. Any land owned by the Town of Westhampton on which a water tower, water tank/well, emergency service building (i.e. police or fire station), or other buildings/structures, not including schools, are located.
 - c. Should the applicant demonstrate that there is a need for a WCF due to a substantial gap in coverage in a location not otherwise provided for in Section 5.164(a) and (b), consideration may be given for a WCF as provided for in Section 5.167. Application under Section 5.167 must comply with all general, design, and procedural requirements of this Section 5.16, as well as all other applicable sections of the Westhampton Zoning Bylaws.
 - d. No WCF shall be located, erected, or modified nearer to any buildings or structure than one times the vertical height of the facility (inclusive of any appurtenant buildings/structures).
 - e. No WCF shall be located on land under status of G.L. c. 61A, 61B, or 61C, as may be on record with the Assessor's Office.
 - f. No WCF shall be located within a National or Local Historic District unless the SPGA finds that the facility is properly concealed, meets the design standards set forth in Section 5.165 and does not alter the character of that district, property, building, or structure where it is located. All such applications shall be referred to the Historical Commission for review within fifteen (15) business days of receipt, and the Historical Commission shall provide its recommendations (if any) within forty-five (45) days after said referral.
6. Design Standards
- a. Wireless facilities shall be suitably screened from abutters and residential neighborhoods. Painting, landscaping, fencing, buffering and screening, when deemed necessary by the SPGA, will be required at the expense of the owner.
 - b. Devices shall be camouflaged by location and/or design to disguise them from the public view, whether by designing the device so as to disguise it as an existing or new building or structure appropriate in type and scale to its location (e.g. a flagpole in a park, a silo in a field, etc.) where the WCF are hidden within or mounted on a structure to

make them essentially invisible (e.g. siting the device within existing trees, provide effective screening by use of landscaped buffers which camouflage the device at the time of planting and are effective year-round).

- c. Existing on-site vegetation shall be preserved. The SPGA may require additional buffering and screening if it finds that the existing vegetation is insufficient.
- d. A different color scheme shall be used to blend the structure with the landscape below and above the tree or building line, as deemed necessary by the SPGA.
- e. Fencing shall be provided to control access to the WCF and shall be compatible with the rural and scenic character of the area and of the Town. Fencing shall not be constructed of razor wire (or similar materials) or chain link.
- f. There shall be no signs or advertisement signs permitted on or in the vicinity of a WCF, except for announcement signs, no trespassing signs, and a required sign, not to exceed four (4) square feet in area for each device installation, which shall display a phone number where the person responsible for the maintenance of the WCF may be reached on a 24-hour basis. All other signage shall be consistent with Section 5.4, "Sign Bylaw".
- g. Night lighting of any WCF shall be prohibited, except as required by the FCC, Federal Aviation Administration (FAA), or that needed for emergency service, security, and safety requirements. All lighting shall be consistent to the extent feasible. The equipment to relay the wireless transmissions shall be located inside an existing building/structure. Otherwise, such equipment shall be located in a new, enclosed structure in a location where the visual impact to the surrounding properties and streets will be minimized. The SPGA may impose conditions on the siting and screening of such structure.

7. Procedures for Special Permit

- a. All applications for modification of existing or construction of new wireless communications facilities shall be submitted in accordance with Westhampton "Zoning Determination Policy" under Section III.
- b. Documentation must be provided for the rights to the property and/or buildings/structures (i.e. ownership), a portion of land and/or use of buildings/structures (i.e. a lease or rent), or other means of legal access. Applicants proposing to erect a WCF on municipally-owned land, buildings, or structures shall provide evidence of a contractual authorization by the Town to conduct wireless communication services on said property.

- c. A field inspection/site visit shall be conducted on all applications for a WCF prior to the hearing for the special permit. The results of the inspection shall become a permanent part of the applicant's file and shall bear the date of the inspection and comments by the inspecting town agents. A site visit shall include, but not be limited to, the following agents as determined necessary: Building Commissioner/Zoning Enforcement Officer, Conservation Agent, and SPGA staff or their approved agent.

- d. The following information must be provided, prepared by a professional engineer, licensed in the Commonwealth of Massachusetts:
 - i. A plan shall be provided showing the exact location of existing and proposed building, structures and towers, as well as:
 - a) Landscaping and lighting features;
 - b) Buffering and screening;
 - c) Fencing and control entry;
 - d) Abutting streets, residential dwellings and all buildings/structures within three hundred (300) feet of the tower base and the distance at grade from the proposed WCF to each building on the plan;
 - e) Grading and utilities at two-foot contours;
 - f) Zoning requirements, as well as building and structural setbacks.
 - ii. Elevation plans and/or colored rendition showing details of the tower(s) and devices, as well as any buildings/structures associated with the WCF. Plans should also provide details of buffering and screening, landscaping (including species, height, and breadth of trees and shrubbery), lighting, fencing, and colors and materials for the entire project site;
 - iii. Description of facility, as well as all technical, economic, and other reasons for the proposed location, height and design;
 - iv. Confirmation that the facility complies with all applicable Federal and State standards;
 - v. Description of facility capacity including number and type of devices that can be accommodated and basis for calculations. For existing towers, confirmation that the WCF has the structural capacity for an additional device;

- vi. Specifications for construction, lighting, and wiring in accordance with State and federal building codes;
- vii. Environmental assessment, as may be required by FCC;
- viii. Confirmation that proposed facility complies with FAA and FCC guidelines;
- ix. Written statement demonstrating that there are no material, adverse impacts to residents and the general public;
- x. A plan showing the existing WCF locations and service provider coverage in and surrounding the Town of Westhampton, as well as the proposed WCF location and service coverage of that facility. This plan should be provided by a certified radio frequency engineer(s) or other certified telecommunications specialist.

8. Special Provisions for Review of Application to Construct New WCF pursuant to 1996 Telecommunications Act

The Board shall issue a Special Permit for a WCF, in accordance with the provisions of this Section, in areas where a WCF would otherwise be prohibited, if and only if, the following terms and conditions are met entirely:

- a. The SPGA, after public hearing and presentation of substantial evidence by the applicant, determines that a significant gap in wireless coverage exists in a portion of the Town; and
- b. There is no feasible alternative location for the proposed location of the WCF which would adequately address the gap in coverage; and
- c. An application for a significant gap in wireless coverage determination must provide information such as mapping of existing areas of coverage, maps depicting location of wireless coverage gaps, reports, affidavits, and other supplemental narrative information, from a suitably qualified radio frequency engineer(s) or other telecommunications specialist, to clearly demonstrate that a gap in coverage exists and there are no feasible alternative locations for the proposed WCF that would address the gap in coverage; and
- d. An application for a special permit relying upon a significant gap in wireless coverage determination shall comply with all general, design, and procedural requirements of this Section 5.16, as well as all other applicable Sections of the Westhampton Zoning Bylaws.

9. Modification to Existing Facilities and Existing Special Permits

- a. Notwithstanding anything contained in the Zoning Bylaw to the contrary, an eligible facilities request that does not substantially change the physical dimensions of the facility shall be allowed by right

(subject to issuance of a building permit) provided the following procedures are adhered to. Any applicant seeking a determination that an eligible facilities request does not substantially change the dimensions of the facility shall submit written documentation sufficient to support its claim to the Building Commissioner. The Building Commissioner shall review and respond to such a request within sixty (60) days of the filing of the application, providing that this time for response may be tolled where the applicant has failed to satisfactorily support its claim and additional documentation is requested in writing by the Building Commissioner.

- b. Any alteration of or addition to a previously approved WCF that does not satisfy Section 5.168(a), shall require an additional Special Permit. Such alterations and additions may include, but are not limited to the following:
 - i. A change in the number of buildings or facilities permit on the site;
 - ii. Change in technology used by the WCF;
 - iii. An addition or change of any external equipment or an increase in the height of the tower, including profile of additional antennas, not specified in the original application;
 - iv. Change in ownership; or
 - v. Co-location of new equipment.

10. Construction, Maintenance and Cessation of Use

- a. Upon receipt of a Special Permit from the SPGA, the applicant shall apply to the building Inspector for a permit to construct a WCF and shall provide written evidence that all preconstruction conditions, as may be part of the Special Permit decision have been satisfied,
- b. The owner of the facility and/or devices shall be responsible for ongoing proper maintenance of the WCF or device as allowed by Special Permit. Verification of maintenance and structural integrity by a certified engineer shall be required at the request of the Building Commissioner/Zoning Enforcement Officer once every two years.
- c. If applicable, annual certification demonstrating continuing compliance with the standards of the FCC, FAA, and the American National Standards Institute and required maintenance shall be filed with the Building Commissioner/Zoning Enforcement Officer by the Special Permit holder.
- d. WCF devices and/or structures shall be removed within one year of cessation of use.

- e. Should the owner and/or operator, or the owner of the land or structure on which the device is located, fail to remove a device within one year of cessation of use, the Town may remove the same.
- f. A performance guarantee may be required as a condition of any Special Permit granted this Section, in an amount deemed sufficient to cover the Town's estimated cost of the demolition and removal of the device in the event of cessation of use.

5.17 - Accessory Dwelling Units (ADUs)

1. Attached ADUs

a. Purpose

The intent of permitting ADUs is to:

- i. Provide homeowners with the means of obtaining rental income, companionship, and security, thereby enabling them to stay in their homes and/or neighborhoods that they might otherwise have to leave;
- ii. Add to the variety of rental housing available to serve households that might otherwise have difficulty finding housing;
- iii. Develop one (1) ADU in a single-family dwelling that is appropriate for households at various stages of life;
- iv. Protect stability, property values, and residential character of a neighborhood by ensuring that ADU's are permitted only in owner-occupied single-family dwellings; and
- v. Provide housing units for persons with disabilities.

b. Use Regulations

The addition of an ADU shall require a Special Permit from the Planning Board SP/PB, with the following conditions:

- i. Utilities, septic, and water well shall be integrated with the single-family dwelling;
- ii. The Board of Health has approved compliance with Title 5 of the State Environmental code, 301 CMR 15, and all issues within its jurisdiction. Building Inspector will determine which other permits will be needed before building permit is issued;
- iii. Only one (1) ADU shall be permitted on a building lot;

- iv. An ADU shall be a complete, separate housekeeping unit, including its own kitchen, bathroom, and bedroom, with at least one means of entrance and egress separate from the primary dwelling;
- v. An ADU shall be designed as much as possible to maintain architectural design and character of the primary dwelling;
- vi. The gross floor area of an ADU (including all additions) shall not exceed 900 square feet;
- vii. A second driveway or curb cut leading to an ADU is prohibited. Additional on-site parking spaces shall be provided to avoid on-street parking;
- viii. When an ADU is added to an existing, non-conforming dwelling or lot, refer to Sec. 3.30 of these bylaws for guidance.
- ix. All ADUs shall comply with all dimensional requirements within these bylaws;
- x. Special Permits under this section shall specify that the owner must occupy one of the dwelling units. Special Permits under this section shall be recorded with the Hampshire County Register of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Zoning Enforcement Officer prior to the occupancy of the ADU.
- xi. If a dwelling that has received approval for an ADU transfers ownership, and if the new owner wishes to continue to exercise the use, the new owner shall, within 30 days of the sale, submit a notarized letter to the Zoning Enforcement Officer. The letter shall state that the owner will occupy one of the dwelling units in the structure as the owner's permanent/primary residence and shall conform to all of the conditions for the ADU Special permit;
- xii. In order to encourage the development of housing units for persons with disabilities, the Building Inspector or the permit granting authority may allow reasonable deviation from the stated conditions where necessary to install features to ensure accessibility; ADUs shall have no more than two (2) bedrooms and be occupied by no more than four (4) people.

