

# Town of Westborough General Bylaws



As Amended  
2018 Annual Town Meeting

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# GENERAL BYLAWS

ADOPTED MARCH 18, 1946

WITH AMENDMENTS THROUGH FALL  
TOWN MEETING 2016

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## ORGANIZATIONAL

### **ARTICLE 1 – GENERAL PROVISIONS**

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#### **SECTION 1      GENERAL BYLAWS**

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The following provisions shall constitute the revised Bylaws of the Town of Westborough, which shall be in lieu of all Bylaws heretofore in force.

#### **SECTION 2      REPEAL OF BYLAWS**

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The repeal of a Bylaw shall not thereby have the effect of reviving any Bylaw theretofore repealed.

#### **SECTION 3      VIOLATION OF BYLAWS**

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Whoever violates or breaches any of the provisions of these Bylaws whereby any act or thing is enjoined or prohibited, unless other provision is expressly made, forfeit and pay, for each offence, a fine up to an amount provided in MGLA Chapter 40, Section 21 as from time to time amended.

#### **SECTION 4      SEVERANCE PROVISION**

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If any Article or Section of any Article of these Bylaws is declared unconstitutional or illegal by any court, or is disapproved by any state authority having jurisdiction, the validity of the remaining provisions of these Bylaws shall not be affected thereby.

## **ARTICLE 2 – TOWN MEETINGS AND THE PROCEDURE THEREAT**

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### **SECTION 1            ANNUAL TOWN MEETING**

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The Annual Meeting for the election of Town Officers and all other matters to be determined by ballot shall be held on the first Tuesday in May in 2011, and the first Tuesday in March 2012 and each year thereafter. The polls shall be open from 8:00 a.m. to 8:00 p.m., and it shall be so stated in the warrant calling the meeting. All other business of the Annual Meeting shall be considered at the adjournment thereof as follows. (STM 2010)

The Annual Town Meeting for the consideration of all business, other than the election of Town Officers or other matters to be determined by ballot, shall be held during the week designated by the Selectmen as "Town Meeting Week", commencing at 1:00 p.m. on the second Saturday following the Election of Officers. The meeting shall be recessed not later than 5:00 p.m. to reconvene at 7:00 p.m.; adjournment of the session shall be to the following Monday night at 7:00 p.m. and then to each succeeding night at 7:00 p.m. until completion of the warrant.

In the event that all articles in the warrant have not been acted on by the end of the Thursday night session, the meeting shall stand adjourned to a time and date agreeable to the meeting. In the event of a secular or other holiday during the Town Meeting Week, that session shall be adjourned to the next night that shall be agreeable to the meeting by majority vote. No quorum or minimum number of voters shall be required for this meeting. (STM 2010)

### **SECTION 2            FALL AND SPECIAL TOWN MEETINGS**

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A special meeting for the consideration of such business as the Selectmen may place upon the warrant shall ordinarily be held on the third Monday in October commencing at 7:00 p.m. In the event of a secular or other holiday, the Selectmen may determine an alternative date in October for the commencement of the meeting. In the event that all articles in the warrant have not been acted upon by the end of the first session, the meeting shall stand adjourned to a time and date agreeable to the meeting as established by majority vote. No quorum or minimum number of voters shall be required for this meeting. (STM 2010)

### **SECTION 3            POSTING OF WARRANTS**

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Warrants for Town Meeting shall be served by posting attested copies of the same in at least two public places, by a time prior to the date at which the town meeting is to convene that is in compliance with the Massachusetts General Laws.

**SECTION 4            MODERATOR DETERMINATION ON SIGNS AND VISITORS  
AT TOWN MEETING**

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At the discretion of the Moderator, a portion of the hall may be reserved for visitors and open to the public, and a portion of the hall may be reserved for the working press; the area at the front of the hall and the stage may be occupied under the direction of the Moderator. Activities and signs in the vicinity of the meeting room (e.g. entrance area and lobby of the High School) which voters would normally encounter in the process of coming to or leaving the meeting require the permission of both the Moderator and the organization ordinarily responsible for the space (e.g. School Department). (ATM 1996)

**SECTION 5            TOWN MEETING QUORUM**

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No Town Meeting other than those described in Section 1 of the Article 2 shall take any action, except to adjourn, unless there are 50 voters present, and the Moderator shall announce whether or not a quorum is present immediately after the meeting is called to order. (STM 2010)

**SECTION 6            TOWN MEETING MOTIONS SECOND REQUIREMENT**

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The moderator may entertain motions without being seconded whenever in his judgment such procedure is consistent with good order and proper transaction of business.

**SECTION 7            MOTIONS IN WRITING**

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All motions shall be in writing if so directed by the Moderator.

**SECTION 8            FRIVOLOUS MOTIONS**

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The Moderator may decline to put motions obviously frivolous or tending to disorder.

**SECTION 9            DEPUTY MODERATOR**

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The Moderator may appoint a voter to perform the duties of the Moderator while he addresses the meeting, or in case he is called away from the meeting.

**SECTION 10           ORDER OF MOTIONS**

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The Moderator, in presenting motions that differ only in the amount of money involved, shall ordinarily put the largest sum first and, in questions that differ only in the amount of time involved, shall ordinarily put the longest time first.

## SECTION 11      PRECEDENCE OF MOTIONS

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When a question is before the meeting, the following set of motions shall be used as a guide, and shall ordinarily have precedence in their numerical order:

- (1) To adjourn
- (2) Take a recess
- (3) Rise to a question of privilege
- (4) Call for the previous question (Move the question, end debate)
- (5) Limit or extend limits of debate
- (6) Postpone to a certain time or particular place in the warrant
- (7) Commit, refer or recommit to a committee
- (8) Pass over
- (9) Amend
- (10) Main motion

But the treatment and order of receipt, of these and all other motions made in a Town Meeting shall be left to the final decision of the Moderator.

## SECTION 12      RECONSIDERATION

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Once final action has been taken on an article, and the meeting has taken up the next order of business or has adjourned, the matter may not again be taken under consideration at that town meeting unless, in the best judgment of the Moderator, a significant error or omission occurred in the language or the process of the original action on the article, or a significant change of circumstances has occurred, such that there is a clear likelihood that the outcome could change upon reconsideration or that reconsideration would be in the Town's best interest.

Such errors, omissions or changes of circumstance shall be brought to the Moderator's attention as soon as they are known, and the Moderator shall determine if and when the matter will be taken up. The Moderator shall announce this decision to the town meeting. If the Moderator determines that the matter may be taken up pursuant to this Section, a three-quarters vote shall be necessary in order to proceed with reconsideration. (ATM 2005)

Notwithstanding the foregoing, if after all other votes and reconsideration from the floor are complete, and if the size of the appropriations voted appear to make necessary a ballot override vote (either levy, capital outlay or debt exclusion) under MGL 59 § 21C ("*Proposition 2 ½*"), then the conditions for reconsideration shall be deemed to have been met, and the moderator shall accept motions for reconsideration on any appropriation from the Advisory Finance Committee only, for the purpose of reducing certain appropriations or all appropriations to meet the limits of Proposition 2½, or for the purpose of making certain appropriations contingent upon an override vote. (STM 2011)



### SECTION 13      SPEAKERS AT TOWN MEETING

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No person shall address the meeting without first being recognized by the Moderator. When two or more persons rise to speak at the same time, the Moderator shall name the one entitled to speak.

### SECTION 14      NUMBER OF TIMES SPEAKERS MAY ADDRESS TOWN MEETING

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No person shall speak more than twice upon any question, except to answer an inquiry, or to give information requested, without first obtaining leave of the meeting, and then not until others, who have not spoken upon the question, shall have spoken if they desire.

### SECTION 15      NON-VOTERS AT TOWN MEETING

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At any Town Meeting held for the transaction of Town business, no person whose name is not upon the list of voters shall be admitted to the floor of the hall or allowed to speak, unless a letter of request in a form satisfactory to the Moderator has been presented by or on behalf of the non-voter, and the meeting has by majority vote granted the request. Town employees who are non-voters shall not be required to submit such a letter, but shall be admitted to the floor of the hall if requested to attend by the board or town official to whom they report; they may address the meeting. This Section shall not apply to the annual State and Town elections while the voters are casting their ballots and pending the declaration of the same. (ATM 1991)

### SECTION 16      ARTICLES TAKEN OUT OF ORDER

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Articles in the Warrant shall be acted upon in the order in which they stand, except that the Moderator shall, upon request and for reasons stated, entertain a motion to take up an article out of its regular order. Such motion shall be adopted openly on a two-thirds vote.

### SECTION 17      DISSOLVING TOWN MEETING

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No motion, the effect of which would be to dissolve a Town Meeting, shall be in order until every article in the Warrant has been duly considered and acted upon, but this shall not preclude the postponement of action on or consideration of, any article to an adjournment of the meeting to a stated time.

### SECTION 18      TOWN MEETING COMMITTEES

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All committees shall be appointed by the Moderator unless otherwise specifically directed by the meeting, and all committees so appointed shall be directed to report within a definite time. If a committee does not report within the time stated, it shall be considered discharged unless in the meantime the Town shall have granted an extension of time.

## SECTION 19 VOTE COUNTING METHODS

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When a question is put, the sense of the meeting shall be determined by a show of hands of the Town Meeting members and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the show of hands, or if his decision is immediately questioned, he shall determine the vote by a standing vote and he may appoint tellers to make and return the count.

On matters requiring a two-thirds vote by statute, the procedure shall be the same, and a standing vote need not be taken unless the Moderator is unable to decide the vote by the show of hands, or if his decision is immediately questioned. (ATM 1997)

In the alternative, at the discretion of the Moderator, an electronic handset voting system may be employed that provides an accurate count as determined by the Town Clerk of the yeas and nays on each question to the clerk and the moderator.

## SECTION 20 TOWN MEETING RECORDATION

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Still and motion photography, televising, and videography shall be permitted only under the following circumstances:

- (A) Cameras are to be utilized only in a location or locations agreed upon by the Moderator and the Permanent Cable Supervisory Committee, and shall be placed and operated so that there is no active interference with the orderly conduct of Town Meeting.
- (B) All recording activities shall be conducted in an orderly, non-intimidating and non-intrusive manner. Existing lighting shall be used, i.e. no additional external illumination shall be utilized for the purpose of photographing or videotaping.
- (C) The official record of the meeting is kept exclusively by the Town Clerk, and no recording of whatever kind may be substituted therefore.
- (D) Any questions concerning these activities during Town Meeting shall be decided in accordance with this Section at the sole discretion of the Moderator.

# ARTICLE 3 – ADVISORY FINANCE COMMITTEE

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## SECTION 1 MEMBERSHIP

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There shall be an Advisory Finance Committee consisting of nine voters of the Town, no one of whom shall be a Town officer now elected by ballot, or an appointed official or a Town employee. Said Committee shall choose its own officers and shall serve without pay, except the clerk, who shall receive reasonable compensation for his services. The clerk of said Committee may or may not be a member of the Committee.

## **SECTION 2            TERM OF OFFICE**

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The Moderator, after each Annual Town Meeting, shall appoint three members of said Committee for terms of three years. The terms of office of said members shall commence immediately upon qualification, and shall expire after the final adjournment of the Annual Town Meeting or as soon as their successors are appointed and qualified.