2. Detached ADUs

a. Purpose

The intent of permitting ADUs is to:

- i. Provide homeowners with the means of obtaining rental income, companionship, and security, thereby enabling them to stay in their homes and/or neighborhoods that they might otherwise have to leave;
 - ii. Add to the variety of rental housing available to serve households that might otherwise have difficulty finding housing;
 - iii. Protect stability, property values, and residential character of a neighborhood by ensuring that ADUs are permitted only in owner-occupied single-family dwellings; and
 - iv. Provide housing units for persons with disabilities.
- b. Use Regulations
- i. The addition of a Detached ADU shall require a Special Permit/Planning Board (SP/PB) Approval, with the following conditions:
 - ii. Septic shall be approved by the Board of Health to comply with Title 5 code, 301 CMR 15, and water wells shall comply with Board of Health regulations. The Building Inspector will determine which other permits are needed before a building permit is issued;
 - iii. There shall be only one (1) ADU located on a single-family building lot;
 - iv. An ADU shall be a complete, separate housekeeping unit, including its own kitchen, bathroom, and bedroom. Detached ADUs require at least two (2) means of entrance and egress;
 - v. An ADU shall be designed as much as possible to maintain architectural design and character of the primary dwelling;
 - vi. The gross floor area of an ADU (including all additions) shall not exceed 900 square feet;
 - vii. A second driveway or curb cut to an ADU is prohibited. Additional on-site parking shall be provided to avoid on street parking;
 - viii. When an ADU is added to a non-conforming lot, refer to Sec. 3.30 of these bylaws for guidance;
 - ix. All ADUs shall comply with all dimensional requirements within these bylaws;

- x. No ADU shall be placed too close to the primary dwelling as determined by the Fire Chief and building codes;
- xi. Special permits under this section shall specify that the owner of the primary dwelling shall occupy one of the dwelling units. Special Permits under this section shall be recorded with the Hampshire County Register of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Zoning Enforcement Officer prior to the occupancy of the ADU;
- xii. If a building that has received approval for an ADU transfers ownership, and if new owner wishes to continue to exercise the use, the new owner shall, within 30 days of the sale, submit a notarized letter to the Zoning Enforcement Officer. The letter shall state that the owner will occupy one of the dwelling units as their permanent/primary residence and shall comply to all of the conditions of the ADUs Special Permit;
- xiii. In order to encourage the development of housing units for persons with disabilities, the Building Inspector or the permit granting authority may allow reasonable deviation from the stated conditions where necessary to install features to ensure accessibility;
- xiv. ADUs shall have no more than two (2) bedrooms and be occupied by no more than four (4) people.

5.18 Short-Term Residential Rentals

1. Purpose

This section intends to protect the safety of residents and renters by ensuring that short-term rentals will be consistent with residential use, and thus not be detrimental to the character and livability of any surrounding residential neighborhood.

2. Regulations

- a. Short-Term Rentals are permitted with a Special Permit as granted by the Planning Board, serving as the Special Permit Granting Authority (SPGA).
- b. The applicant for the Special Permit shall provide the SPGA with documentation showing ownership of the property, in addition to any other documentation as may be required.
- c. Adequate off-street parking must be made available to the rental party throughout the duration of the stay.
- d. The operator shall maintain a log containing, at a minimum, short-term renters' full names, number of total guests, and dates of stay.

- e. The Building Commissioner shall be afforded reasonable access to the unit for inspection purposes.
- f. Rentals must be at least one (1) day in length, with a maximum rental period of 30 consecutive days to the same rental party.
- g. Property that is not owner-occupied shall be rented for no more than 180 days total in any given 12-month period.
- h. Prior to issuing the Special Permit the SPGA must find that the lot size, buildings, structures, off-street parking and other facilities and equipment are adequate for the proposed use, and that the operation of the business will not be detrimental to the neighborhood, in addition to any other requirements as determined by the SPGA for a Special Permit.
- i. Owner or leaseholder shall obtain all necessary permits and licenses from Westhampton and the Commonwealth of Massachusetts required to operate a short-term rental unit, and shall comply with all zoning and general bylaws.
- j. Nothing herein shall be construed to exempt short-term rentals from compliance with, or enforcement of, applicable building, fire or health codes, including the state sanitary code (105 CMR 410 – Minimum Standards of Fitness for Human Habitation), other provisions of the zoning bylaws, other Town bylaws and regulations, or and fees and taxes required.
- k. The rental must be in a single-family dwelling or an approved accessory dwelling unit (ADU).
- l. Rental of temporary or mobile structures (including but not limited to trailers, recreational vehicles and tents) shall not be permitted.
- m. There shall be no more than four (4) occupants per bedroom rented, with a maximum total occupancy to be determined by the permit granting authority but not to exceed twelve (12) at any given time. The maximum occupancy for an ADU short term rental is four (4) occupants.
- n. Owners and leaseholders shall be compliant with all well, septic, fire, Board of Health rules and regulations, along with state building codes. Inspections will be granted to ensure compliance.
- o. Short-term rentals shall not be permitted in affordable, income-restricted, or subsidized housing units.

5.19 Bed & Breakfasts

In addition to complying with all regulations applicable to short-term residential rentals (Section 5.18), all Bed & Breakfasts (whether “homes” or “establishments”) must also comply with the following additional regulations:

1. they must be owner- or manager-occupied;
2. no meals other than breakfast shall be served, and breakfast shall be served only to overnight guests; and
3. they must comply with all regulations contained within M.G.L. chapter 64G.

5.2 - Home Occupation, Office or Studio

The use of a portion of a dwelling or building accessory thereto shall be secondary to the permitted primary residential use. Examples include, but are not limited to: artists; hair dressers; real estate brokers; building trades; professional offices of a resident doctor, lawyer, accountant, engineer or writer. Such uses shall be subject to the following conditions and requirements:

1. The occupation shall be owned, operated, or managed by at least one (1) member of the family residing in the dwelling unit with not more than two (2) full time employees;
2. Such use is clearly secondary to the use of a premises for dwelling purposes;
3. Such use shall not occupy more than the equivalent of 40% of the square footage of the dwelling unit (i.e., living space);
4. The use shall not change the character of the dwelling unit;
5. Other than signs, there shall be no outward evidence that the premises are being used for any purpose other than residential;
6. Adequate off-street parking for employees and customers shall be provided;
7. The use shall not constitute a nuisance by reason of increased traffic, hours of operation and/or delivery;
8. All signs shall comply with the Sign Bylaw (see Section 5.4); and
9. Lighting shall comply with Section 5.3 (Lighting).

5.3 Lighting

1. Purposes

The purposes of this bylaw are to control glare and prevent trespass onto adjacent properties and public ways, curtail degradation of dark skies at night, while maintaining safety, visibility and security of individuals and property.

2. General Regulations for Residential External Lighting
 - a. Exterior holiday lights should be illuminated only during traditional holiday periods;
 - b. Direct lighting only where it is needed at the minimum intensity necessary to serve the intended purposes;
 - c. Prevent excessive glare off the property line;
 - d. Light fixtures shall be fully shielded so that minimal light emitted by the luminaire is projected above a horizontal plane
3. General Regulations for Commercial/Industrial Lighting
 - a. Direct lighting only where it is needed at the minimum intensity necessary to serve the intended purpose;
 - b. Light fixtures shall be fully shielded so that no light emitted by the luminaire is projected above a horizontal plane;
 - c. Prevent measurable light at the property lines and minimize glare at any location on or off the property;
 - d. Flashing, blinking, running, scrolling, traveling, animated or intermittent lighting shall be left to the discretion of the Planning Board or Zoning Board of Appeals;
 - e. No structure shall be flood lighted;
 - f. Exterior lighting shall be extinguished after business hours, except for lighting determined by the Planning Board or Zoning Board of Appeals, to be necessary for site security and safety;
 - g. The maximum mounting height of a luminaire shall be sixteen (16) feet. The Planning Board or Zoning Board of Appeals may approve a greater height for special circumstances; and
 - h. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming are prohibited.

5.4 - Signs

1. Purposes

The purposes of the sign regulations set forth in this section are: to regulate the size, number and location of signs in the town of Westhampton; to protect public and private investments in buildings and open spaces; and to eliminate potential hazards to motorists and pedestrians.

2. Exclusions

The following shall not be considered “signs” within the context of this Bylaw:

- a. flags and insignia of any government except when displayed in connection with commercial promotion;
- b. legal notices or informational devices erected or required by public agencies;
- c. standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;
- d. integral decorative or architectural features of buildings;
- e. political, real estate, contractor/construction signs, and the like, not to exceed eight (8) square feet; and
- f. on-premises devices guiding and directing traffic, parking, and public services (i.e. restrooms, telephones), not exceeding 2 square feet in area, and bearing no advertising matter. However, letters, registered trademarks, moving parts, and parts internally illuminated or decorated with gaseous tubes or other lights shall be considered signs, even if an integral part of the building.

3. General Regulations

No signs exceeding ten (10) square feet in size shall be attached, erected or otherwise installed until a sign permit has been issued by the Building Inspector. Any sign or advertising device hereafter erected or maintained, must conform to the following in all districts:

- a. Billboards are not permitted;
- b. A maximum of two (2) signs per lot is permitted for each use (i.e., residential, agricultural, commercial, industrial and accessory), which shall include not more than one freestanding sign. This limit shall not apply to signs under one (1) square foot prohibiting trespass, hunting, or similar;
- c. Lots with 400’ or more of frontage may have no more than two (2) freestanding signs;
- d. No sign shall exceed twenty (20) square feet;
- e. No signs shall be placed within five (5) feet of any street or right-of-way, nor within 35 feet of the intersection of two or more streets or rights-of-way;

- f. Signs, in all cases, shall avoid interference with public utilities and services, nor shall they interfere with traffic visibility on any street or right-of-way;
- g. No private sign shall be placed on public property;
- h. Signs shall not extend above the roofline of any structure to which it is attached;
- i. Freestanding signs shall have a maximum height of ten (10) feet and a maximum area of twenty (20) square feet;
- j. When computing the area of signs, only one side of back-to-back and A-frame signs shall be included;
- k. Any lights used to illuminate a sign shall comply with Section 5.3 (Lighting);
- l. Signs shall not incorporate any noise-making devices, nor shall they have any reflectors and/or reflective elements; and
- m. No inflatable signs or signs designed to generate movement through machine-blown air shall be allowed.

4. Non-Conforming Signs

A non-conforming sign lawfully in existence at the time of adoption or subsequent amendment of this bylaw may continue. However, if such sign is located within 5 feet of a roadway or public way, or within 35 feet of an intersection, a Special Permit must be obtained from the Planning Board. A Special Permit from the Planning Board must also be obtained in order to replace any such sign, or to alter the dimensions or location of such sign.