## **SECTION 3            VACANCIES**

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The Moderator shall fill by appointment any vacancies which may occur and said appointee shall serve for the remainder of his predecessor's term of office.

## **SECTION 4            ADVISORY FINANCE COMMITTEE RECOMMENDATIONS**

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To this Committee shall be referred all articles in any warrant for a Town Meeting, and said Committee shall report thereon to the Town Meeting and make such recommendations as it deems best for the interests of the Town and its citizens. This Committee shall also consider all matters relating to the appropriation, borrowing and expenditure of money by the Town, its indebtedness, methods of administration of its various departments, and other municipal affairs. Town Departments shall consult the Finance Committee relative to contracts for professional services and said Committee shall make recommendations thereon to the various Town Departments.

## **SECTION 5            ACCESS TO INFORMATION**

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In the discharge of its duty, said Committee shall have free access to all books of record and accounts of any office or department of the Town.

# **ARTICLE 4 – SELECTMEN**

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## **SECTION 1            POWERS AND DUTIES**

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The Selectmen shall have full authority as agents of the Town to institute, prosecute and defend any and all claims, actions and proceedings to which the Town is a party, or in which the interest of the Town are or may be involved, and to compromise claims against the Town, unless otherwise ordered by a vote of the Town.

## **SECTION 2            ACQUISITION AND DISPOSITION OF REAL ESTATE**

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Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the Town, the same shall be executed by the Selectmen in behalf of the Town, unless the Town shall vote otherwise.

### **SECTION 3            BONDS AND DISPOSITION OF PERSONAL PROPERTY**

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The Selectmen shall have the sole custody of all bonds required of the officers of the Town.

The Selectmen may from time to time declare certain Town property to be surplus through the signatures of the majority of the entire Board on a Declaration of Surplus Property listing of these items. The Disposal of these goods must conform to all Massachusetts General Laws as amended. (ATM 2007)

### **SECTION 4            AUTHORITY AS CHIEF EXECUTIVE OFFICERS**

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The Selectmen shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law or by these Bylaws.

### **SECTION 5            TAX TITLE PROPERTY**

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The Board of Selectmen are hereby authorized to sell at public sales any of the property which the Town may have acquired, or may hereafter acquire, through procedure based upon non-payment of taxes or under proceedings for the sale of lands of low value, and to impose upon such property such restrictions, reservations or conditions as shall be deemed in the best interest of the Town, and to execute and deliver in the name of and under the seal of the Town such deeds or instruments necessary to give effect to this Bylaw.

### **SECTION 6            ANNUAL TOWN REPORT**

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The Town Warrant and its actions thereon shall be caused to be printed in the Annual Report of the Town Officers.

### **SECTION 7            COUNCIL ON AGING**

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The Selectmen are allowed to provide for a local Council for Aging pursuant to Massachusetts General Laws, Chapter 40, Section 8B. (ATM 1997)

## **ARTICLE 5 – TOWN MANAGER**

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The Town Manager shall have the responsibility and authority to provide and appoint adequate staffing within the office of the Town Manager subject to the constraints of the Salary Administration Plan and appropriations as voted by the Town Meeting. (ATM 1987)

## **ARTICLE 6 – HUMAN RESOURCES MANAGEMENT**

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Subject to the approval of the Board of Selectmen, the Town Manager shall adopt rules and regulations establishing a human resource management system. The human resource management system shall make use of modern concepts of personnel management and shall include, but not be limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; establishing probationary periods; a method of recruiting and selecting employees based on merit and adherence to the principles of equal employment opportunity; a centralized recordkeeping system; a performance evaluation process; disciplinary and grievance procedures; a professional development and training program and any other elements that may, from time to time, be deemed necessary. All town employees shall be subject to the rules and regulations adopted under this Section except employees of the school department. If there is a conflict between the rules and regulations adopted under this Section and an existing collective bargaining or employment agreement, the collective bargaining or employment agreement shall prevail over the rules and regulations adopted under this Section. (ATM 2016)

## **ARTICLE 7 – FINANCE DEPARTMENT**

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### **SECTION 1 FINANCE DEPARTMENT AND FINANCE DIRECTOR**

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There shall be a Finance Department, to include the functions and departments of the Town Accountant, Treasurer/Collector, and Assessing, to be headed by and under the supervision of a Finance Director. The Town Accountant, appointed under Section 4-2(b)(iii) of the Town Charter by the Town Manager with the concurrence of the Board of Selectmen, shall serve as the Finance Director and be referred to as such for purposes of these bylaws. Except as otherwise provided by the Town Charter, the Finance Director shall have all of the powers and duties of a town accountant under the General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as may from time to time be assigned to the Finance Director by the Town Manager, Charter, Bylaws or vote of the Town Meeting.

### **SECTION 2 PURCHASE ORDERS**

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Every department expending municipal funds in excess of two hundred dollars (\$200) shall only do so by issuing a written purchase order.

Said purchase order must be on a form approved by the Chief Procurement Officer and Finance Director. When issuing such a purchase order, a copy shall be sent to the vendor, a copy to the Finance Director's Office, and a copy to be retained by the department. (ATM 1994)

### **SECTION 3 REVENUE TURNOVER**

---

Any department collecting funds on behalf of the Town shall transfer those funds directly to the Town Treasurer on forms provided by the Finance Director on a weekly basis. Any department collecting more than one thousand dollars (\$1,000.00) in any period less than one week shall, upon reaching that amount, transfer those funds to the Treasurer on a daily basis.

## **ARTICLE 8 – TOWN TREASURER/COLLECTOR**

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### **SECTION 1 POWERS AND DUTIES**

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The Town Treasurer/Collector shall have all of the powers and duties Town Treasurers and Town Collectors may have under the Constitution and the Laws of the Commonwealth of Massachusetts. The Treasurer/Collector may also exercise such additional powers and duties as may from time to time be assigned to the Treasurer/Collector by the Charter, Bylaws, or by vote of the Town Meeting.

### **SECTION 2 COLLECTION OF WATER AND SEWER FEES**

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The Town Treasurer/Collector shall have the responsibility of collecting all monies from water and sewer services and other collections that may be, from time to time, directed by the Board of Selectmen

### **SECTION 3 RENEWAL OF CERTAIN LICENSES AND PERMITS**

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- (A) The Town Treasurer/Collector hereinafter referred to as the "Treasurer/Collector" shall annually and may periodically furnish to each department, board, or commission, hereinafter referred to as the "licensing authority", that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the "party", that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.
- (B) The licensing authority may deny, revoke, or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector or with respect to any activity, event or other matter which is subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Treasurer/Collector; provided however, that written notice is given to the party and the Treasurer/Collector, as required by applicable provisions of law, and the party is given a hearing, to be held no earlier than fourteen(14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer/Collector shall have the right to intervene in any hearing conducted

with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this Bylaw shall not be reissued or renewed until the license authority receives a certificate issued by the Treasurer/Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Town as of the date of issuance of said certificate.

- (C) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditional upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided however, that the holder be given notice and a hearing as required by applicable provisions of law.
- (D) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section One of Chapter 262 of the Mass. General Laws in the business or activity conducted in or on said property.
- (E) This Section shall not apply to the following license or permits:
  - (1) Open Burning (MGL Ch. 48, S13)
  - (2) Bicycle Permits (MGL Ch. 85, S11A)
  - (3) Sale of Articles for Charitable Purposes (MGL Ch. 101, S33)
  - (4) Children Work Permits (MGL Ch. 149, S69)
  - (5) Clubs, Associations Dispensing Food or Beverage Licenses (MGL Ch. 140, S21E)
  - (6) Dog Licenses (MGL Ch. 140, S137)
  - (7) Fishing, Hunting, Trapping Licenses (MGL Ch. 131, S12)
  - (8) Marriage Licenses (MGL Ch. 207, S28)
  - (9) Theatrical Events, Public Exhibition Permits (MGL Ch. 140, S181) (ATM 1999)

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## **ARTICLE 9 – DEPARTMENT HEAD EMPLOYMENT CONTRACT**

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### **SECTION 1            CONTRACTS FOR CERTAIN DEPARTMENT HEADS                                  AUTHORIZED**

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The Town, acting by and through its Board of Selectmen, as authorized by and pursuant to the Westborough Home Rule Charter, may provide an employment contract for a period of up to three (3) years, to provide for the salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, relocation expenses, reimbursement of expenses incurred in

the performance of duties or office, indemnification, liability and disability insurance, and leave, for the Department of Director of the Department of Public Works.

**SECTION 2           EMPLOYMENT CONTRACT PREVAILS OVER PERSONNEL POLICIES**

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Such employment contract shall prevail over and preempt any provision of any local personnel bylaw, rule or regulation covering the subject matter of the employment contract.

**SECTION 3           CONTRACT OBLIGATION**

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If the Town meeting votes to appropriate the funds necessary for the first year of contract described herein, the Town shall be bound to fund the remaining term of the contract.

**SECTION 4           REMOVAL**

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Nothing contained in this Section shall affect the respective appointment or removal powers of the Board of Selectmen over the department head, nor shall it grant tenure to him.

**SECTION 5           ADOPTION OF RULES AND REGULATIONS**

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The Board of Selectmen may adopt rules and regulations to carry out this bylaw.

**SECTION 6           DEPARTMENT HEAD CONTRACTS**

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This bylaw may be referred to as the Department Head Employment Contract Bylaw. (ATM 2008)

**ARTICLE 10 – PROVISIONS OF GENERAL LAWS**

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Provisions of General Laws and Special Acts in force in this Town by virtue of their acceptance, or the acceptance of corresponding earlier laws.

<b>General Laws</b>	<b>Relative to</b>	<b>Year</b>	<b>Accepted Acts</b>
Ch. 32, § 1-28	Contributory Retire. Sys	1946	
Ch. 32, § 22D	Funded Pension System	1990	
Ch. 32, § 77	Pensioning Laborers	1912	1912, Ch. 503
Ch. 32, § 90A	Retirees Accidental Disability	1986	
Ch. 32A, § 10B	Retiree's Insurance	1962	1962, Ch. 647
Ch. 32B	Group Insurance	1956	
Ch. 32B	Group Insurance	1969	



Ch. 32B	Group Insurance	1970	
Ch. 32B, § 4 (sub.B2)	Credit for time for Call Firefighter and Reserve Police Officer for Retirement	1996	Acts of 95
Ch.32B, § 7A	Group Life & Health Insurance	1986	
Ch.32B, § 8A	Sharing Ins. Refunds or Dividends	1966	
Ch.32B, § 9A	Payment 50% Premium for Retirees	1961	
Ch.32B, § 9D	1/2 Prem.Costs Surviving Spouse	1978	
Ch.32B, § 9D2	Pay Additional Rate Health Insurance Retired Surviving Spouse	1994	
Ch. 32B, § 9E	Pay Subsidized Rate Life, Health/Retired & Dependent	1994	
Ch. 32B, § 11B	Group Health Insurance Retirees		1962
<b>General Laws</b>	<b>Relative to</b>	<b>Year</b>	<b>Accepted Acts</b>
Ch. 32B, § 18	Medicare Extension Plans;		
	Mandatory Transfer of Retirees	2007	
Ch. 32B, § 20	Establishing an Other Post Employment Benefits Trust	2014	
Ch. 32B, § 85	Disability Retirement for Call Firefighter and Reserve Police Officer	1996	Acts of 95
Ch. 32D	Group Life & Health Insurance	1968	1968 Ch.100
Ch. 39, § 15	Town Meeting Procedure	1997	1996 Ch.448 S.2
Ch. 39, §23D	Adjudicatory hearings, Attendance	2007	
Ch. 40, § 6B	Uniforms-Police & Foreman	1965	
Ch. 40, § 7	Removal of Snow & Ice & Assessment of Cost	1921	
Ch. 40, § 8A	Commission to Promote Business & Industry	1955	1954.Ch. 297
Ch. 40, § 8B	Establish Council on Aging	1997	(97ATM)
Ch. 40, § 8C	Establish Conservation Commission	1967	
Ch. 40, § 8D	Establish Historical Commission	1978	
Ch. 40, § 8E	Youth Commission	2016	
Ch. 40, § 8G	Police Mutual Aid	2014	
Ch. 40, § 11	Forest Fire Prevention	1915	RL Ch25 §17
Ch. 40, § 12	Land for Public Bathhouse	1966	
Ch. 40, § 21D	Non-criminal Disposition	1992	
Ch. 40, § 22D	Removal Illegally Parked Cars	1984	
Ch. 40, § 22F	To Set/Amend Permit/Licensing Fees		2010
Ch. 40, § 42A	Collection of Water Rates	1926	1923, Ch. 391
Ch. 40, § 42A	Water Liens	1935	1923, Ch. 197
Ch. 40, § 57	Granting & Renewing Certain Licenses and Permits	1986	
Ch. 40A § 20	Board of Appeals	1964	
Ch. 40B	CMRPC	1968	
Ch. 41, § 1-2	Selectmen	1931	
Ch. 41, § 55	Accounting System	1931	
Ch. 41, § 81A	Planning Bd. Subdivision Control	1955	

Ch. 41, § 81U	Monies Rec'd Subdivision Default	1991	
Ch. 41, § 100A	Indemnification of Employees	1947	Repealed 1980
Ch. 41, § 105	Establish Elected Board of Trustees of Soldiers Memorials	1988	Repealed ATM2001
Ch. 41, § 111	Laborers' Vacations	1914	1914, Ch. 217
Ch. 44	Annual Audit	1934	
Ch. 44, § 53C	Payment of Off-Duty Police Ofcrs	1972	
Ch. 44, § 53D	Revolving Account-Recreation	1981	
Ch. 48, § 42 - 44	Appointment of Fire Chief	1968	
Ch. 48, § 59A	Fire Dept. Response - Aid to Other Cities and Towns	1949	
Ch. 53, § 9A	Nomination Papers	1975	
<b>General Laws</b>	<b>Relative to</b>	<b>Year</b>	<b>Accepted Acts</b>
Ch. 54	Ballots	1890	1890, Ch. 386
Ch. 54, § 16A	Appoint. at Polls to fill Vacancies	1969	
Ch. 54, § 103A	Absentee Voting Town Elections	1964	
Ch. 59, § 5 (17C)	Property Tax Exemptions Surviving Spouse/Elderly		
Ch. 59, § 5 (17D)	Prop. Tax Exemption, age 70 \$175/meet criteria	1994	
Ch. 59, § 5 (5B) & (37A)	Property Tax Exemption Appeals; Eligibility for Exemption Blind Persons	1983 2009	
Ch. 59, § 5 (41A) & (41B)	Property Tax Exemption for Elderly Increase Allowable Income for Deferrals	1984 2003	1913, Ch 807
Ch. 59, § 5 (41C)	Property tax exemption age 70 \$500/meet criteria	1994	
Ch. 59, § 5K	Senior Tax Work Off Amendment	2015	
Ch. 59, § 5N	Veterans Tax Work Off	2015	
Ch. 59, § 59A	Environmental Cleanup Tax Abatement	2010	
Ch. 59, § 57C	Quarterly Tax Billing	1992	Acts of 89
Ch. 60, § 3D	Senior/Disabled Tax Relief	2012	
Ch. 60, § 15	Local Taxes - Fees of the Collector	2009	
Ch. 60, § 15B	Tax Title Revolving Fund	2015	
Ch. 60, § 23B	Lien Fee Schedule	1990	
Ch. 60, § 106	Property Tax Collection	1986	
Ch. 60A, §1	POW Excise Tax Exemption	1984	
Ch. 64G, § 3A	Room Occupancy Tax	1988	
Ch. 64L, § 2(a)	Local Option Meal Excise Tax	2010	
Ch. 71, § 20A	Est. Instructional Trust Fund Account for Public Schools	1993	
Ch. 71, § 21	Continuation Schools	1919	1919, Ch. 311
Ch. 71, § 40	Equal Pay -Men & Women Teachers	1967	

Ch. 73, § 4	Increased Real Estate Exemptions	2011	amd.Ch.126/Acts 1988
Ch. 82, § 17-20	Jurisdiction of Towns over Highways	1915	R.L.Ch. 48 1915 ' 58-60
Ch. 83, § 16A-F	Add Unpaid Sewer Use Charge to Tax Bills	1979	
Ch. 85, § 6	Removal of Snow & Ice & Assessment of Cost	1921	
Ch. 90, § 20C	Administration & Enforcement of Parking Violations	1968	
Ch. 90, § 20A(2)	Parking Violations	1981	
Ch. 94C, § 47	Law Enforcement Trust Fund	1986	
Ch. 121B, § 3	Housing Authority	2016	
<b>General Laws</b>	<b>Relative to</b>	<b>Year</b>	<b>Accepted Acts</b>
Ch.136, § 21-25	Games/Sports on the Lords Day	1935	
Ch.138, § 12B	Liquor License Establishments – Nudity	1983	
Ch.138, § 17A	Seasonal Alcoholic Beverages Lic.	1985	1984, Ch 491
Ch.139, § 1-2-3	Power to Remove Dangerous Bldg.	1964	
Ch.140, § 147A	Dog Licensing Control & Regs.	1986	
Ch.143, § 3	Permitting Bylaw for Bldg. Inspection	1916	RL, Ch. 104 §1
Ch.148, § 56	License Open Air Parking Areas	1948	
Ch.148, § 26C	Certain Public Accommodations, Automated Smoke & Heat Detectors	1984	
Ch.148, § 26E	Residential Bldg, Installation of Smoke Detectors	1984	
Ch.148, § 26G	Install of Auto Sprinklers	1984	
Ch.148, § 26H	Auto Sprinklers-Boarding Hses	1986	1986, Ch 265
Ch.148, § 26 I	Auto Sprinklers - Residential	1990	
Ch.152, § 50	Increase in Pensions	1956	1953 /Ch670
Ch.152, § 69	Workmen's Compensation	1915	1913 Ch 807
Ch.258, § 13	Indemnification of Employees	1980	(ballot)
A. of '50, Ch.820	Increase in Pensions	1950	
A. of '53, Ch.624	Increase in Pensions	1953	
A. of '71, Ch.486	Beano	1972	
A. of '79, Ch.151 §14	- Civil Svc. Police Chief	1981	(ballot)
A. of '85, Ch.188 §13	- Prof. Development Grant	1986	
A. of '90, Ch.291	Enhanced 911	1991	

## **ARTICLE 11 – ALTERNATIVE METHODS OF DEALING WITH MGL CHAPTERS 61, 61A, AND 61B**

The intent of this Bylaw is that the Town acquire MGL Chapter 61, 61A, and 61B land whenever possible.

## SECTION 1 DEFINITIONS

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“Buyer” – The intended bona fide purchaser(s) of the owner's land.

“Cooperating Entity” – Any governmental unit, department, or agency (except the Town and any department, board, or committee thereof) and any non-profit association, trust, corporation and/or other organization or entity whose sole purpose is to acquire and/or aid other organizations or entities in the acquisition of open land, wetland, forested land, agricultural land, horticultural land, conservation land, and other types of undeveloped and/or wild land, as the case may be, to be forever held, managed, maintained and preserved free from any residential, industrial and/or commercial development and/or use.

“Fair Value” – The full and fair value of the owner's land, as of the notice date, as determined pursuant to MGL Chapter 61, 61A and 61B, as the case may be.

“Option Period” – The period permitted the Town to exercise its first refusal option as provided in MGL Chapter 61, 61A and 61B, as the case may be.

“Owner” – The person, or those persons, whose land is subject to the Town's first refusal option under MGL Chapter 61, 61A and 61B, as the case may be.

“Purchase Price” – That sum offered by the buyer, bona fide, to the owner, to purchase the owner, to purchase the owner's land.

“Unconditional Gift or Grant” – Any gift or grant of money or its equivalent, and any written and binding pledge thereof, made to the Town by any source whatsoever, which the Town is not obligated to repay.

## SECTION 2 ACCEPTANCE

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Whenever the Town is given notice of the proposed sale or conversion to another use of MGL Chapter 61, 61A and/or 61B land, as the case may be, and, within the option period, the Town has received an unconditional gift or grant equivalent to the purchase price or the fair value of such land, as the case may be, for the purchase of such land, the Board of Selectmen shall, with the option period, give requisite notice of exercise, of the Town's option to the owner. Thereafter, at a town meeting, the Town shall vote to determine the municipal purpose, if any, for which such land is to be held by the Town and, if appropriate, whether the Conservation Commission shall manage such land.

## SECTION 3 COOPERATING ENTITIES

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Whenever the Town is given notice of the proposed sale or conversion to another use of MGL Chapter 61, 61A and/or 61B land, as the case may be, and, within the option period, the Town receives from a cooperating entity funding and/or a binding written pledge for funding equivalent to the purchase price or the fair value of such land, as the case may be, for the purchase of such land, but subject to a contingency that the cooperating entity is to be repaid, in whole or in part, in

cash or its equivalent, in installments or otherwise or, failing such repayment, by conveyance of such land, or portions thereof, or certain rights therein, to the cooperating entity to be forever held by the cooperating entity in accordance with its land conservation purpose, all as negotiated by the Board of Selectmen with the cooperating entity, the Board of Selectmen shall give requisite notice to the owner of the exercise of the Town's option.

The Board of Selectmen shall then take custody of such land and, thereafter, the Town shall vote to determine whether the Town will ratify such repayment terms as were negotiated by the Board of Selectmen with the cooperating entity. If the Town does not vote to ratify such repayment terms the Town, after actually receiving from the cooperating entity funding equivalent to the purchase price or the fair value of such land, as required, shall convey to the cooperating entity all of its right, title and interest in such land unless such cooperating entity previously agreed to accept portions of such land, or certain rights therein, only, in which event the Town shall convey such portions of the land, or certain rights therein, only, to the cooperating entity in accordance with its land conservation purpose. If the Town does vote to ratify such repayment terms the Town, thereafter, shall vote to determine the municipal purpose, if any, for which such land is to be held by the Town and, if appropriate, whether the Conservation Commission shall manage such land.