5. Enforcement

- a. The Zoning Enforcement Officer shall have the authority to inspect, and to order the painting, repair, alteration, or removal, of a sign that constitutes a hazard to safety, health or public welfare due to inadequate maintenance, deterioration, or obsolescence.
- b. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned, unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
- c. The Zoning Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within a specified period, the sign shall be removed in accordance with the provisions of this section.

- d. All notices mailed by the Zoning Enforcement Officer shall be sent by certified mail. Any times provided in this section shall be deemed to commence on the date of the receipt of the certified mail. For all other signs, the notice shall be mailed to the owner-of record of the property on which the sign is located as shown on the last equalized assessment roll.
- e. Any person having an interest in the sign or the property may appeal the determination of the Zoning Enforcement Officer ordering removal or compliance by filing a written notice of appeal with the Zoning Board of Appeals.
- f. Violation of any provisions of this bylaw or any lawful order of the Zoning Enforcement Officer shall be subject to a fine of not more than \$100.00 per day (per sign) in which the sign is in violation. If a sign is removed by the Town for any violation of this bylaw, the cost of such removal shall be assessed by the Town against the property owner.

5.48 - Common Driveways

- 1. Purposes
 - a. Enhance the safety and welfare of residents with common driveways;
 - b. Clarify the rights and responsibilities of builders of, and residents with common driveways, and of the Town of Westhampton;
 - c. Provide access to no more than (2) two Buildable Lots over common driveway, rather than by individual driveways for each Buildable Lot;
 - d. Enhance public safety by reducing the number and frequency of points at which vehicles may enter upon public ways;
 - e. Preserve, protect and enhance environmentally sensitive land, such as well recharge areas, wetlands and floodplains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious surface; and
 - f. Encourage the protection and preservation of significant natural features.
- 2. Scope
 - a. Special Permit from the Planning Board (SP/PB) may be allowed for residential uses only.
 - b. All lots associated with use of common driveway shall provide off-street parking for vehicles.
 - c. A common driveway shall not become a Public Way or private way.

- d. The Town of Westhampton shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pick-up or police patrols along a common driveway, unless there is a contract duly entered into by the Town of Westhampton.

3. Standards

Along with SP/PB, the following conditions shall be met. Minimum standards may be increased based on site configurations:

- a. The common driveway shall have a minimum roadway width of twelve (12) feet to a maximum of eighteen (18) feet, in addition to an easement of sufficient width to assure proper drainage and maintenance.
- b. The slope or grade of any unpaved sections of a common driveway shall not exceed 8%; and the slope or grade of any paved section of a common driveway shall not exceed 12%.
- c. A common driveway shall intersect a public way at an angle of not less than seventy-five (75) degrees.
- d. Alignment and sight distance should be sufficient to support a design speed of fifteen (15) miles per hour.
- e. A common driveway shall be capable of providing access for emergency vehicles with either a “hammer head”, “T” or “Y” configuration in lieu of a cul-de-sac for reverse direction in a single movement. This area shall be maintained/cleared of snow to allow year-round turnaround. The Fire Department shall be aware of and approve the design of this part of the common driveway.
- f. Each building lot having access from a common driveway may have one primary building and related accessory buildings.
- g. A common driveway shall not be approved until a declaration of covenant, easements and restrictions for the use and maintenance of the common driveway has been approved by the Planning Board and filed with the deeds of each lot. All preparation and fees for the declaration shall belong to the owners of the property.
- h. The Planning Board may require a performance bond or other security for the completion of the common driveway. Such surety will be posted prior to construction of the driveway. The completed driveway shall be inspected by the Planning Board or its designee, and the security released prior to the issuance of occupancy permits for the building lots served by the common driveway.

4. Construction

- a. Drainage shall be sufficient to dispose/recharge of runoff on the building lots, and prevent runoff on to public ways, or adjacent property.
- b. Drainage shall be designed to prevent erosion.
- c. Any utility extensions along the common driveway shall be privately owned and maintained.
- d. The common driveway, at its intersection with the public way, shall provide a leveling-off area with a slope of no greater than 1% for the first twenty (20) feet.
- e. The common driveway shall receive approval from the Westhampton Highway Superintendent and conform to any Commonwealth and Local regulations.
- f. The common driveway shall access the property over the road frontage of at least one of the building lots, and lie entirely within the lots being served.
- g. The common driveway shall provide the only vehicular egress/access to the lots and shall be so stated in the deeds to the lots
- h. Street numbers shall be located at the public way entrance of the common driveway and shall meet Westhampton general bylaws as to size and type of reflective numbers.
- i. No common driveway shall be extended or connected to any way other than at one point of intersection with a street providing road frontage to the development.
- j. At no time shall the common driveway become the responsibility of the Town of Westhampton.

5.5 - Campgrounds

1. Campgrounds by Special Permit

Campgrounds shall be permitted in the Agricultural Residential District (AR) upon issuance of a Special Permit/Site Plan Approval from the Planning Board (SP/PB/SPA) as specified in Section 6.2 of this bylaw, and in accordance with the additional requirements specified herein.

2. Purpose

The purpose of this bylaw is to provide minimum regulations for areas developed for the rental of sites for tents, campers, or travel trailers for the use of vacationers and travelers, including sanitary, cooking, recreational and parking facilities for patrons.

3. Application

Each application for a Special Permit for campgrounds shall be accompanied by ten (10) copies of a site plan. The Special Permit application for campgrounds shall be the standard. Special Permit application form on file with the Town Clerk. An application fee to cover expenses connected with a public hearing and review of plans will be required upon filing. In addition to the Special Permit regulations, the site plan shall be on standard 24" x 36" sheets and shall be prepared at sufficient scale to show:

- a. The location and boundaries of the campground property, adjacent streets or roads, and the owner's names of all abutters.
- b. Existing and proposed structures and campsites.
- c. The location of parking areas, driveways, walkways, access and egress points.
- d. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, refuse and other waste disposal systems.
- e. Existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and unique natural land features.

4. Additional General Requirements

The following standards shall be used as additional requirements to the Special Permit

- a. Additional Dimensional and Density Requirements
 - i. The total area of the site for the proposed campground shall be at least ten (10) acres.
 - ii. No building or structure shall be located within fifty (50) feet of any property line.
 - iii. No driveway for ingress or egress shall be located within fifty (50) feet of any lot line.
 - iv. The number of parking sites for tents, campers, or travel trailers shall not exceed twelve (12) per acre, exclusive of all public open space.
 - v. Camping sites, parking spaces for campers or trailers, and unenclosed recreational facilities shall be located not less than one hundred (100) feet from any property line. These uses shall be screened from view by neighboring properties in residential or institutional use by using dense, hardy, plantings or trees or earthen berm, or wall or tight fence complemented by plantings to minimize visual and noise impacts.

b. Parking Spaces

There shall be at least one parking space per camping site, and no parking spaces shall block or restrict any roadways or travel lanes throughout the campground. In addition, parking spaces adequate to accommodate the vehicles of employees shall be provided as determined by the SPGA.

c. Lighting

- i. Lighting shall comply with Section 5.3 (Lighting).
- ii. Where outdoor lighting is provided for activities after normal daylight hours, such lighting shall be extinguished no later than 11:00 p.m.

d. Occupancy Requirement

Occupancy of campers, travel trailers, or any other enclosed recreational facilities shall be temporary and shall not exceed six (6) months in any calendar year.

e. Roads, Access, Ways and Interior Circulation

- i. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- ii. Roads, driveways and access ways shall have sufficient width, suitable grades, adequate storm drainage and adequate construction to provide for the needs of vehicular traffic generated by the campgrounds. All roads shall provide free movement for fire, police and emergency equipment.

f. Noise

No public address system shall be permitted except where such system is inaudible at any property line, except in cases of emergency or safety.

g. Signs

Signs must conform to rules and regulations of signs in section 5.4 of this bylaw.

h. Utility Requirements

Camping areas shall comply with Title V, Environmental Code, and Commonwealth of Massachusetts regulations and any other laws and regulations pertaining to the establishment and maintenance of on-site sanitary sewage facilities. The applicant shall submit a septic system design prepared by a registered professional engineer and approved by the Board of Health and a plan illustrating the location of water for a campground unless and until the Board of Health has approved those aspects of supply wells with the special permit application. A special permit will not be issued

for a campground unless and until the Board of Health has approved those aspects of the development that comes under its jurisdiction.

5. Additional Requirements for Campsites in a Campground

- a. Campsites may be occupied by campers, travel trailers or unenclosed recreational facilities, but not by any type of permanent building or mobile home.
- b. The sale of campsites shall not be permitted.
- c. Electrical outlets may be provided at each site in the campground.
- d. Garbage and waste collection stations shall be suitably screened. All provisions for solid waste disposal will be made by the operator at no expense or burden to the Town of Westhampton.
- e. The location, materials of construction and storage of fuel for outdoor cooking facilities of any kind shall be subject to the approval of the Fire Marshal, and no outdoor cooking shall be allowed except at approved locations.

5.6 - Mobile Homes

1. Standard Regulations

The following regulations shall apply in respect to all mobile homes used as a permanent dwelling unit:

- a. Mobile homes must meet the same lot requirements as a single-family dwelling in the district in which they are located.
- b. Mobile homes shall be on a permanent foundation.

2. Special Circumstances

The owner or occupier of a residence that has been destroyed by fire or natural disaster may place a trailer or mobile home on the site of such residence and may, by right, reside in such trailer or mobile home for a period not to exceed eighteen (18) months while the residence is being rebuilt. Any such trailer or mobile home shall be subject to the provisions of Title V, the State Sanitary Code. The Building Inspector shall be contacted before placing a trailer or mobile home on the site.

5.62 - Registered Marijuana Dispensary (RMD) / Off Site Medical Marijuana Dispensary (OMMD)

1. Purposes

- a. It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The regulation of Registered Marijuana Dispensaries (RMD) including those certain RMD facilities defined by these bylaws as an Off-site Medical Marijuana Dispensary (OMMD) is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Westhampton.

- b. Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, as such regulations may be amended and/or replaced, RMD's will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (MDPH) and other government entities as authorized by law.

2. Additional Requirements/Conditions

In addition to the standard requirements for uses permitted by right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all RMD/OMMD:

- a. Use
 - i. RMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
 - ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
 - iii. The Special Permit Granting Authority shall set the hours of operation, but in no event shall an RMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
- b. Physical Requirements
 - i. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, manufacturing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
 - ii. No outside storage is permitted.
 - iii. No OMMD facility shall have a gross floor area in excess of 2,500 square feet.
 - iv. All RMD facilities shall be ventilated in such a manner so that no:
 - a) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 - b) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise

normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

- c) Signage shall be displayed on the exterior of the RMD facility's entrance in plain sight of clients stating, "Registration Card issued by the Massachusetts Department of Public Health required" in text two (2) inches in height.

c. Location

- i. No RMD shall be located on a parcel which is within five hundred (500) feet, (to be measured in a straight line from the nearest points of each property line) of a parcel occupied by:
 - (a) a public or private elementary, junior high, middle, vocational, or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis; or
 - (b) another RMD.
- ii. No RMS shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

d. Reporting Requirements

- i. All special permit and site plan approval holders for an RMD shall provide the Police Department, Fire Department, and Building Commissioner/Inspector with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority (in cases where a special permit or site plan approval was granted) shall be notified in writing by an RMD owner/operator/manager:
 - a) A minimum of thirty (30) days prior to any changes in ownership or management of that facility; and
 - b) A minimum of twelve (12) hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD.