#### **SECTION 4           LAND TO BE ACQUIRED BY THE TOWN**

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In all other instances in which the Town is given notice of the proposed sale or conversion to another use of MGL Chapter 61, 61A and/or 61B land, as the case may be, and, within the option period, the Town receives from a cooperating entity partial funding and/or a binding written pledge for partial funding to acquire such land, whether or not the cooperating entity seeks reimbursement or repayment in any form for such partial funding and/or binding written pledge for such partial funding, the Board of Selectmen is authorized and encouraged to bring before the Town, at a Town Meeting called within the option period, terms negotiated by the Board of Selectmen with such cooperating entity for the acquisition of such land, to see if the Town will vote to ratify and confirm such terms. Thereafter, if need be, the Town shall vote to determine the municipal purpose, if any, for which such land shall be held by the Town and, if appropriate, whether the Conservation Commission shall manage such land.

### **ARTICLE 12 – LEGAL EXPENSES**

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The Board of Selectmen shall cause to be published in each Westborough Annual Report in a Section entitled "Legal Expenses" all sums expended for legal services in the conduct of the Town's affairs. Included in the above shall be listed all matters in litigation, law firm, and a total of all legal costs relative to this litigation for the past calendar year of the Annual Report. Excluded from the operation of the Bylaw shall be the legal expenses of the School Committee and legal expenses for the collection of taxes. (ATM 1994)

## **ARTICLE 13 – RESIDENCY REQUIREMENT FOR APPOINTMENT**

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Any applicant for appointment to a regular Town body (such as a committee, board, commission, or authority) must be a resident of the Town of Westborough to be eligible for appointment. If a member is no longer a resident of the Town, that individual shall be deemed to have vacated the position. Non-residency may be indicated by removal from the voter list, by a census update or by other means. (ATM 1993)

## **ARTICLE 14 – COMMITTEE FOR SOLDIERS’ MEMORIALS**

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### **SECTION 1 PURPOSE**

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The Committee for Soldiers’ Memorials shall have charge and control of the construction of memorials commemorating the services and sacrifices of the soldiers, sailors, marines, and airmen who have served the country in war, or persons who have rendered military service to the Commonwealth in time of war and shall have custody and care thereof after their construction.

### **SECTION 2 MEMBERSHIP**

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The Committee shall consist of six (6) members consisting of a member of the Board of Selectmen and three (3) members who shall be veterans and two (2) who shall not be veterans. The elected incumbents in the office of Trustee for Soldiers’ Memorials shall hold the office of committee member until his or her elected term expires. Upon expiration of the term of an incumbent, the Board of Selectmen shall appoint a successor member to the Committee for a term of three (3) years.

### **SECTION 3 RULES AND REGULATIONS**

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The Committee may make such rules and regulations relative to the use of said memorials, as it deems necessary.

## **ARTICLE 15 – REVOLVING FUNDS**

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The Town of Westborough shall authorize the following Revolving Funds:

<b><u>Revolving Fund</u></b>	<b><u>Purpose</u></b>	<b><u>Funds to be Deposited From</u></b>	<b><u>Authorized to Expend Funds</u></b>	<b><u>Maximum Expenditure</u></b>
Fire Department	EMS Training	Program Fees	Fire Chief	\$4,000

Youth and Family Services	To Provide Youth Activities such as Hot Summer Nights and Babysitter training	Program Fees	Youth Commission	\$15,000
Local Emergency Planning Committee	To address hazardous materials spills and provide the Fire Department the means to bill insurance companies and refurbish supplies used in HazMat spills	Insurance and other Proceeds for Services	Local Emergency Planning Committee	\$100,000
Council on Aging	To Provide Programs for Seniors	Program Fees	Council on Aging	\$15,000
Recreation	To Provide Recreation Programs	Program Fees	Recreation Commission	\$400,000

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**ARTICLE 16 – MARIJUANA NOT MEDICALLY PRESCRIBED**

Consistent with MGL Ch. 94G, Section 3(a)(2), all types of marijuana establishments as defined in MGL Ch. 94G, Section 1(j), to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Westborough.

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**ARTICLE 17 – RESERVED**

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**ARTICLE 18 – RESERVED**

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**ARTICLE 19 – RESERVED**

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**ARTICLE 20 – RESERVED**

## **ACTIVITY REGULATIONS**

### **ARTICLE 21 – JUNK DEALERS AND COLLECTORS**

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#### **SECTION 1 JUNK DEALERS**

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No person shall be a collector of, or a dealer in junk, old metals, or second-hand articles, or a keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, unless licensed therefore by the Selectmen.

### **ARTICLE 22 – DUMPS**

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#### **SECTION 1 REFUSE DUMPS PROHIBITED**

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No person shall transport or cause to be transported into the Town for the purpose of dumping or depositing the same in the Town, any ashes, paper, dirt, waste garbage, refuse, rubbish or filth of any kind, or any animal or vegetable material of any nature\* without the written permission of the Board of Health. Nor shall any owner, occupant, or person in possession of any land or premises in the Town, allow, permit, or in any way engage in the dumping or depositing of any ashes, paper, dirt, waste, garbage, refuse, rubbish or filth of any kind, or any animal or vegetable material of any nature\* upon his land or premises without a permit. (\* Except when used as fertilizer for farming or domestic use).

#### **SECTION 2 REFUSE IN PUBLIC WAYS PROHIBITED**

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No person shall place or cause to be place any waste, refuse or any kind of rubbish in any public way or place in the Town, except in such place and in such manner as may be directed by the Board of Health.

### **ARTICLE 23 – HAWKERS AND PEDDLERS**

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The display, for sale to the general public, of merchandise or goods from a temporary or portable location shall be prohibited except by permit from the Chief of Police. Said Permit shall require a fee not inconsistent with Chapter 101 of the Massachusetts General Laws. Individuals, religious, charitable, or non-profit organizations and persons servicing a parade or an event sponsored by a Department of the Town within the Town shall be exempt from this Bylaw. A violation shall be \$100. (See ARTICLE 31) (ATM 2010)



## **ARTICLE 24 – LICENSING OF SOLICITORS AND CANVASSERS**

For the purpose of this Bylaw, the following as used herein shall be considered to have the meaning herein ascribed thereto:

### **SECTION 1           DEFINITIONS**

- (A) “Soliciting” shall mean and include any one or more of the following activities:
- (1) Seeking to sell or offering to sell by sample, list catalogue or otherwise for future delivery, or seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character, or description whatever, for any kind of consideration whatever; or
  - (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or
  - (3) Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable, religious, political action, or nonprofit association, organization, corporation or project.
- (B) “Residence” shall mean and include every separate living unit occupied for residential purposes for one or more persons, contained within any type of building or structure.
- (C) “Registered solicitor” shall mean and include any person who has obtained a valid certificate of registration as hereinafter provided, which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

### **SECTION 2           CERTIFICATE OF REGISTRATION**

Every person desiring to engage in soliciting as herein defined from persons in residences within Westborough, is hereby required to make written application for a Certificate of Registration as hereinafter provided. Such Certificate shall be carried by the solicitor.

### **SECTION 3           APPLICATION FOR CERTIFICATE OF REGISTRATION**

Application for a Certificate of Registration shall be made upon a form provided by the Police Department of the Town. The applicant shall truthfully state in full the information requested on the application, to wit:

- (A) Name and address of present place of residence of applicant and business address.

- (B) Name and address of the person, firm or corporation or association whom the applicant is employed or represents.
- (C) Purpose of solicitation.
- (D) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.
- (E) Period of time for which the certificate is applied, in any event not to exceed twelve (12) months, said time period to be at the discretion of the Board of Selectmen.
- (F) Date or approximate date of the latest previous application for certificate under this ordinance, if any.
- (G) Has Certificate of Registration issued to the applicant under this ordinance ever been revoked?
- (H) Has the applicant ever been convicted of a violation of a felony under the laws of the state or any other state or Federal law of the United States?
- (I) Names of magazines, journals, or books.
- (J) Proposed method of operation.
- (K) Signature of applicant.

#### SECTION 4 APPLICATION

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All statements made by the applicant upon the application or in connection therewith shall be made under the penalties of perjury.

#### SECTION 5 REGISTRATION PROHIBITED

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No Certificate of Registration shall be issued to any person who has been convicted of a violation of any of the provisions of this ordinance, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

#### SECTION 6 SEVEN (7) DAY WAITING PERIOD

---

All applications for a Certificate of Registration shall be made at least seven (7) days before desire date of initial soliciting and the Police Chief shall approve said applications. The Board of Selectmen may waive this seven (7) day requirement.

## SECTION 7 PERMANENT RECORD

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The Police Department shall keep a permanent record of all applicants and issuances of Certificates of Registration for soliciting.

## SECTION 8 REVOCATION OF CERTIFICATE

---

Any Certificate of Registration issued hereunder shall be revoked by the Board of Selectmen if the holder of the Certificate is convicted of a violation of any of the provisions of this ordinance, or has made a false material statement in application, or otherwise becomes disqualified for the Issuance of a Certificate of Registration under the terms of this bylaw. Immediately upon such revocation, written notice thereof shall be given by the Board of Selectmen to the holder of the Certificate in person or by certified mail addressed to his or her residence address set forth in the application.

- (A) Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.
- (B) Certificate of Registration shall state the expiration date thereof.

## SECTION 9 NOTICE OF REGULATING SOLICITING

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Every person desiring to secure the protection provided by the regulations pertaining to soliciting contained in the bylaw, may comply with the following directions, to wit:

## SECTION 10 SOLICITING PROHIBITED

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Notice of the determination of the occupant of the refusal of invitation to solicitors, to any resident, may be given in the manner following:

- (A) A weatherproof card or sign, approximately three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows: "NO SOLICITORS INVITED"
- (B) The letters shall be at least one (1) inch in height. Cards shall be provided by the Town Clerk's Office of the Town to persons requesting at the cost thereof.
- (C) A card or sign so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

## SECTION 11 DUTY OF SOLICITORS

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It shall be the duty of every solicitor upon going onto any premises in the municipality upon which a residence as herein defined is located, to first examine the notice provided for in this ordinance, if any is attached, and be governed by the statement contained on any notice.

- (A) Upon reading the sign, the solicitor shall immediately and peacefully depart. Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

## SECTION 12 UNINVITED SOLICITING IS PROHIBITED

---

It is hereby declared to be unlawful for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of Section 6 of this bylaw.

## SECTION 13 FEE FOR SOLICITATION

---

Upon approval by the Board of Selectmen of the application for a Certificate of Registration, the applicant shall pay to the Town a fee in the amount of TWENTY-FIVE DOLLARS except that the Board of Selectmen shall waive said fee for any charitable, religious, social, political action, or non-profit group, including but not limited to Veteran's groups, hospitals, United Way, YMCA, and the American Red Cross. In the event that any organization or group shall have more than one solicitor, the fee shall be TWENTY-FIVE DOLLARS per solicitor unless such fee is waived by the Board of Selectmen as provided above.

## SECTION 14 TIME LIMIT ON SOLICITING

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It is hereby declared to be unlawful for any person whether registered under this ordinance or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock to attract the attention of the occupant of such residence, for the purpose of securing an audience, with the occupant thereof and engage in soliciting as herein defined, prior to nine a.m. (9 a.m.) or after nine p.m. (9 PM) of any weekday.