- iii. Permitted RMD's shall file an annual report to and appear before the SPGA no later than January 31st of each year the special permit is in effect, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the special permit.
 - iv. The owner or manager is required to respond by phone or email within twenty-four (24) hours of contact by a town official concerning their RMD at the phone number or email address provided to such official in accordance with this bylaw as the contact for the business.
- e. Issuance/Transfer/Discontinuance of Use
- i. Special Permit/Site Plan Approvals shall be issued to the RMD operator.
 - ii. SP/SPA shall be issued for a specific site/parcel.
 - iii. SP/SPA shall be non-transferable to either another RMD operator or site/parcel.
 - iv. SP/SPA shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD, and shall lapse:
 - a) If the permit holder ceases operation of the RMD, and/or
 - b) The permit holder's State registration expires or is terminated.
 - v. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration.
 - vi. An RMD shall immediately remove all material, plants, equipment and other paraphernalia (RMD Personal Property) from the premises upon lapse of its Special Permit.
 - vii. Prior to the issuance of a Building Permit for a RMD the applicant shall provide to the Town a bond or other form of financial security, in form and amount acceptable to the Special Permit Granting Authority, sufficient to allow the Town to remove the RMS's personal property, the expiration of the Special Permit should the RMD fail to do so. The RMD shall submit a fully inclusive estimate of the costs associated with such removal with its Special Permit application. The amount

shall include a mechanism for calculating increased removal costs due to inflation.

- viii. Upon written request from the Zoning Enforcement Officer addressed to the contact address provided and maintained by the owner as required above, the owner shall provide evidence to the Zoning Enforcement Officer demonstrating removal of RMD's personal property. Failure to respond to such request within thirty (30) days shall be conclusive evidence that such removal has not taken place.
- ix. If the owner fails to remove the RMD's personal property as required, the Town shall have the right, to the extent law, to claim the security, enter the RMD facility, and remove the installation at the expense of the owner of the RMD, otherwise duly authorizes it. Upon removal of the RMD's personal property as required the remaining security shall be released.

3. Application Requirements

In addition to the standard application requirements for Special Permits and Site Plan Approval, an application for an RMD shall include the following:

- a. The name and address of each owner of the RMD;
- b. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health;
- c. Evidence that the Applicant has site control and right to use the site for a RMD in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
- d. A notarized statement signed by the RMD's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, managers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons;
- e. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD including lighting, fencing, gates and alarms, etc., ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;

- f. A detailed floor plan identifying the areas available and functional uses (including square footage);
- g. All signage being proposed for the facility;
- h. A traffic study to establish the RMD's impact at peak demand times;
- i. A management plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMD's or off-site direct delivery to patients.

4. Findings

In addition to the standard findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following;

- a. That the RMD is designed to minimize any adverse visual or economic impact on abutters and other parties in interest;
- b. That the RMD demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- c. That the applicant has satisfied all of the conditions and requirements of this section and other applicable sections of this bylaw;
- d. That the RMD demonstrates a demonstrated need;
- e. That the RMD provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured;
- f. That the RMD adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

5.7 - Off-Street Parking

All uses shall provide adequate off-street parking, which shall be determined at the time of a Special Permit, variance or building permit approval. The Planning Board may establish specific schedules of parking requirements for specific uses from time to time as it deems necessary. Waivers maybe granted if the property owner can demonstrate that actual parking demands for the specified use will be less than required and/or that off-site or shared parking can feasibly meet the need. Any change in use or addition to building shall require applying for a Special Permit to review parking. Specific minimum requirements are as follows:

- 1. Residential use: two (2) spaces per dwelling unit.

2. Office, business, service, clinic, or store: one (1) space per two hundred (200) square feet of gross leasable area.
3. Restaurant: one (1) space for every four (4) seats.
4. Shopping Centers, Large Retail, Supermarket, Recreational Facility: one (1) space per one hundred and fifty (150) square feet of floor space.
5. Parking for uses not listed shall be determined by the Special Permit Granting Authority (SPGA).
6. All uses shall provide off-street parking spaces to accommodate, under normal conditions, for occupants, employees, members, customers, clients, residents, and visitors to the premises, as determined by the SPGA.
7. Handicapped Parking: All parking areas shall provide handicapped accessible parking spaces as required by the Federal Americans with Disability Act (ADA).
8. Any lights used to illuminate off-street parking spaces shall comply with Section 5.3 (Lighting).

5.71 Additional Regulations for Parking and Loading Areas

1. Drainage: Storm water runoff shall be controlled or contained on the premises.
2. Screening: Exposed storage area, trash containers, machinery, and services area, shall be screened from view of neighboring property.
3. Adequate off-street loading or unloading spaces with access from the street, shall be provided for operations that routinely receive or ship merchandise. There shall be no delivery vehicle parking on the street for safety concerns.
4. Loading and unloading areas shall be located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading without disturbing, obstructing, or interfering with any public right-of-way or any parking spaces.
5. No area designated for loading or unloading may be used to satisfy the area requirements of off-street parking.
6. Special Permit Granting Authority (SPGA) shall set the amount of delivery spaces needed for the size of the use.

5.8 - Elderly or Handicapped Congregate Housing

1. Elderly or Handicapped Congregate multi-family dwelling units shall be permitted in Agricultural Residential District (AR) only upon issuance of a Special Permit with Site Plan Approval from the Special Permit Granting Authority, as specified in Section 3.0 (Schedule of Uses), Section 6.2, and

Section 6.3 of this bylaw, and in accordance with the additional requirements specified herein.

2. Dimensional Requirements

- a. See Section 3.20 Table 3, (Table of Dimensional Regulations)
- b. All multi-family dwelling units shall be connected to on-site sewage disposal and water systems and shall conform to the following dimensional requirements:
 - i. For a structure with 6 dwelling units, a minimum of 240,000 sq. ft. is necessary;
 - ii. For a structure with 5 dwelling units, a minimum of 200,000 sq. ft. is necessary;
 - iii. For a structure with 4 dwelling units, a minimum of 160,000 sq. ft. is necessary;
 - iv. For a structure with 3 dwelling units, a minimum of 120,000 sq. ft. is necessary.

3. Additional Requirements

- a. Siting and Layout Requirements
 - i. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent feasible: (a) minimize use of steep slopes, hilltops: (b) minimize obstruction of scenic views from publicly accessible locations: (c) preserve unique natural or historical features: (d) minimize tree, vegetation and soil removal and grade changes: (e) maximize open space retention and (f) screen objectionable features from neighboring properties and roadways.
 - ii. More than one dwelling may be placed on a lot, but no principal structures shall be placed closer to each other than 50 feet and must be visually separated by trees and plantings. In addition, each dwelling must be provided with access, drainage and utilities functionally equivalent to that provided under the Westhampton Subdivision Rules and Regulations.
- b. Design Requirements
 - i. Buildings shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the town with appropriate building materials, screening, breaks in roof, wall

lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings.

c. Vehicular and Pedestrian Access Requirements

- i. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways.
- ii. Congregate structures shall have access on public roads having sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic generated by the site.
- iii. Connecting walkways with tree belts shall be provided between structures and parking areas within the site and shall be constructed in accordance with the standards set forth in the Westhampton Subdivision Rules and Regulations.

d. Open Space and Buffer Area Requirements

- i. All land not devoted to dwellings, accessory uses, roads, or other development shall be permanently preserved as open space. A minimum of 50% of land preserved as open space shall be grassed or landscaped land available for active and passive recreation and shall be grassed or landscaped by the developer/applicant.
- ii. Congregate structures shall be separated from adjacent properties by buffer strips consisting of trees and/or fencing sufficient to minimize the visual and noise impacts of the development.

e. Parking, Loading and Lighting Requirements

- i. Parking areas shall not be located within a required front, rear, or side setback as specified in Section 3.2, Table 3 (Dimensional Requirements), and shall be screened from public ways and adjacent or abutting properties by building location, fencing, or planting. No individual parking area shall contain more than fourteen (14) spaces. One and one-half parking space shall be provided for each bedroom. One additional space for visitor parking shall be provided for every ten resident parking spaces. No parking shall be allowed on interior streets.

- ii. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be set back or screened to protect the neighbors from objectionable features.
 - iii. All lighting shall comply with Section 5.3.
- f. Water Supply and Sewerage Requirements
- i. The development shall be served with adequate water supply and waste disposal systems provided by the developer/applicant and shall not place excessive demands on municipal infrastructure.
 - ii. The following additional utility requirements shall apply to all elderly, handicapped and congregate dwelling units which are served by on-site sewerage or water supply systems:
 - a) For dwellings to be served by on-site water and waste disposal systems, the applicant shall submit a septic system design prepared by a registered engineer and approved by the Board of Health a plan illustrating the location of water supply wells with the special permit application. No septic system serving the project shall exceed 2,000 gallons per day sewage flow. More than one septic system may serve the site in order to meet this requirement.
 - b) Dwellings with on-site waste disposal systems shall be allowed only upon demonstration by the applicant that the groundwater quality of the boundaries of the lot will not fall below the standards established by the Massachusetts Department of Environmental Quality Engineering in Drinking Water Standards of Massachusetts,” or by the U.S. Environmental Protection Agency in “National Interim Primary Drinking Water Regulations”, or where groundwater quality is already below these standards, upon determination that the activity will result in no further degradation. Where compliance is in doubt, the Planning Board may hire a Professional Engineer to analyze and certify groundwater quality impacts, and shall charge the applicant for the cost of such analysis.
- g. Drainage Requirements
- Drainage shall be designed so that run-off shall not be increased, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

h. Utility Requirements

Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible and at the developer's expense.

4. Community Association

- a. If an elderly, handicapped, and congregate housing development is owned by more than one person or converted to ownership of more than one person, a non-profit incorporated community association shall be established, requiring membership of each property owner in the development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, recreational and thoroughfare facilities. A community association agreement of covenant shall be submitted with the special permit/site plan approval application guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of the maintenance expenses. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board.
- b. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

5.9 - Affordable Housing

1. Affordable Housing by Special Permit

Planned multi-family developments with affordable multi-family dwelling units shall be permitted in Agricultural Residential District (AR) only upon issuance of a Special Permit with Site Plan Approval from the Special Permit Granting Authority, as specified in Section 3.0, Schedule of Use, Section 6.2 and Section 6.3 of this bylaw, in accordance with the additional requirements specified herein. In addition, proposed affordable multi-family housing developments shall generally comply with all eligibility requirements under MGL Chapter 40B, Sections 20-23 and with 760 CMR 56.00 Comprehensive Permit; Low or Moderate Income Housing regulations as amended.

2. Project Eligibility

To be eligible to submit an application to a Board for a Comprehensive Permit or to file or maintain an appeal before the Committee, the Applicant and the Project shall fulfill, at a minimum, the following project 760 CMR 56.00 eligibility requirements:

- a. The Applicant shall be a public agency, a nonprofit organization, or a Limited Dividend Organization
 - b. The Project shall be fundable by a subsidizing agency under a Low or Moderate Income Housing subsidy program;
 - c. The Applicant shall control the site;
 - d. Profit to the Developer is not more than 20% and not less than 15% of the total development costs.
3. Minimum Design Requirements
- a. All multi-family dwelling units shall be connected to on-site sewage disposal and water systems in accordance with all local and Massachusetts regulations.
 - b. All units shall have a minimum of 40,000 square feet of lot area per dwelling unit. See Section 3.2, Table 3 (Table of Dimensional Regulations).
 - c. Planned multi-family development with affordable housing must comply with additional requirements contained in Section 5.8(3).
 - d. Community Association Planned multi-family development with affordable housing must comply with all Applicable requirements in Section 5.8(4).
 - e. The maximum number of housing units including market rate and affordable units is 40.
 - f. All low and moderate income housing units shall be indistinguishable from market-rate units as viewed from the exterior unless the project has an approved alternative development plan. Units shall contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities.
 - g. In addition to the Special Permit and Site Plan Approval requirements in Sections 6.2 and 6.3 of this Zoning Bylaw, applicants for multi-family developments with affordable multi-family dwelling units should consult the Handbook: Approach to Chapter 40B Design Reviews prepared for the MA Department of Housing and Community Development.
4. Affordable Housing Requirements
- a. Proposed multi-family affordable housing projects must meet the provisions of MGL Chapter 40B, Sections 20-23 and 760 CMR 56.00 Comprehensive Permit; Low or Moderate Income Housing regulations as amended, including but not limited to:

- i. Income Eligible Household means a household of one or more persons whose maximum income does not exceed 80% of AMI, or as otherwise established by MGL Chapter 40B or 760 CMR 56.00.
- ii. Affordable housing units shall qualify as eligible housing units under MGL Chapter 40B, Sections 20-23 and 760 CMR 56.00 and shall be eligible for inclusion on the Massachusetts Subsidized Housing Inventory (SHI).
- iii. The minimum percentage of affordable rental units shall be 25% for households with income 80% or less of the Median Area Income (AMI) or 20% for households with income 50% or less of AMI.
- iv. For affordable units for households with income 50% or less of AMI, the following density and dimensional requirements may be substituted for those requirements normally required:
 - a) Minimum lot size for all dwelling units may be reduced by 10% below the lot size required in Section 3.2, Table 3 and Section 5.9 (2).
 - b) The frontage requirements may be reduced by 10% below the frontage required in Section 3.2, Table 3.
- v. The selection of qualified buyers for the affordable units shall be administered by the Westhampton Housing Authority as appointed, when necessary, by the Selectboard or to such entity designated by the Selectboard/Housing Authority. When selecting from a pool of prospective buyers meeting the established income and other eligibility guidelines in MGL Chapter 40B and 760 CMR 56.00. Priority consideration shall be given to:
 - a) Westhampton residents up to the limits set by MGL Chapter 40B and 760 CMR 56.00;
 - b) Individuals who are employed by the Town of Westhampton;
 - c) Employees of businesses and schools located in Westhampton; and
 - d) Households with children attending Westhampton schools.
- b. In order to ensure equity and continued affordability, affordable housing units shall be subject to resale controls administered by the Westhampton Housing Authority or its designee. Affordable housing

units shall be subject to a deed restriction for a minimum of 30 years but preferably in perpetuity. Affordable housing units, which shall establish the procedure for determining the maximum resale price of the unit in accordance with Chapter 40B and/or affordable housing funding source requirements.

Section VI – Enforcement And Administration

6.0 - Enforcement of Zoning Bylaws

1. This bylaw shall be enforced in accordance with M.G.L. Chapter 40A, Sec. 7.
2. The proposed building(s) and location thereof shall conform to Westhampton Zoning Bylaws, General Bylaws, Sub-Division Bylaws and Commonwealth of Massachusetts Building codes.
3. The Building Inspector shall deny issuance of a permit if it would result in a violation of the conditions of any special permit or variance granted by the Special Permit Granting Authority (SPGA).
4. The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of this bylaw or the conditions of any special permit or variance granted by the Special Permit Granting Authority (SPGA).
5. Construction or operation under a building permit, special permit or variance shall conform to all subsequent amendments to this bylaw, unless the use or construction is commenced within a period of not more than one (1) year after issuance of the permit, and in the uses involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable as determined by the Building Inspector.
6. Penalties - The Zoning Enforcement Officer shall enforce this Bylaw in accordance with the Westhampton Zoning and General Bylaws.

6.1 - Zoning Board of Appeals (ZBA)

Appeals

1. Any person aggrieved by reason of inability to obtain a permit or enforcement action, or by any other order or decision of the Building Inspector under the provisions of this Bylaw, may appeal the Building Inspector's action, inaction, order or decision to the Zoning Board of Appeals. Such appeal shall be filed in writing with the Town Clerk within thirty (30) days after the decision. See M.G.L. chapter 40A, section 15.
2. Appeals from a decision of the Planning Board or Zoning Board of Appeals must be made within twenty (20) days of filing the decision with the Town Clerk. See M.G.L. chapter 40A, section 17.

6.11 - Variances

The ZBA shall hear and decide requests for a variance from the terms of this bylaw in accordance with the provisions of M.G.L. chapter 40A, section 10.

1. All applications shall be on forms furnished by the Town Clerk, located in the Town Clerk office. All applications shall be accompanied by a plan indicating the following:

a. Location of premises showing dimensions and setbacks, abutting properties within three hundred feet (300'), owner's name and address, abutting streets and/or roads; and

b. Location and dimensions of all proposed structures.

2. If the rights authorized by the variance are not exercised within one (1) year from the date such variance was filed and dated by the Town Clerk, they shall lapse and may be extended not to exceed six (6) months according to M.G.L. Chapter 40A, Section 10.

6.12 Restrictions

In carrying out the provisions above, the ZBA may impose, as condition of its decision, such restrictions as to manner and duration of use as will, in its opinion, safeguard the legitimate use of the property in the neighborhood and the health and safety of the public and conform to the intent and purpose of this bylaw. Such restrictions shall be in writing and recorded in the variance or building permit. No variance shall be conditioned on the continued ownership of the land or structures by the petitioner to whom the variance was issued.

6.13 Two Year reconsideration

Reconsideration of an unfavorable finding by the ZBA can be considered under M.G.L. Chapter 40A, section 16.

6.14 Procedures

All hearings conducted by the ZBA shall comply in all respects with M.G.L. c. 40A.

6.2 - Special Permits

Special Permits shall be required for certain uses, structures or conditions as specified in Section 3.0 Schedule of Use Regulations.

1. Purpose

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon, but not limited to, traffic, utility systems and the character of the town. The special permit review process is intended to insure a harmonious relationship between proposed development and its surroundings, and insure the proposed project is consistent with the purpose and intent of this bylaw.

2. Special Permit Granting Authority (SPGA)

The Planning Board (PB) or the Zoning Board of Appeals (ZBA) shall be the SPGA as specified in Section 3.0 Schedule of Use Regulations.

3. Special Permit Procedure

The Special Permit Granting Authority (SPGA) may issue a special permit in accordance with M.G.L. Chapter 40A, Section 9.

4. Application Procedure

All applications for a special permit shall be on forms furnished by the Town Clerk's office. One original form and ten (10) copies of the application shall be submitted, each accompanied by a plot and/or site plan, drawn to scale (plot plan for most special permits (SP), and site plan for special permit site plan approval (SP/SPA)) showing the following:

- i. location and dimensions of the lot;
- ii. names of abutting roads, and names and addresses of property owners within three hundred (300') feet of the property line of the special permit property (information available from the Board of Assessors);
- iii. location of existing and proposed buildings and structures, including signs and other means of advertising;
- iv. parking, loading areas, and driveways;
- v. location for septic, well, waste disposal, and surface water drainage; and
- vi. all fees required, such as but not limited to filing fee, public hearing legal notice, and consultant fees that the SPGA may require.

The SPGA may waive any of the above information requirements it deems to be unnecessary to the review of particular plans, but shall give written reasons for any such waiver.

5. Expiration

All special permits that have no time restrictions imposed by the SPGA shall lapse within two (2) years from the date the permit was granted. See M.G.L. chapter 40A, section 17.

6. Review Procedure

The Town Clerk shall notify all appropriate parties that an application has been received on (date) for their review. Said parties shall, within thirty-five (35) days of receipt by the Town Clerk, make recommendations in writing to the SPGA, in accordance with M.G.L Chapter 40A, Section 11. Failure of said parties to make recommendations shall be deemed lack of opposition thereto.

7. Criteria, Conditions, Safeguards and Limitations

Pursuant to M.G.L. c. 40A, section 9, special permits may be issued only for uses which are in harmony with the general purpose and intent of the bylaw, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use, all of which shall be

part of the SPGA’s written decision. These conditions, safeguards and limitations may include, but are not limited to:

- a. Setbacks that are greater than the minimum required;
- b. Screening of parking areas or other parts of the premises from adjoining properties or roads by use of walls, fences, plantings or other such screening;
- c. Limitation of size, number of occupants, time of operation or extent of facilities;
- d. Modification of the exterior design of building, structure, signs, or landscaping material;
- e. Additional parking, loading or traffic requirements beyond minimum required in Section 5.7;
- f. Measures to protect against environmental pollution; and
- g. Performance bond(s) or other securities to ensure that the project meets the conditions specified in the special permit.

8. Changes, Alterations, Expansion

Any changes, alterations or expansion of a use allowed by a special permit shall require a new application for a special permit from the SPGA.

6.3 - Special Permits with Site Plan Approval (SP/SPA)

1. Application for Special Permit with Site Plan Approval (SP/SPA)

See section 6.2(4) for application procedures.

- a. The SPGA shall set and collect all fees sufficient to cover cost of public hearing legal notice, consultant fees that the SPGA needs to review plans, and filing fees. All fees shall be paid prior to issuance of a determination by the SPGA. See M.G.L. c. 44, section 53G.
- b. Required content:
 - i. All application requirements in Section 6.2(4) shall be met.
 - ii. All site plans shall be prepared by a registered architect, landscape architect, professional engineer, or professional land surveyor unless requirements are waived by the SPGA due to unusually simple circumstances.
 - iii. All site plans shall be on 24” x 36” sheets and shall be prepared at sufficient scale to show the following:
 - I. The location and boundaries of the lot, adjacent roads or ways, and the location and owner’s name and

- mailing address of all adjacent property within three hundred feet (300') of lot lines;
- 2. Existing and proposed topography including contours, the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and unique landscape features;
- 3. Existing and proposed structures, including dimensions and elevation;
- 4. The location of parking and loading areas, driveways, walkways, access and egress points;
- 5. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, refuse and other waste disposal methods;
 - 6. Proposed landscape features including a description of screening, fencing, and plantings;
 - 7. Location, dimensions, height, and characteristics of proposed signs;
 - 8. Location and description of proposed open space or recreational areas;
 - 9. Required setback lines; and
 - 10. Before approval of a special permit, the SPGA may request the applicant to make modifications in the design to ensure the criteria is met;

2. Waiver of Application Requirements

The SPGA may waive any information requirements it deems to be unnecessary to the review of particular plans, but shall give written reasons for any such waiver.