## SECTION 15 PERMITS

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The Town shall provide each solicitor with a badge-size permit for solicitation which must be displayed conspicuously on the outer garment of the solicitor unless the Board of Selectmen otherwise waives this requirement.

## SECTION 16 PENALTY

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Any person who violates this Bylaw may be arrested without a warrant in the place where the offense is committed pursuant to M.G.L. Chapter 272, Section 59. The penalty for such a violation of this Bylaw shall be a fine not to exceed Two Hundred Dollars (\$200), which may be recovered upon complaint before the district court and shall ensure to the Town, all in accord with Chapter 40, Section 21 of the General Laws of Massachusetts.

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## **ARTICLE 25 – ALCOHOLIC BEVERAGES**

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### **SECTION 1            PROHIBITION IN TOWN BUILDINGS AND TOWN PROPERTY**

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No person shall keep, use, consume or have in his possession any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws, in any building or structure or on any property owned by the Town of Westborough and used for municipal purposes.

### **SECTION 2            PROHIBITION IN PROPERTY LEASED BY THE TOWN**

---

No person shall consume any alcoholic beverage as defined in Section 1 in any portion of any structure in the Town of Westborough leased, rented, or otherwise used by said Town for municipal purposes.

### **SECTION 3            PROHIBITION IN PUBLIC WAYS**

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No person shall consume any alcoholic beverage as defined in Section 1 while in or upon any public way in the Town of Westborough.

### **SECTION 4            PROHIBITION IN PUBLIC PLACES – EXCEPTIONS**

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No person shall consume any alcoholic beverage as defined in Section 1 upon any way, place, or building in the Town of Westborough to which members of the public have access as invitees or licensees without the permission of the owner or person in control thereof.

### **SECTION 5            USE IN PUBLIC PARKS – EXCEPTIONS**

---

No person shall keep, use, consume, or have in his possession any alcoholic beverage as defined in Section 1 in any public park or playground in the Town of Westborough, except as may be provided in Section 4.

SECTION 6 VIOLATION

---

All alcoholic beverages being used in violation of this Bylaw shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

**ARTICLE 26 – ALARM SYSTEMS**

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SECTION 1 RULES AND REGULATIONS

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The Chief of the Police Department may promulgate Rules and Regulations for the installation and management of alarm systems connected to the Police Department facility.

SECTION 2 APPROVAL BY SELECTMEN

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Rules and Regulations promulgated under this bylaw by the Police Chief shall be subject to the approval by the Board of Selectmen. (ATM 1982)

**ARTICLE 27 – SMOKING IN PUBLIC PLACES**

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SECTION 1 DEFINITIONS

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As used in this regulation:

“Public Meetings” – Means all meetings which are regulated by Commonwealth's Open Meeting Law (found in Chapter 39, Sections 23A, B, and C of the General Laws).

“Public Place” – Means an enclosed, indoor area when open to and used by the general public, but limited to the following facilities:

Public elevators, retail food outlets, museums, libraries, hospitals, nursing homes, and entire room or hall in a public building when used for a public meeting.

An entire room or hall used for a private social function in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements shall not be construed as a public place.

“Smoking” – Means the possession of a lighted tobacco product, including a cigarette, cigar, pipe, or any other lighted smoking equipment.

## SECTION 2 PROHIBITION

---

No person shall smoke in any public place except that smoking shall be permitted in specifically designated smoking areas as hereinafter provided.

## SECTION 3 MUSEUMS, LIBRARIES, HOSPITALS, NURSING HOMES.

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Museums, libraries, hospitals, and nursing homes may designate smoking areas provided that comparable non-smoking facilities are available and so situated as to effectively eliminate the presence of smoking by-products in non-smoking areas.

## SECTION 4 ENFORCEMENT.

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- (A) The proprietor(s) or other person(s) in charge of a public place shall make reasonable efforts to prevent smoking in non-smoking areas by:
- (1) Posting appropriate signs.
  - (2) Arranging seating to provide a smoke-free area.
  - (3) Any other means which may be appropriate and reasonable or determined to be necessary by the Board of Health after a hearing at which the proprietor(s) or other person(s) in charge of a public place shall have an opportunity to be heard.

## SECTION 5 PENALTIES

---

- (A) Any person who smokes in a non-smoking area shall be subject to a fine of not less than ten dollars (\$10.00), nor more than thirty dollars (\$30.00) for each offense.
- (B) Any proprietor(s) or other person(s) in charge of a public place who fail(s) to comply with these regulations shall be subject to:
- (1) A fine of up to two hundred dollars (\$200.00) each day of non-compliance, and
  - (2) Suspension of any license issued by the Board of Health or the Board of Selectmen for that public place for a period of up to two (2) days for each day of non-compliance.

## SECTION 6 SEVERABILITY

---

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect. (ATM 1985)

# **ARTICLE 28 – RULES & REGULATIONS FOR LAKE CHAUNCY**

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## **SECTION 1 POWERBOATS**

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Any powerboat operated on Lake Chauncy must meet the statutory requirements of the General Laws of the Commonwealth of Massachusetts. All operations of water-craft on the waters of Lake Chauncy shall be in strict compliance with the U.S. Coast Guard Rules and Regulations, the General Laws of the Commonwealth of Massachusetts and Rules and Regulations of the Town of Westborough, as ordered.

## **SECTION 2 OPERATOR RESPONSIBILITY**

---

All operators of vessels on Lake Chauncy must be acquainted with the Rules and Regulations of the Town of Westborough as posted on the state access ramp of said Lake. The operator will be responsible for any violations of the rules by their vessel.

## **SECTION 3 PUBLIC BOAT RAMP USE REQUIRED**

---

All powerboats must use the public access ramp (Oak Street) when entering onto or leaving from the waters on Lake Chauncy. Their use of the ramp adjacent to the Lake Chauncy Beach (Lyman Street) is strictly prohibited except in the case of life-threatening emergency.

## **SECTION 4 VESSEL LIGHTING**

---

All vessels on the Lake, whether or not required to be registered under State Law, shall display the lights and be equipped with a proper muffler or underwater exhaust as is or may be required by Section 5 and 6 of Chapter 275, Act of 1960, or acts in amendment thereof, or regulations made thereunder.

## **SECTION 5 HEADWAY SPEED**

---

No craft may be in excess of headway speed within 150' of the line buoys at Lake Chauncy beach except for the purpose of docking at a designated dock. Craft proceeding to dock or leaving said dock must do so in a line perpendicular to the shore and must be operated so as not to endanger any swimmers. All motor craft shall not exceed headway speed (6 mph or less) within 50 feet of the shore.

## **SECTION 6 INDECENT ACTS**

---

No person shall annoy another person, or utter any profane, threatening or abusive language, or loud outcry except for emergency; or have possession of or drink any intoxicating liquor or do any obscene or indecent act on the waters of Lake Chauncy.



## SECTION 7 POLLUTION

---

No person shall throw, drop or place in the waters of Lake Chauncy or its tributaries, any waste paper rubbish, brush, leaves, grass clippings, pine needles, or refuse; or chemically treat the waters of Lake Chauncy or its tributaries without the approval of the Massachusetts State Department of Health and the Town of Westborough.

## SECTION 8 ICE FISHING, SNOWMOBILING AND SCUBA DIVING

---

No person shall at any time make an opening in the ice of Lake Chauncy exceeding twelve inches in diameter. Snowmobiles, motorcycles, iceboats or any other winter recreational vehicles shall exercise reasonable caution and keep a reasonable distance from all persons, structures and cleared skating areas. Automobiles and trucks are not permitted on the ice. All scuba divers must display diver's flag (float). Any boat within 100 feet of a diver's flag must operate not to exceed 3 mph.

## SECTION 9 AIRCRAFT

---

No person shall use the waters of Lake Chauncy for the taking off or landing of aircraft, except in case of emergency to save the lives of the pilot or passengers.

## SECTION 10 SAFE USE OF BOATS, FLOW OF TRAFFIC

---

No person shall row or paddle a boat or canoe unless able to control or handle the same with safety to himself and others; or in such a manner as to annoy or endanger the occupants or other boats or canoes, or neglect or refuse to stop the same or to place the same when stopped as directed by a police officer in uniform or who displays his badge. In order to ensure an orderly and safe flow of traffic, all powerboats will travel in a counter clockwise direction on Lake Chauncy.

## SECTION 11 MOORINGS

---

No person, without the permission of the Town of Westborough, may permanently moor any vessel, boat, canoe, raft or float, marker buoy, or series of connected buoys, so that any part of the same extends more than twenty (20) feet from the shore, or outside the limits of such lesser distance as may be designate by the Town for particular locations, by buoys, markers, or otherwise. Upon receiving permission of the Town of Westborough, any and all fixed objects that are 20 feet or more from shore shall be marked with a reflector type object, which must face the waterway.

## SECTION 12 BOAT RENTALS

---

No person shall engage in the business of renting any type of boat(s) or canoe(s) or permit their premises to be used for launching or dock facilities by other than members of their family or social guests without the permission of the Town of Westborough.

## SECTION 13      SPEED.

---

- (A) No person shall operate any motor boat on the Lake at a speed greater than 35 mph or a safe and reasonable speed proper under the circumstances and conditions then existing, or operate same or manipulate any water skis, surf-board or similar device in a negligent manner so that the lives or safety of the public might be endangered.
- (B) Speed during the period from one-half hour after sunset until one-half hour before sunrise shall be such that no appreciable wake is produced, but in no case to exceed the minimum necessary to maintain steerage way.
- (C) No person operating a craft propelled by other than muscular power shall allow said craft to approach closer than seventy-five (75) feet to another craft so as to cause excessive rocking to such other craft; nor circle around any craft in a manner as to annoy or endanger the occupants of other crafts; nor pass between moored rafts or floats and the shore. No craft shall operate at a speed that endangers the life, limb or property of any person.

## SECTION 14      WATER-SKIING.

---

- (A) An operator of a motorboat towing water-skis, aquaplanes or similar devices will be held responsible for compliance of these rules and regulations for both the motorboat and person or appurtenance being towed. No such activity may be conducted during the period between sunset and sunrise. No towrope longer than 75 feet shall be used in water-skiing, aquaplaning or towing a person or any other appurtenance. Skiers or aquaplane riders shall wear an approved flotation device.
- (B) No person operating a boat with a water-skier, shipboard rider or similar device in tow shall bring such device or rider or the boat within seventy-five (75) feet of a dock, pier, raft, wharf, float or a person or persons swimming or any part of the shore except to embark or disembark, or to render assistance to a boat or person in need of it.
- (C) Two persons, an operator and an observer who is at least twelve (12) years of age and in a position to observe the person being towed; shall be in any boat towing a skier, skip board, or similar device.
- (D) The towing of two or more persons on skis, skip or surfboard or other device is hereby prohibited.
- (E) Skiers should not be dropped off within 150 feet of lined buoys designating beach area except in life threatening emergency. The public access ramp (Oak Street) should be used for skiers, not the Lyman Street ramp.

## SECTION 15      PARKING LOT LIMITATIONS

---

The number of vehicles occupying the parking lot and adjoining access ramp area (Oak Street) may be limited so as to ensure the safety of and eliminate potential hazards to those persons/boaters utilizing the area. This limit would be set in conjunction by the Town of Westborough and Division of Public Access.