3. Final Action

- a. The SPGA actions shall consist of either:
 - i. Approval that the proposed project is a suitable development and complies with the criteria set forth in this bylaw;
 - ii. Denial of the application, stating in writing, the reasons for such action; or
 - iii. Approval subject to conditions, modifications, and restrictions that the SPGA deems necessary. Conditions, modifications and restrictions will be in writing.

- b. The applicable board may also impose any conditions, safeguards and limitations on the Special Permit specified in Section 6.2(7).

4. Enforcement

- a. The SPGA may require the posting of a bond or approval of a covenant in accordance with the Westhampton Subdivision Rules and Regulations to assure compliance with the plan and conditions.
- b. Any special permit with site plan approval (SP/SPA) issued under this section shall lapse in two (2) years if a substantial construction and/or use thereof has not commenced sooner except for good cause, as determined by the SPGA in consultation with the Building Inspector.
- c. The applicable board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

Section VII - (Blank – Reserved For Future Use)

Section VIII - (Blank – Reserved For Future Use)

Section IX - Definitions

For the purposes of this Bylaw, certain terms and words shall have the following meanings. Words used in the present tense include the future, the words “used” or “occupied” include the words designed, arranged, intended, or offered, to be used or occupied; the words building, structure, lot, land or premises, shall be construed as thou followed by the words “or any portion thereof; and, the word “shall” is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Westhampton Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s New Unabridged Dictionary.

Abandonment	The visible or otherwise apparent intention of an owner to discontinue permanently a nonconforming use of a structure or premises, or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement by a similar equipment or furnishings, or the replacement of the nonconforming use or structure by a conforming use or structure.
Accessory Dwelling Units (ADUs)	A self-contained housing unit incorporated within, attached to, or detached from a single-family dwelling unit, which may or may not be an addition or renovation to an existing single-family dwelling, complete with its own sleeping, cooking, and sanitary facilities, with its own means of entrance and egress. All criteria of this bylaw, state building codes septic, wells, and Westhampton Zoning Bylaws shall apply.
Accessory Dwelling Unit (ADU) Attached	A self-contained housing unit added as an addition to a single-family dwelling that is clearly subordinate to the main dwelling, and must have its own means of entrance and egress.
Accessory Dwellings Unit (ADU) Detached	A self-contained housing unit that is located on the same lot as the single-family dwelling, and may be incorporated in but not limited to, a garage, carriage house or other accessory structures, and is clearly subordinate to the primary dwelling. Location of this ADU on the property shall comply with setbacks. This definition does not include mobile homes, campers, tents, or trailers.
Accessory use or structure	A structure or use on the same lot as the primary structure, attached or detached, that is incidental and subordinate to the primary structure, and used by the resident(s).
Adult	A legal adult is a person who has attained the age of majority and is therefore regarded as independent, self-sufficient, and responsible.

Adult Daycare Center	An Adult Daycare Center is typically a non-residential facility that supports the health, nutritional, social, and daily living needs of adults in a professionally staffed, group setting. These facilities provide Adults with transitional care and short-term rehabilitation following hospital discharge. The majority of centers provide meals, meaningful activities, and general supervision. Adult Daycare Centers primarily focus on providing care for people with a specific chronic condition, including Alzheimer's disease, and related forms of dementia, adults with disabilities and the elderly population.
Affordable Housing	Affordable Housing is a housing unit that could be purchased or rented by a household making up to 80 % of the medium income of the area. Project eligibility is determined by the State by The Massachusetts Department of Housing and Community Development under M.G.L. Chapter 40 B.
Agriculture	Agriculture shall include but not be limited to farming in all of its branches and cultivation and tillage of soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aqua-cultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, raising of livestock including horses, the keeping of horses as a commercial enterprise, maple sugar production, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operation, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operation, including preparations for market, delivery or storage or to market or to carriers for transportation to market, and the display and sale of any such products resulting from such activities.
Art Gallery	A room or building for the display or sale of art.
As-of-Right-Siting	The siting of a development may proceed without the need for a special permit or other discretionary approval. However, development shall be subject to building codes, and to protect the public health, safety and welfare. Siting of projects cannot be prohibited, but can be reasonably regulated by the local building commissioner, local inspectors, and the designated Special Permit Granting Authority.
Aquaculture	The cultivation of aquatic animals and plants, especially fish, shellfish, and seaweed, in natural or controlled marine or freshwater environments, underwater agriculture.
Aquifer	Geologic formation composed of rock or sand and gravel that contains significant amount of potentially recoverable potable water.

Aquifer, Primary Recharge Area	Areas which are underlain by surgical geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
Auto Body Shop	A business, garage, or enclosed work area within a building where significant repairs and/or replacements are made to motor vehicle bodies, but does not include the storage of vehicles for salvaging of parts.
Bank	A financial establishment that invests money deposited by customers, pays it out when required, makes loans at interest, and/or exchanges currency.
Barn	A large and unattached building which can be used for storage of farm equipment, or animal enclosure, or other agricultural uses.
Battery Energy Storage System (BESS)	Devices that enable energy from renewables (e.g., solar and wind) to be stored and later released when power is needed.
Bed and breakfast establishment	A private owner-occupied house where no fewer than four (4) rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.
Bed and breakfast home	a private owner-occupied house where not more than three (3) rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.
Billboard	A sign that advertises products or services not sold or provided on the premises on which the sign is located.
Building	A combination of any material, having walls and a roof or similar covering, to form a structure for the shelter of persons, animals, or property.
Building Accessory	A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.
Building Area	The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, but exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies, and terraces.
Building Attached	A building having any portion of one or more walls in common with an adjoining building.
Building Commissioner	The lead inspector in a municipal building department. All other inspectors are local inspectors in accordance with M.G.L. Chapter 143, Sec 3 & 3A. The building commissioner is also the Zoning Enforcement Officer.
Building Coverage	The percentage of the combined area of all buildings, relative to the area of the lot (see Section 3.2).
Building Detached	A building having open space on all sides.

Building Height	The vertical distance from the grade level at the main entrance to the top of the parapet that comprises the majority of the perimeter of the building for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.
Building Permit	A construction permit issued by an authorized building commissioner/building inspector affirming that the project is consistent with state and federal building codes as well as local zoning bylaws.
Building, Principal	A building in which is conducted the principal use of the lot on which it is located.
Business	A practice of generating revenue and/or income by engaging in commerce.
Campground	Any area or tract of land used commercially to accommodate camping units, including but not limited to cabins, tents, recreational vehicles, travel trailers, motor homes, and the like.
Cemetery	A burial ground or graveyard for human remains.
Certificate of Use and Occupancy	A written form signed by the building inspector certifying that the stated described use, structure and/or lot conforms with: this bylaw; or, with any variance or special permit with conditions issued by the appropriate board.
Child Care Center	A facility or private residence which, on a regular basis: (a) receives for temporary custody and care, during part or all of the day, children under 7 years of age, or children under 16 years of age if such children have special needs; and/or (b) receives for temporary custody and care, for a limited number of hours, children of school age, pursuant to regulations of the Commonwealth. See M.G.L. c. 15D, § 1A. There shall be an annual inspection by the Board of Health and Fire Department.
Club, Neighborhood or Community	A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws, and which are non-commercial in nature. This definition does not include a Rod and Gun club.
Club, Private	A social, fraternal, religious, athletic or political association or organization that operates solely for members and their guests.
Commercial Boarding Stable/Riding Academy	A structure designed or used for feeding, housing, and/or exercising of more than six (6) horses, for which the owner receives payment or compensation of any kind, in accordance with M.G.L. Chapter 40A, Sec 3.
Commercial Forestry/Wood Harvesting	The cutting of timber where, in any one calendar year, the quantity exceeds 5,000 board feet or 1,500 cubic feet of cordwood, in accordance with M.G.L. Chapter 40A, Sec 3.

Commercial Recreational Facility	A facility, operated for profit, designed to offer recreational opportunities to the public, including but not limited to ski tow, park, swimming pool, tennis court, picnic areas, cross country skiing, golf course, boating, nature trails, and similar recreational activities (not including shooting ranges).
Commercial Use	Business-related activity carried out for profit.
Common Driveway	Any drive, right of way, or private way which provides access to no more than two (2) building lots, but which does not qualify as a street for determining frontage under M.G.L. Chapter 40A and 41.
Conservation Land	The preservation and protection of land in a natural condition owned and/or otherwise maintained by a governmental agency or a nonprofit organization.
Construction Supply Establishment	An establishment which sells, rents, leases, services, and/or otherwise maintains materials and/or equipment involved in construction activities, including but not limited to hardware, lumber, equipment sales and millwork.
Convenience Store	A small retail establishment no greater than 3,000 square feet in floor area that principally sells convenience goods, including but not limited to food, over-the-counter drugs and proprietary goods.
Crematorium	See Funeral Establishment.
Day	A calendar day.
Disturbance of Land	Any action that causes a change in the position or arrangement of soil, sand, rock, gravel or similar earth material.
Drive-Up/Drive-Through Kiosk	A structure that, by design, can be accessed by customers while in their vehicles (e.g., automated teller machine (ATM)).
Driveway	A space located on a lot, which is not more than 15 feet in width for residential uses, and not more than 24 feet in width for commercial or industrial uses, said measurements being at the lot line (frontage). A driveway is built for vehicular access from a public way across approved frontage, at an access point (“curb cut”) approved by the Highway Superintendent, to a garage or off-street parking or loading area.
Dwelling (One-Family)	A residential building consisting of one dwelling unit, occupied by one family. Any one-family dwelling converting to a two-family dwelling must meet the additional dimensional and density regulations contained in section 3.2.
Dwelling (Two-Family)	A residential building consisting of two dwelling units, occupied by not more than two families. Any one-family dwelling converting to a two-family dwelling must meet the additional dimensional and density regulations contained in section 3.2.
Dwelling (Multi-Family)	A residential building consisting of three or more dwelling units, each of which is occupied by one family, including but not limited to an apartment house, garden apartment, town house, or condominium ownership.

Dwelling Unit	One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the structure for exclusive use of a single family.
Earth	Earth includes soil, topsoil, loam, sod, rock, sand, gravel, clay, stone, peat, muck, bedrock, or any other earth material or mineral.
Earth Removal	Earth removal operations include activities which strip, sever, mine, excavate, quarry, blast, drill, hammer, take away, or any other form of removal or extraction of earth. Earth removal operations also include stockpiling, storage, treating, crushing, washing, weighing, screening or other processing when conducted on the same property. Access driveways or roadways to earth removal operations, whether across land in the same ownership or in separate ownership, shall be considered part of the operation.
Educational Institution, Public or Private	Any building or part thereof which is designed, constructed or used for education or institution in any branch of knowledge, in accordance with M.G.L. Chapter 40A, Sec 3.
Elderly and Handicapped Congregate Housing	A structure or structures arranged or used for the residence of persons age 55 or older or for handicapped persons, as defined in M.G.L. Chapter 121B, with some shared facilities and services.
Erosion Control	Measures taken to prevent and/or reduce the movement of soil particles or rock fragments caused by wind or water.
Erosion and Sediment Control Plan	A plan that shows the location and construction detail(s) of the erosion and sediment reduction control to be utilized for a construction site.
Essential Services	Services and appurtenant equipment and installations provided by public utility or governmental agencies, including but not limited to underground or overhead gas, electrical, telephone, sewage, drainage, refuse, water, traffic, fire, and police systems. Specifically excluding from this definition are buildings or overhead transmission towers.
Family	A family is any number of persons related by blood, marriage, adoption, or guardianship, and not more than four (4) persons not so related, living together as a single housekeeping unit. This section, however does not apply to non-related handicapped persons defined by any applicable Federal and/or Commonwealth law and/or regulation
Farm	A parcel or parcels of land upon which farming operations are conducted.
Farm Business	Business established for the processing of farm products, 50% by volume of which must have been raised or produced on the premises or elsewhere in the Town of Westhampton, in accordance with M.G.L. c. 40A, Sec. 3.
Farm Stand	A stand established for the sale or display of farm products in accordance with M.G.L. c. 40A, Sec. 3.

Fence	A constructed barrier intended to mark a boundary, control access, or prevent escape.
Flood Control	The prevention or reduction of flooding and flood damage.
Flooding	A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.
Floodplain	Areas that would be flooded during the occurrence of the 100-year flood, as shown on the Westhampton Floodplain Maps.
Floriculture	The cultivation of flowers or flowering plants.
Forest Cutting Plan	A plan for the cutting of trees on forestland, which is prepared and submitted in accordance with M.G.L. Chapter 132, Sections 40 – 46A. The forest cutting plan requires approval by a Service Forester of the Massachusetts Department of Conservation and Recreation, as provided under 304 CMR 11.04.
Frontage	That portion of a lot fronting on a street to be measured continuously along one street line between its sidelines and their intersection with the street line, as defined on a plan or deed recorded in the Registry of Deeds. To determine frontage for purposes of a buildable lot, see definitions related to lots.
Funeral Establishment	An establishment used for the preparation of the deceased for burial and the display of deceased, and services connected therewith before burial or cremation.
Gas Station	A business whose chief activity is selling gasoline, automotive oil, and related products for motor vehicles, and which may also offer convenience items for sale. A gas station may also provide light service for motor vehicles, such as oil changes, state inspections, and minor repairs.
Garage (private)	A building used for the storage of motor vehicles owned or used by the owner or tenant of the premises. A private garage is considered an accessory building.
Groundwater	All water found beneath any land surface including water in the soil and bedrock beneath water bodies, but not including water in human-made structures.
Gravel Bank	See Earth Removal Bylaw, Section 5.15.
Handicapped Parking Space	A space at least 8’0” wide, with an adjacent access aisle at least 5’0” wide, and marked with signs and pavement paint designating said space as being reserved for parking of vehicles with valid handicap plates or placards. One in every eight (8) accessible spaces shall have an access aisle 8’0” wide (rather than 5’0”), and shall be marked with a sign indicating “van accessible.” See Am
Hazardous Waste	A waste that is hazardous to human health or the environment, as designated by the U.S. Environmental Protection Agency and the regulations of the Massachusetts Hazardous Waste Management Act.

Heliport	An area either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.
Home Occupation, Office or Studio	The use of a portion of a dwelling or building accessory thereto shall be secondary to the permitted primary residential use. Examples include, but are not limited to: artists; hair dressers; real estate brokers; building trades; professional offices of a resident doctor, lawyer, accountant, engineer or writer.
Horticulture	The art or practice of garden cultivation and management.
Hospital	A building providing medical services, including 24-hour inpatient services, used for the diagnosis, treatment, or other care of human ailments, and may include a sanitarium, rest home, or nursing home. Not to be interpreted to include a doctor's office.
Impervious Surfaces	Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, rooftops, driveways, patios, and paved roads.
Industry	Those fields of economic activity including but not limited to mining, construction, manufacturing, transportation, electric, gas, and sanitary services, and wholesale trade.
Junk Yard	Land or structures used commercially for collecting, storing or selling newspaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging or selling inoperative machinery, vehicles or parts thereof.
Kennel (Commercial)	An establishment licensed to operate a facility housing dogs, cats, and other household pets and where grooming, breeding, training, or selling/purchasing of animals is conducted as a business; "dog day care" shall be considered a Commercial Kennel.
Kennel (Private)	Any building or land designated and arranged for the care of dogs, cats, and other household pets belonging to the owner of the property, kept for the purpose of show, hunting, or as pets.
Kennel (Veterinarian)	A veterinary hospital or clinic that boards dogs, cats and other household pets for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs, cats and other household pets that have undergone veterinary treatment or observation or will do so only for the period necessary to accomplish that veterinary care.
Landing Strip/Runway	A defined area of land used for the landing and takeoff of aircraft.
Leachable Waste	Waste material including solid waste, sludge and pesticides, petroleum products and fertilizer waste capable of releasing water borne containments to the environment, or ground water.

Light Industrial Use	Manufacturing, processing fabrication, packaging, assembly or other comparable industrial operation.
Lighting	Equipment designed or used to cast light whether attached to poles, buildings, structures, the ground, or any other location.
Lot	A single area of land in one ownership designed by metes and bounds on boundary lines on a deed recorded in the Registry of Deeds, Hampshire County, or drawn on a plan endorsed by "Approval not Required" under Subdivision Control Law, or words of similar import. In order to be used for building purposes, it shall meet the criteria of a buildable lot.
Lot Access	Vehicular egress/access to a lot shall be across the front lot line and lot frontage, and must be approved by the Highway Superintendent. Such egress/access may not encroach onto abutting lots unless part of an approved common driveway.
Lot, Buildable	Land area available, under the Bylaws and other lawful restrictions, for the location of a main building, with continuous dimensional requirements at the street and front setback line. At no point between the front lot line and the front setback shall the lot have a width less than the minimum lot width required. Access to the lot must be across approved frontage. Eighty percent (80%) of a buildable lot may not include watercourses, waterbodies, banks or bordering vegetated wetlands as defined by the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00). If the landowner/development is uncertain if any wetland exists within buildable lot, he/she may ask for a determination from the Conservation Commission.
Lot Corner	A lot having at least two adjacent sides dividing it from two or more intersecting public ways, if the interior angle of the intersection of such two sides is less than 135 degrees. The owner shall designate one street line as the front lot line meeting dimensional requirements under the Bylaws.
Lot Impervious Area	The portion of the lot that is rendered impervious to rainfall, including but not limited to structures, pavement and permanent accessories.
Lot Lines	The established division line between lots, or between a lot and a street.
Non-Conforming Lot	A lot lawfully existing at the effective date of this bylaw, or any subsequent amendment thereto, which is not in accordance with all provisions of this bylaw, or any subsequent amendment.
Non-Conforming Structure	A structure lawfully in existence, or lawfully authorized by a building inspector or special permit issued before the first publication of notice of the public hearing on this bylaw or subsequent amendment thereto.

Non-Conforming Use	A use lawfully in existence or lawfully authorized by a Special Permit issued before the first publication of notice of the public hearing on this bylaw or subsequent amendments thereto, may be continued. Such non-conforming uses may be extended or altered as specified in M.G.L. c. 40A, Section 6, with a ruling from the Zoning Board of Appeals. See Section 3.30 of this Bylaw.
Manufacturing	Establishment engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials.
Marijuana Dispensary, Medical, Off-Site (OMMD)	A Registered Marijuana Dispensary facility that dispenses medical marijuana, related supplies, and educational materials to registered qualifying patients or their personal caregiver for medical use in accordance with the provisions of 105 CMR 725.00, at a separate location from that RMD's cultivation and processing operation.
Marijuana Dispensary, Registered (RMD)	A not-for-profit entity registered under 105 CMR 725.00, also known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as edible MIP's, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use. The cultivation and processing of medical marijuana in accordance with these regulations is considered a manufacturing use and is not agriculturally exempt from zoning.
Marijuana Establishment	a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed adult marijuana-related business, as defined in G.L. c.94G and 935 CMR 501.002.
Medical Clinic	A non-residential building providing outpatient services used for the diagnosis, treatment or other care of human ailments.
Mobile Home	A dwelling built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a permanent foundation for permanent living quarters.
Motor Vehicle Light Repairs/Service Shop	A business whose chief activity is servicing and/or repairing motor vehicles (excluding auto body work), and/or the sale and/or installation of replacement parts, including but not limited to tires, brakes, mufflers, automotive glass, and the like, but does not include the storage of vehicles for the cannibalization of parts.
Municipal Building	Buildings owned by the Town.

Museum	A building in which objects of historical, scientific, artistic or cultural interest are stored and exhibited.
Newspaper/Job Printing Facility	A location where publications containing news, feature articles, advertisements, and/or correspondence are printed for sale.
Nursery/Tree Farm	A place where young plants and trees are grown for sale or planting.
Nursing/Rest Home	An extended or intermediate-care facility licensed by the Commonwealth to provide full-time convalescent or chronic care to individuals who, due to advanced age, chronic illness or infirmity, are unable to care for themselves.
Office	the office of an establishment engaged in rendering business services.
Off-Street Parking	A portion of a lot used for the parking of motor vehicles that is not located on a street or right of way.
Open Space	The space on a lot not occupied by buildings or other roofed structures, driveways, parking lots or other surfaces designed or intended for vehicular travel. Open space may include, but is not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses.
Park	A tract of land designed and used by the public for active and passive recreation.
Parking Space	A space designated for the parking of a single motor vehicle.
Performance Guarantee	Any security accepted by the Town of Westhampton in the form of cash, certified check, performance bond, or certificate of deposit endorsed to the Town.
Place of Public Worship	A building or space used for public worship.
Playground	An area used for games and recreation especially by children.
Plot Plan	An overhead view plan which, depending on the complexity of the project, can be drawn by surveyors, architects, engineers, or homeowners, which is typically less detailed than a site plan, indicating the present or proposed use of a plot or land especially one for a residential lot that indicates the location of structures and other important elements (including but not limited to wells and septic systems) on the lot. The specific objects and relations shown are dependent on the purpose for creating the plot plan, but typically contain existing and proposed buildings, landscape elements, above-ground features and obstructions, major infrastructure routes, and critical legal considerations such as property boundaries, setbacks, and right of ways.
Power-Generating Plant	An industrial facility for the generation of electric power, which is generally connected to an electric grid.