## SECTION 16      SWIMMING AREAS LIMITED

---

Swimming is prohibited at any point in the lake more than fifty (50) feet from land, except at Lake Chauncy Beach, and in those areas officially marked "No Swimming". Swimming across the lake is prohibited in all cases. No rafts are allowed more than fifty feet from land. Jumping or diving from ropes or lines attached to trees or structures is also prohibited.

## SECTION 17      ABANDONMENT OF BOATS PROHIBITED

---

No person shall abandon a boat or power propelled boat or canoe or other craft or leave the same unfixed or allow boats, wharfs, floats, and barrels, to go adrift upon the water of Lake Chauncy.

## SECTION 18      SIGNS PROHIBITED

---

No person shall post, paint, affix or display any sign, notice, placard, or advertising device on any part of the waters of said lake up to the high water mark, except with the written authority of the Town of Westborough.

## SECTION 19      ENFORCEMENT

---

The Rules and regulations of Lake Chauncy shall be enforced by any state or municipal police officer empowered to enforce the state boating laws of Massachusetts. Each such officer shall have jurisdiction over all waters of Lake Chauncy and its adjoining shores and may in performance of his or her duties cross over or through public or private property whether covered by water or not.

## SECTION 20      PROHIBITED WATERCRAFT

---

The operation of jet skis, surf jets, and wet bikes, or any other personal watercraft, is prohibited at all times. As used in this bylaw, "personal watercraft" shall mean a vessel propelled by a water jet pump or other machinery as its primary source of motor propulsion, which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated in the conventional manner by a person sitting or standing inside the vessel. (ATM 2007)

## SECTION 21 PENALTIES

---

Whoever shall violate any of the above rules and regulations shall be subject to a fine of not less than \$50.00 and not more than \$300.00 for each offense. Any person enabled to enforce the above rules and regulations, upon observing any violation of these rules, may arrest without a warrant and bring such person before the appropriate court. (ATM 1990)

## **ARTICLE 29 – SANDRA POND RESERVOIR REGULATIONS**

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The Sandra Pond Reservoir and adjacent conservation areas are exclusively owned and maintained by the Town of Westborough. The Sandra Pond Reservoir and adjacent conservation properties are under the explicit control of the Board of Selectmen with preservation authority to the Manager of the Department of Public Works and Bylaw enforcement to the Chief of Police.

Minuteman Park is the narrow strip of land between the Reservoir and Upton Road and is used expressly for passive recreation. The Bowman Street conservation area is a hiking and nature walk area.

The following activities are regulated at the Sandra Pond Reservoir and surrounding property unless specifically allowed by the Board of Selectmen or the Manager of the Department of Public Works.

### SECTION 1 ALCOHOL PROHIBITED

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Alcohol is prohibited on all property of the Town of Westborough.

### SECTION 2 FIRES

---

Fires are not permitted.

### SECTION 3 HUNTING AND TRAPPING

---

Hunting or trapping is prohibited on all property of the Town.

### SECTION 4 CONSERVATION AREA

---

Use of the conservation area is limited to foot traffic only. Non-motorized bicycles are permitted in the Minuteman Park.

### SECTION 5 DISCHARGE OF FIREARMS

---

Possession of firearms or discharging same is prohibited unless authorized by the Police Chief.

## SECTION 6 TAMPERING WITH TOWN PROPERTY

---

No person(s) shall tamper with or damage any gate, barrier, lock, sign, building, or other property of the Town nor obstruct any roadway in the area.

## SECTION 7 CURFEW

---

A curfew between the hours of 10 p.m. and 5 a.m. daily will be in effect. Any person found on the property during this time may be asked to leave the property. Failure to comply may result in arrest for trespassing.

## SECTION 8 PROHIBITED ACTIVITIES AT/ON SANDRA POND RESERVOIR

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- (A) No person(s) shall swim, bathe, or wade in Sandra Pond Reservoir.
- (B) No person(s) shall boat, canoe, or sail on the Sandra Pond Reservoir.
- (C) No person(s) shall entice, encourage, or allow a domestic animal to swim, wade, or bathe in Sandra Pond Reservoir.
- (D) No person(s) shall in any manner dispose of trash or refuse, vegetable waste, chemicals of any kind, or urinate or defecate into Sandra Pond Reservoir or its tributaries.
- (E) Motor vehicles, motorized equipment or any recreational vehicle, or any structure are prohibited from the ice of the Sandra Pond Reservoir.
- (F) No person(s) shall land on or take off from the Sandra Pond Reservoir with an airplane, helicopter, ultralight, or hot air balloon unless in an extreme emergency or when the pilot or passengers are in fear of their lives.

## SECTION 9 PENALTIES

---

Whoever shall violate any of the above Sections of the Bylaw shall be subject to a fine of not less than \$50 or more than \$100 for each offense. Any Police Officer of the Town of Westborough, upon observing any violation of the above, may arrest without a warrant and bring such person before the appropriate court.

## SECTION 10 SANDRA POND RESERVOIR FISHING REGULATIONS

---

Subject to the following regulations a permit is hereby granted for the privilege of fishing in the waters of Sandra Pond Reservoir:

- (A) Fishing is allowed by residents only who possess a valid Massachusetts Fishing License and a Sandra Pond Fishing Permit (or Stamp) as issued by the Town Clerk. All license-holders must comply with the fishing laws as defined in MGL Chapter 131 and all applicable Sections.
- (B) The Board of Selectmen shall set a yearly permit fee, the receipts of which will go toward the fish-stocking program of Sandra Pond Reservoir.
- (C) The Board of Selectmen at the request of the Chief of Police shall appoint Wardens to represent the Town for the sole purpose of enforcing the Sandra Pond Reservoir Bylaws.
- (D) Wardens will not have arrest powers or carry a firearm.
- (E) Any person found fishing or in violation of Chapter 131 shall provide proof of residency, show identification or proof of licensing upon request of a Warden or Police Officer.
- (F) A Warden shall immediately notify the Police Department and the police shall respond to any infraction of this Bylaw if the violator does not voluntarily comply with a Warden's enforcement authority.

## SECTION 11 PENALTIES

---

Violators of the Fishing Regulations may be removed from the property by the Police Officer and must surrender their Sandra Pond Reservoir Fishing Permit (Stamp) and/or be punished by existing penalties as defined by Massachusetts General Laws. (ATM 1997)

## ARTICLE 30 – RECYCLING

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### SECTION 1 BOARD OF HEALTH AUTHORIZED TO ADOPT REGULATIONS

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The Town, in order to separate and recycle as much as possible of the municipal solid waste generated within the Town, and to comply with the State's Solid Waste Master Plan requirements for the phase-in of solid waste material bans, authorizes the Board of Health to adopt rules and regulations to require residents and municipal facilities disposing of solid waste at the Town Transfer Station and Recycling Center to separate recyclable material from their solid waste and to dispose of such recyclable material in designated areas so that it may be recycled.

### SECTION 2 DEFINITIONS

---

For the purposes of this Bylaw, the term "recyclable material" shall mean: glass and metal containers, yard waste, paper, and any other material the Board of Health may determine can be recycled. The Board of Health shall have the authority to add, alter, or delete, recyclable materials to be separated as markets for recycled goods change.

SECTION 3            PRIOR BYLAWS, RULES, REGULATIONS, ETC.  
REPEALED

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All bylaws, rules, regulations, or other documents inconsistent with the provisions of this Bylaw are hereby repealed to the extent of such inconsistency.    (ATM 1993)

**ARTICLE 31 – NONCRIMINAL DISPOSITION OF CERTAIN  
VIOLATIONS OF BYLAWS AND RULES AND REGULATIONS**

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SECTION 1            NONCRIMINAL DISPOSITION

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Any violation of the following Bylaws, Rules, or Regulations may be enforced through noncriminal disposition pursuant to the civil infraction procedure in Massachusetts General Laws, Chapter 40, §21D. A non-inclusive list of those Bylaws, Rules and Regulations and the applicable penalties are provided below in Appendix A. The Town hereby amends all Bylaws, Rules and Regulations so as to be consistent with the penalty schedule provided in the said Appendix.    (ATM 2001)

SECTION 2            NONCRIMINAL ENFORCEMENT

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(A)    Article III Traffic Signs, Signals, Markings and Zones:

A violation of any Section of Article 3 shall be \$25.

Article IV    Zone of Quiet:

A violation of Article IV shall be \$50

Article VII Operation of Vehicles:

A violation of any Section of Article VII shall be \$25, provided, however:

A violation of Article VII, Section 4 (Must Stop for School Bus) shall be \$50 first offense, \$75 second offense, and \$100 third and subsequent offenses.

A violation of Article VII, Section 5 (Operation of Mopeds) shall be \$10.

A violation of Article VII, Section 17 (Speeding) shall be \$50 first offense, \$75 second offense, and \$100 third and subsequent offenses.

A violation of Article VII, Section 20 (Heavy Commercial Vehicles) shall be \$100. (ATM 1994)

(B)    Westborough Zoning Bylaws

Section 3200 & 3210 (Disturbance): A violation shall be \$50;

Section 4440 (Unregistered Vehicles): A violation shall be \$10 per day until vehicle(s) are removed.

(C) Town Bylaws

Article 23 – Hawkers and Peddlers: A violation shall be \$100.

Article 52, Section 4 – Sewer Regulations: A violation shall be a maximum of \$5,000.00.

Article 50 – Underground Sprinkler Systems: A violation shall be \$100.

Article 46, Section 14 – Use of Public Ways and Places: A violation shall be \$100.

Article 46, Section 16 – Use of Public Ways and Places: A violation shall be \$50 first offense, \$75 second offense, and \$100 third and subsequent offenses.

Article 66 – Construction Activity: A violation shall be \$50 first offense, \$75 second offense, and \$100 third and subsequent offenses. (ATM 2004)

(D) Westborough Board of Health

Regulations Concerning Trash Disposal Containers:

A violation shall be \$25 per day. Each day of noncompliance shall constitute a separate violation. (ATM 1993)

Trash Disposal & Recycling Rules & Regulations:

A violation of any Section shall be \$100. Each day of noncompliance shall constitute a separate violation. (ATM 2004)

Rules and regulations affecting sales of tobacco products to minors and exposure to environmental tobacco smoke in public places:

A violation of any Section shall be \$100. Each day of noncompliance shall constitute a separate violation. (ATM 1999)

(E) Westborough Conservation Commission

Non-zoning wetlands Bylaw:

First violation shall be \$100 per day. Second violation shall be \$200 per day. Third violation shall be \$300 per day. For the purposes of this clause, "second violation" shall mean an instance of non-compliance that occurs after a prior first instance of non-compliance has been cured. "Third violation" shall mean an instance of non-compliance that occurs after a second violation has been cured. (ATM 2008)

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## **ARTICLE 32 – NON-ZONING WETLANDS PROTECTION**

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### **SECTION 1          PURPOSE**

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The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Westborough, Massachusetts by controlling activities



deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the “resource area values protected by this bylaw”).

This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations there under (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Westborough, Massachusetts.