Private Stable	A building or part of a building in which one or more horses or ponies are kept for the private use of the owner, and in which no horses or ponies are kept for sale, rent, hire, breeding, or for commercial cartage, trucking, or other business purposes.
Public Right of Way	The entire strip of land acquired or dedicated to the use of a public way shown on a Definitive Plan of a subdivision of land that has been approved by the Planning Board and is on file at the Registry of Deeds.
Public Uses	Uses owned and/or operated by a government entity or a non-profit organization for the general welfare of the community.
Public Utility	A closely-regulated private enterprise with an exclusive franchise for providing a public service, but excluding power-generating plant.
Public Way	Any street or highway that is open to the public and is controlled and maintained by some level of government, including but not limited to interstate and state highways and municipal streets and roads.
Radioactive Waste	Any waste material or substance that is a source of ionizing or non-ionizing radiation.
Reclamation	The process of grading, restoring and/or vegetating an excavated or disturbed area.
Repair Shop	An establishment for the repair of household items, not including motor vehicles.
Rest Home	See Nursing Home.
Restaurant	A business establishment whose principal business is the selling of food to the customer in a ready-to-consume state, and where the customer consumes the food while seated at tables or counters located either within the building or in landscaped areas designed for dining that are adjacent to the main, indoor dining facility, and which generally offers table service.
Restaurant, Drive-In/Fast Food	A business that offers quick food service, where the customer orders their food through some means other than waiter/waitress service, and the food is generally served in single-use, disposable wrapping or containers.
Retail Store	A retail establishment selling general merchandise, including, but not limited to dry goods, apparel and accessories, furniture and home furnishing, small wares and hardware.
Riding Academy	Establishments where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the public may, for a fee, hire horses for use.
Rod and Gun Club	A fishing and hunting club, not including a shooting range.

Sawmill, Mobile or Portable	A sawmill or cutting machine used to turn logs into lumber, whether trailered or truck-mounted, capable of easily being moved, set up, and operated on-site; not attached or fixed in a location.
Sawmill, Stationary	a fixed structure, with or without a foundation, for the purpose of turning logs into lumber; includes the entire operational area (e.g., log sorting, yards, milling machines, sorting and storage areas, administration and maintenance areas), but not including wood/stump reclamation and/or processing.
Self-Service Storage Facility	A building or group of structures consisting of individual or self-contained units that are leased or owned for the storage of personal or business-related items or goods.
Setbacks	The area, measured from the property line/lot line, and measured at a right angle to the closest structure, which is unobstructed by structures from the ground upward, but which may include surface driveway or other similar surface improvements
Shooting Range	An area provided with targets (fabricated or natural) for the controlled practice of shooting.
Shopping Center	One or more commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, with goods delivered in an area separate from where customers enter/exit. The building shall not exceed 20,000 square feet of floor area.
Short-Term Residential Rental	The rental of a dwelling, or rooms within a dwelling, where the rental period is no less than one (1) day, nor longer than 30 consecutive days to the same rental party.
Sign	Any surface, material, placard, or other device designed to direct, inform, announce, attract attention, advertise a product or service, or convey similar information to passersby. Any exterior building surfaces which are internally illuminated or decorated with gaseous tubes or other lights are considered signs as are advertising devices attached to vehicles, trailers or other movable objects if regularly located for display.
Sign (Freestanding)	A self-supporting sign, not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer-mounted sign.
Site	The area extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover (excluding redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways).

Site Plan

A large-scale detailed engineering drawing, prepared and stamped by a licensed registered engineer, more detailed than a plot plan, that shows the full extent of the site for an existing or proposed development which would include the boundaries of a parcel of land, the topography, important existing landscape elements that impact design (such as large oak tree), and the placement of all anticipated major improvements, including buildings, parking, vehicular/pedestrian/bicycle circulation, loading, drainage facilities, storm and sanitary sewer lines, water lines, landscaping, earthwork, regrading, walls, fencing, lighting, utility connections and easements.

Solar/Photovoltaic Definitions

- *Rated Nameplate Capacity* The maximum rated output of electric power production of a solar energy system in Direct Current (DC).
- *Solar Access* The access of a solar energy system to direct sunlight.
- *Solar Collector* A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- *Solar Energy* Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- *Solar Energy Battery* A part of the solar energy system that is charged by the system and reserves energy for later consumption.
- *Solar Energy System (Photovoltaic System)* A device or structural design feature, a substantial purpose of which is to provide daylight or interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.
- *Solar Energy System (Active)* A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- *Solar Energy System (Grid-Inertia)* A solar energy system that is connected to an electric circuit served by an electric utility.
- *Solar Energy System (Ground-Mounted) (Large-Scale)* An active solar energy system that is structurally mounted to the ground and that occupies 32,000 square feet or more of surface area of solar panels. Large-scale ground mounted solar energy systems are encouraged to be placed in the Solar Photovoltaic District. Large Scale Ground Mounted Solar Energy Systems not located in the Solar Photovoltaic District shall apply for a Site Plan Approval/Special Permit/Planning Board. Large Scale Ground Mounted Solar Energy Systems located in the Solar/Photovoltaic District (SPD) require a Special Permit from the Planning Board. No Ground Mounted Solar Energy System shall be installed upon or at the Westhampton capped landfill or transfer station without written consent and permitting from the Massachusetts Department of Environment Protection (DEP).

- *Solar Energy System (Ground-Mounted) (Medium Scale)* An active solar energy system that is structurally mounted to the ground and that occupies more than 2,100 square feet but less than 32,000 square feet of surface area of solar panels. Medium Scale Ground Mounted Systems will require a special permit from the special permit granting authority, before issuance of a building permit.
- *Solar Energy System (Ground-Mounted) (Small Scale)* An active solar energy system that is structurally mounted to the ground and that occupies 2,100 square feet or less of surface area of solar panels. Small Scale Ground Mounted Solar Energy Systems are allowed By Right, and shall be reviewed by the Building Inspector before issuance of a building permit.
- *Solar Energy System (Off Grid)* A solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.
- *Solar Energy System (Passive)* A solar energy system that captures solar light or heat without transforming it into another form of energy or transferring the energy via a heat exchanger.
- *Solar Energy System (Roof Mounted)* An active solar energy system (of any size) that is structurally mounted to the roof of a building or structure.

Special Permit

A permit issued by a special permit granting authority pursuant to provisions of this bylaw and M.G.L. c. 40A, section 9, to permit uses, structures or structural alterations which are in harmony with the general purposes of this bylaw, and which shall be subject to general or specific provisions as therein set forth and to conditions, safeguards and limitations which may be imposed by the special permit granting authority.

Special Permit Granting Authority (Spga)

The Special Permit Granting Authority shall be specifically identified in the applicable sections of the Zoning Bylaws. Where the SPGA is not specifically identified, the Planning Board shall be the SPGA.

Stop Work Order

An order issued which requires that all construction activity on a site be stopped immediately.

Story (Full/Half) Street

As defined by the State Building Code.

A way that is dedicated or devoted to public use by legal mapping by the user, or by any other lawful procedure. A Street includes all public ways, a way which the Town Clerk certifies is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the "Subdivision Rules and Regulations of Westhampton, Massachusetts", and a way providing for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Street Line

The dividing line between a street and lot, and in the case of a public street, the street line established by public authority.

Structure	A combination of materials for permanent or temporary occupancy or use, such as a building, porch, bridge, trestle, tower, framework, retaining wall, tank, tunnel, event tent, stadium, reviewing stand, platform, in-ground swimming pool, shelter, pier, bin, sign, gasoline pump, recreational court, or the like; does not include boundary walls or fences.
Subdivision	As defined in the Subdivision Control Law (M.G. L. Chapter 41) and Westhampton Subdivision Rules and Regulations.
Trailer	Any vehicle which was originally or is still immediately portable or mobile, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which a person may congregate including recreational vehicles. Such vehicle that is no longer immediately portable by virtue of having its wheels removed shall not be considered a trailer for the purpose of the bylaw.
Trucking Terminal	Land and buildings used as a relay station for the transfer of loads from one vehicle to another; cannot be used for permanent or long-term storage.
Underground Storage	Storage below ground level, but not including storage in a freestanding container within a building.
Use	The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.
Use (Primary/Principal)	The main, primary or predominant purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied, or maintained under this bylaw.
Utility Substation	Part of an electrical generation, transmission, and distribution system, which transforms voltage from high to low, or low to high, or performs any of several other important functions.
Variance	An application to the Board of Appeals to waive the terms of this bylaw when special physical conditions affect such use or structure and where a literal enforcement of this bylaw would involve substantial hardship to the owner; provided also that such authorization shall not take away from the intent or purpose of the bylaw. See M.G.L. c. 40A, section 10.
Veterinary Hospital	A place where animals or pets are given medical or surgical treatment and boarding of animals is limited to short-term care incidental to the hospital use. All animals must be kept inside a permanent building.
Warehouse, Wholesale, or Distribution Center	A building used primarily for the storage of goods and materials intended for distribution, but not for sale on the premises to the general public.
Watershed	Land adjacent to water courses and surface water bodies that create the catchment or drainage areas of such watercourses and bodies.

Wireless Communications Facility (WCF)

Any buildings, structures, towers, and appurtenant equipment and storage that are used for the express purpose of conducting wireless telecommunication services regulated by the Federal Communications Commission (FCC) and defined as “personal wireless services” in Section 704, or other sections of the Federal Communications Act of 1996 as amended. By way of example, but not limited, “WCF” includes cellular telephone services, personal communication services, paging services, specialized mobile radio, including wireless intended for the transmission of data or internet, and also including antennas, towers, satellite dishes, or other devices or equipment for transferring wireless transmissions with or without a building or house and/or maintain such equipment. The following definitions relate specifically to WCFs:

- *Co-Location* The mounting or installation of transmission equipment on an Eligible Facility for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- *Device* Any antenna, or other apparatus that performs the function of antennas, together with any telecommunications satellite dishes and other necessary equipment. A device can be mounted (affixed to a tower), building-mounted (affixed to a residential, commercial, or industrial building, accessory building, and/or rooftop) or free-standing (affixed to a self-supporting tower).
- *Eligible Facility* Any existing tower or base station as defined in the Spectrum Act, provided it is in existence at the time an Eligible Facilities Request is filed with the Town in accordance with the provisions of this Bylaw.
- *Eligible Facilities Request* Any request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.
- *Height* A distance measured from the mean finished grade of the land surrounding the device to its highest point, surface or projection, in the case of free-standing devices, or a distance measured from the average finished grade of the land surrounding the exterior walls to the highest point, surface or projection, in the case of devices mounted on existing buildings or structures.
- *Self-Supporting Tower* Any lattice or monopole tower to which a device may be attached for the purpose of transmitting or receiving wireless communications. Self-Supporting Towers are ground mounted, but may include an above- grade base made of concrete or other similar material.
- *Spectrum Act* The “Middle Class Tax Relief and Job Creation Act of 2012” (Public Law 112-96; codified at 47 U.S.C. 1455(a)).

- *Wireless Communications Tower* Any structure to which a device may be attached for the purpose of transmitting or receiving wireless communications, including but not limited to water towers, steeples, flag poles, or parking lights (typical), but not including any residential, commercial, or industrial building, accessory building and/or rooftop.

Wood/Stump Reclamation Facility Land area, building or facility designed for the principal use of temporary or permanent storage, grinding, and/or conversion of trees, stumps, logs, or brush into wood chips, shavings, sawdust, bark, mulch or firewood when not associated with the clearance of a site for construction of a building structure.

Yard The space between a building or structure and the lot lines.

Zoning Enforcement Officer The Building Inspector and/or Commissioner for the Town of Westhampton, pursuant to M.G.L. c. 143, sec. 3 and 3A.

Section X - Amendments

This Zoning Bylaw may be amended from time to time at annual or special town meeting as Provided in M.G.L. Chapter 40A.