## SECTION 2 JURISDICTION

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Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies, intermittent streams, brooks and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water including the 100-year flood plain; (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aqua-cultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

## SECTION 3 EXEMPTIONS AND EXCEPTIONS

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The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aqua-cultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04 and for mosquito control projects..

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the

work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.02(2)(b)(1)(a-g)) shall apply under this bylaw.

#### SECTION 4 APPLICATIONS AND FEES

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Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole

discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

## SECTION 5 NOTICE AND HEARINGS

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Any person filing a permit application with the Conservation Commission shall at the same time give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters shall state where copies of the application or request, with plans, may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application, with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by

the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

## **SECTION 6                    COORDINATION WITH OTHER BOARDS**

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Any person filing a permit application, with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the planning board, town engineer, or other boards as directed by the Commission at its discretion. A copy shall be provided in the same manner to the Commission of the adjoining municipality, if the permit application pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The above boards and officials shall have seven days to provide written comments and recommendations with the Commission, which the Commission shall consider but which shall not be binding on the Commission. The Commission has the discretion to extend the time to submit written comments and recommendations from the above boards and officials. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

## **SECTION 7                    PERMITS AND CONDITIONS**

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If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result there from, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, not permitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive

specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat Section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of “vernal pools” under §IX of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat Section of the Wetlands Protection Act regulations.

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed, except for a DOA, provided that a request for a renewal is received in writing by the Commission 30 days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing. Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies there under. The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry Section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

## SECTION 8 REGULATIONS

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After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose consultant fees.

## SECTION 9 DEFINITIONS

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The following definitions shall apply in the interpretation and implementation of this bylaw.

The term “agriculture” shall refer to the definition as provided by G.L. Ch. 128 §1A.

The term “alter” shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- (A) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (B) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- (C) Drainage or other disturbance of water level or water table;
- (D) Dumping, discharging, or filling with any material which may degrade water quality;
- (E) Placing of fill, or removal of material, which would alter elevation;
- (F) Driving of piles, erection, expansion or repair of buildings, or structures of any kind;
- (G) Placing of obstructions or objects in water;
- (H) Destruction of plant life including cutting or trimming of trees and shrubs;
- (I) Changes of temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters that lead to impairment of the resource;
- (J) Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (K) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw; and
- (L) Any changes to the rate or volume of storm water runoff into any resource area under the jurisdiction of this commission.

The term “bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term “permit application” shall include Notice of Intent (NOI), Abbreviated Notice of Resource Delineation (ANRAD), Request for Determination of Applicability (RDA) or a permit required under this bylaw.

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term “pond” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression. Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

## SECTION 10 SECURITY

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As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed there under (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- (A) By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole upon issuance of a COC for work performed pursuant to the permit that has been recorded with the Registry of Deeds.
- (B) By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

## SECTION 11 ENFORCEMENT

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No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill,



or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued there under by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person, who violates any provision of this bylaw, or regulations, permits, or administrative orders issued there under, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D, which has been adopted within Article 31 of the Town bylaws.

## SECTION 12 BURDEN OF PROOF

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The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## SECTION 13 APPEALS

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A decision of the Conservation Commission shall be reviewed in the superior court in accordance with G.L. Ch. 249 §4.

## SECTION 14      RELATION TO THE WETLANDS PROTECTION ACT

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This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) there under. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

## SECTION 15      SEVERABILITY

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The invalidity of any Section or provision of this bylaw shall not invalidate any other Section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.      (ATM 2008)

# ARTICLE 33 – PLASTIC BAG REDUCTION

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This bylaw shall be known as the Plastic Bag Reduction Bylaw.

## SECTION 1      PURPOSE AND INTENT

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The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to contributing to the potential death of aquatic and land animals through ingestion and entanglement; contributing to pollution of the natural environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture. The purpose of this bylaw is to protect the Town's unique natural beauty and its water and natural resources by eliminating single-use plastic checkout bags that are distributed in the Town of Westborough and to promote the use of reusable bags.

## SECTION 2      DEFINITIONS

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“Checkout bag” – means a carryout bag provided by a store to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

“Grocery Store” – means a retail establishment where more than fifty percent (50%) of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

“Retail Store” – means any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

“Reusable checkout bag” – means a bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 4.0 Mills in thickness.

“Thin-film single -use plastic bags” – are those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate ( PET), or polypropylene (other than woven and non -woven polypropylene fabric), if said film is less than 4.0 mils in thickness.

“Recyclable paper bag” – means a paper bag that is 100 percent recyclable and contains at least 40% post-consumer recycled content, and displays the words “recyclable” and “made from 40% post-consumer recycled content” in a visible manner on the outside of the bag.

### SECTION 3 USE REGULATIONS

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- (A) Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail store or grocery store within the Town of Westborough.
- (B) If a grocery or retail store provides or sells checkout bags to customers, the bags must be one of the following (1) recyclable paper bags, or (2) reusable checkout bags. The grocery or retail store may charge for said bags.
- (C) Thin-film plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

### SECTION 4 EFFECTIVE DATE

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This bylaw shall take effect six (6) months following Town Meeting approval of the bylaw. Upon application of the owner or the owner's representative, the Board of Selectmen or their designee may exempt a grocery retail store from the requirements of this section for a period of up to six (6) months upon a finding by the Board of Selectmen or their designee that (1) the requirements of this section would cause undue hardship; or (2) a grocery or retail store requires additional time in order to draw down an existing inventory of checkout bags.

### SECTION 5 ENFORCEMENT

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Enforcement of this bylaw shall be the responsibility of the Board of Selectmen or their designee. The Board of Selectmen or their designee shall determine the monitoring process to be followed, which may be limited to responding to citizen reports, incorporating the process into other town duties as appropriate.

Any grocery or retail store distributing plastic checkout bags in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in Article 31 of the General Bylaws,

Noncriminal Disposition of Certain Violations of Bylaws and Rules and Regulations. Any such fines shall be paid to the Town of Westborough. No licenses shall be renewed for any establishment with outstanding violations under this section.

**SECTION 6 SEVERABILITY**

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If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

And further to amend Article 31, Section 2(C) by adding violations to Article 33 as follows:

Article 33 Violation of the Plastic Bag Reduction Bylaw – first offense – written warning; 2nd offense \$50; 3rd and subsequent offenses - \$100 per offense.

**ARTICLE 34 – RESERVED**

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**ARTICLE 35 – RESERVED**

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**ARTICLE 36 – RESERVED**

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**ARTICLE 37 – RESERVED**

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**PUBLIC SAFETY**

**ARTICLE 38 - ANIMAL CONTROL**

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**SECTION 1 DEFINITIONS**

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- (A) “At Large” – Any dog shall be deemed to be at large when it is off the premises of its owner or keeper and not under the care and control of a competent person.
- (B) “Care and Control” – A dog shall be considered to be in the care and control on the premises of its owner or keeper or if the dog be on the premises of another person with knowledge and expressed permission of such other person. A dog under voice command

or leashed shall be considered to be in the care and control of a person only if said person is competent to prevent the dog from being a threat to public safety.

- (C) "Dog" – Shall mean all members of the species *canis familiaris*, both male and female.
- (D) "Animal Control Officer" – Shall be that person or persons charged by the Selectmen to enforce this Bylaw.
- (E) "Owner or Keeper" – Shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.
- (F) "Restrain" – To limit, restrict and keep in control by means of a leash or by confinement within a building or a fenced barrier from which the dog cannot escape. The main purpose being to deprive the dog of complete liberty of freedom and thus restrict the dog within specific boundaries.
- (G) "Public Nuisance" – A dog shall be deemed a public nuisance for any of the following reasons:
  - (1) If such dog is found to be at large.
  - (2) If such dog shall persistently or prolongedly bark or howl. (ATM 1997)
  - (3) If found without wearing a license tag and a vaccine tag as required by Section 2 of this Bylaw.
  - (4) If found in a school, school yard, public or private recreation area, store or shopping area except that a service dog under the care and control of its owner shall be exempt from this provision.
  - (5) For having bitten or attacked any person.
  - (6) For having killed or maimed or otherwise damaged any wild or domestic animal.
  - (7) For chasing any domesticated animal, pedestrian, or vehicle on a way to which the public has a right to access, within the Town. (ATM 1992)
  - (8) Except that a police dog acting in the line of duty shall not be considered a public nuisance.
  - (9) Except that a dog being used as so-called "hunting dog," which is being supervised as such by a person competent to restrain such dog so shall not be considered a public nuisance.
  - (10) For defecating on property to which the public has a right to access or on the private property of another person.

## SECTION 2 LICENSE AND TAGS

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- (A) Any owner or keeper of a dog six months of age or older shall by January 1 cause the dog to be registered, numbered, described and licensed with the Town Clerk in accordance with the laws of the Commonwealth of Massachusetts.
- (B) The license shall be valid until the following December 31. As a prerequisite to such licensing, the owner or keeper of the dog must present evidence to the Town Clerk that the dog, if six months of age or older, has been vaccinated against rabies, by a licensed veterinarian using a vaccine approved by the United States Food and Drug Administration and that such vaccine is current.
- (C) The fee for such a License shall be established by the Board of Selectmen. Should any owner of a dog previously licensed in the Town of Westborough fail to license his dog before April 1, the owner shall pay a late fee of three dollars plus an additional fee of one dollar per week beginning April 1 before obtaining said license.

## SECTION 3 RESTRAINT

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No owner or keeper of any dog shall at any time permit his dog, licensed or unlicensed to become a public nuisance within the Town of Westborough.

## SECTION 4 RESTRAINT BY ORDER OF THE DOG OFFICER

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If any person shall make a complaint in writing to the Animal Control Officer of the Town that any dog within his jurisdiction is a public nuisance, the Animal Control Officer shall investigate such complaint and may order the dog impounded, restrained, or take other action as he deems proper to curtail the nuisance. The Animal Control Officer may take similar action, without written complaint, should he become aware of any dog that is a public nuisance.

## SECTION 5 NOTICE TO OWNER AND REDEMPTION

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- (A) If a dog impounded or quarantined has upon it the name or address of its owner, or if the name of its owner is otherwise known, the Animal Control Officer shall forthwith notify the owner.

The owner of any dog so impounded or quarantined, may claim such dog upon the reimbursement to the Animal Control Officer of the expenses for maintaining said dog while impounded or quarantined. Reimbursement for claiming an impounded or quarantined dog shall be as established by the Board of Selectmen, including all past fines of the Westborough Animal Control Officer as well as handling/kennel fees. Prior to its release, any dog that is at least six (6) months of age shall have a proper license from the Town Clerk and be properly tagged. (ATM 1993)

## SECTION 6 DISPOSITION OF UNCLAIMED DOGS

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Any dog or cat which has been impounded and has not been redeemed by the owner within seven days that has not been quarantined shall be disposed of as provided by Section 151A, Chapter 140 of the General Laws of the Commonwealth of Massachusetts and any amendments thereto.

## SECTION 7 FINES

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Any owner found in violation of any provision of this Bylaw shall be fined for each offense as established by the Board of Selectmen.

## SECTION 8 DISPOSITION OF FUNDS

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Any funds collected pursuant to the provisions of this Bylaw by the Animal Control Officer or Town Clerk shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.

## SECTION 9 APPEAL

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- (A) The owner or keeper of any dog that has been ordered to be restrained or muzzled under this Bylaw may, within seven (7) days after such an order or restraint, file a request in writing with the Animal Control Officer, that the restraining order be vacated or that the dog be released. After such investigation by the Animal Control Officer, said Officer may vacate such order and release such dog with the approval of the majority of the Board of Selectmen.
- (B) If such order is not vacated or the dog is not released, as the case may be, the owner or keeper of such dog, may within twenty days of such order or restraint, bring petition in the Central District Court of Westborough requesting that the order or restraint be reviewed by the Court, and after such notice to the Animal Control Officer as the court may deem necessary, it shall review such action, hear witnesses and reaffirm or reverse the order of the Animal Control Officer. The decision of the Court shall be final and conclusive to both parties.

## SECTION 10 CATS

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- (A) All owned cats over the age of six months shall be vaccinated against rabies, in accordance with Massachusetts General Laws Chap. 140, Sec. 145B. The owner shall keep a record of such vaccine and show proof of vaccination upon request by a Police Officer, a Health Inspector, the Animal Inspector, or the Animal Control Officer.
- (B) All owned cats, while out of doors and not in a cage shall wear some form of identification that identifies the owner and address of said cat. Identification may be by a tag attached to a collar, a microchip if the microchip has been registered and can be traced back to the

owner, or harness or clearly woven into or printed on said collar or harness, and worn at all times when out of doors and not in a cage.

- (C) Any domestic cat that has bitten or scratched any person or domestic animal and is not wearing identification shall be subject to capture, impoundment, and quarantine at the Town Facility. Any domestic cat that is wearing identification and has bitten or scratched any person or domestic animal, and the owner cannot be immediately reached, shall be subject to capture, impoundment, and the Animal Inspector shall be notified for quarantine. Fees and fines shall be as established by the Board of Selectmen.
- (D) The Animal Control Officer, after holding a cat in the impoundment facility for a period of not less than ten (10) days, may dispose of said cat in the same manner as dogs, as outlined in Mass. General Laws, Chap. 140, Sec. 151.
- (E) Any cat that is not identified and cannot be held at the Town Facility for quarantine due to wildness of behavior may be captured, euthanized, and tested for rabies, provided that said animal has bitten or scratched a person or domestic animal in the preceding fourteen (14) days. The Animal Inspector shall be notified of such cases.

## SECTION 12      KENNELS

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- (A) Any resident or business that maintains more than 3 dogs that are 6 months old or older that are not licensed shall obtain an annual kennel license from the Town.
- (B) Applicants for a kennel license shall first obtain a business certificate from the Town, to the extent applicable and provide the business certificate number on the kennel license application.
- (C) Prior to the issuance of a kennel license, the kennel shall be inspected and approved by the Town's Animal Control Officer and Board of Health. The Animal Control Officer and Board of Health are authorized to conduct interim inspections of licensed kennels.
- (D) During the annual inspection and any interim inspections, the kennel licensee shall maintain a log of all animals kept at said kennel that are not owned by the person maintaining the kennel and shall provide access to the log to the Animal Control Officer or Board of Health during any inspections.
- (E) Any person maintaining a kennel shall include in their records, rabies vaccinations for all dogs 3 months old and older.



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## **ARTICLE 39 – HUNTING**

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### **SECTION 1            HUNTING PROHIBITED WITHOUT PERMISSION, EXCLUSION FOR BOW HUNTING**

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No person, except by written permission of the land owner, shall be allowed to hunt or shoot on public or private property within the limits of the Town, except by use of bow and arrow during deer hunting season on public property as allowed by statute.

### **SECTION 2            WRITTEN PERMISSION REQUIRED**

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Written permission obtained in compliance with Section 1 above shall, at all times while hunting or shooting, be in the possession of the person to whom it was issued.            (ATM 1983)

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## **ARTICLE 40 – EMERGENCY ACCESS**

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### **SECTION 1            PROHIBITION TO OBSTRUCT ACCESS ON PRIVATE WAYS**

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It shall be unlawful to obstruct or block a private way with a vehicle so as to prevent access by fire apparatus or other emergency vehicles to any building or structure where an emergency exists.

### **SECTION 2            FIRE LANE PROHIBITION**

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It shall be unlawful to obstruct or park a vehicle in any Fire Lane. Subject to the approval of the Selectmen, Fire Lanes may be designated by the Fire Chief on any private property where public vehicle access is permitted.

### **SECTION 3            FIRE LANE PAVEMENT MARKINGS**

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The property owner shall provide pavement markings to designate the Fire Lanes in accordance with Section 2.

### **SECTION 4            VIOLATION**

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Any person violating this bylaw shall be subject to the penalties as provided under Massachusetts General Laws, Chapter 90, Section 20A-1/2, as amended. (ATM 1983)

**ARTICLE 41 – RESERVED**

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**ARTICLE 42 – RESERVED**

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**ARTICLE 43 – RESERVED**

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**ARTICLE 44 – RESERVED**

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**ARTICLE 45 – RESERVED**

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**PUBLIC WORKS**

**ARTICLE 46 – USE OF PUBLIC WAYS AND PLACES.**

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**SECTION 1 CONSTRUCTION, FIRE HYDRANTS AND DRIVEWAYS**

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No person shall break or dig up the ground, alter or construct an entrance to any portion of any way which the Town is obliged to keep in repair without a written permit from the Selectmen.

- (A) No person or municipal department shall alter, relocate or remove an existing hydrant without first obtaining permission in writing from the Fire Chief.
- (B) All driveways and common driveways shall conform to Section iv, SubSection B2, Driveways and Common Driveways of the Rules and Regulations Governing the Subdivision of Land in the Town of Westborough, MA in effect at the time of the request for driveway approval provided, however, strict compliance with the requirements of this Bylaw may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the purpose of this Bylaw. In waiving strict compliance, the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards waived. (ATM/STM 1997)

## **SECTION 2            PROHIBITED ACTIVITIES IN PUBLIC WAYS**

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No person shall throw stones, snowballs, sticks or other missiles, or kick football or play any game in which a ball is used, or shoot with an air rifle, bow and arrow, or other similar device, in or across any of the public ways of the Town.

## **SECTION 3            FIREARMS DISCHARGE PROHIBITED**

---

No person shall fire or discharge a gun, pistol, or other firearms in or across any of the public ways of the Town; but this Section shall not apply to the use of such weapons in lawful defense of one's person, family or property, or in the performance of any duty required or authorized Bylaw.

## **SECTION 4            COASTING PROHIBITED**

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No person shall coast upon or across any street, sidewalk or other part of any public way except at such times and at such places as may from time to time be designated by the Selectmen.

## **SECTION 7            SIGNS AND STRUCTURES OVER PUBLIC WAYS**

---

All awnings, signs or other structures projecting into or over a public way for a distance of more than six inches, shall be at least seven feet above the sidewalk or traveled way, and then only by permission of the Selectmen.

## **SECTION 8            MERCHANDISE SALE ON SIDEWALKS**

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No person shall occupy for display or for sale of merchandise or other thing any part of the sidewalk in front of the building used by him in the conduct of his business, except by permission of the Selectmen.

## **SECTION 11          BUILDING NUMBERING**

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All single or multi-family dwellings shall be conspicuously marked with identifying numbers legible from a public street or access road, said numbers shall be assigned by the Board of Assessors. The Board of Assessors may also assign numbers to any building on any street in their discretion.

## **SECTION 12          DANCE HALL LICENSING REQUIRED**

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No dances shall be held within the Town of Westborough in those buildings specifically constructed and operated as dance halls unless licensed by the Board of Selectmen.

## **SECTION 14          LITTERING PROHIBITED**

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No person shall place on or in or throw into a public way, the sidewalk of a public way or a public alley, filth, rubbish or other substance, including but not limited to cans, bottles, and other liquid containers. No person shall displace snow, leaves, brush, or discharge water from privately owned land to a public way or public sidewalk. A violation shall be \$100.00 (See Article 31) (ATM 2001)

## **SECTION 15      OBSTRUCTING PUBLIC WAYS PROHIBITED**

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No person or persons shall congregate in such a manner in or upon a public way, public alley, sidewalks and/or entrances to buildings adjacent to sidewalks being used by the public or to which the public has the right of access, so as to obstruct, prevent or impede passage upon same by motor vehicles and/or pedestrians.

## **SECTION 16      RECREATIONAL VEHICLES ON PUBLIC PROPERTY PROHIBITED**

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No person shall operate a recreational vehicle as defined in Section 20 of M.G.L. Chapter 90B upon any Town owned land, excluding the lawful operation of a snow vehicle under M.G.L. Chapter 90B, except where otherwise prohibited by the use regulations of the Town. (ATM 2004)

# **ARTICLE 47 – CEMETERIES**

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## **SECTION 1      MANAGEMENT**

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The management and care of the cemeteries of the Town shall be entrusted to the Department of Director of the Department of Public Works.

## **SECTION 2      PERPETUAL CARE**

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The proprietor or proprietors of any lot or lots in any of the cemeteries of the Town may bequeath to the Town, or deposit with the Town Treasurer, a sum of money in an amount to be determined by the Department of Director of the Department of Public Works for the purpose of providing for the perpetual care of such lot or lots.

## **SECTION 3      SEGREGATION OF PERPETUAL CARE FUNDS**

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All monies deposited with the Town Treasurer or bequeathed to the Town for the perpetual care of any lot or lots shall be kept apart from other funds of the Town and shall be designated as the Cemetery Perpetual Care Fund, and shall be invested by the Treasurer in such securities as are legal investments for savings banks in the commonwealth, and the interest, or such part as is deemed necessary by the Department of Director of the Department of Public Works, shall be expended annually for the care of the lot or lots.

## SECTION 4 REGULATIONS

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The Department of Director of the Department of Public Works shall have power to make from time to time such rules and regulations for the management of the cemeteries of the Town as he may deem best, but no rule or regulation shall be made which is contrary to law or these Bylaws.

## ARTICLE 48 - EXTENSION OF WATER MAINS

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### SECTION 1 WATER CONNECTION AND EXTENSIONS

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Any person desiring to be served by the public water system shall make written application to the Department of Director of the Department of Public Works and shall receive an estimate of the cost to the applicant. The Department of Director of the Department of Public Works shall by November 15th of each year prepare a list of all water extensions covered by signed guarantees from the applicants, said list to contain the location, length, estimated cost of each, together with the names of the persons requesting same hold a public hearing by December 15th of each year for the purpose of hearing objections to any arguments for such requested extensions. Minutes of said hearing shall be made and preserved by said Department of Director of the Department of Public Works. The Department of Director of the Department of Public Works shall publish due notice of the time and place of said hearing and shall publish his findings and recommendations regarding each requested extension at least once before January 15th of the following year in a newspaper having a general circulation in the Town. The Department of Director of the Department of Public Works shall then insert an article in the Warrant for the next Annual Town Meeting providing for all the requested extensions which have been guaranteed by the applicants.

The Moderator shall conduct a vote on each extension in said article, item by item, in the order listed.

### SECTION 2 PRIVILEGE FEE

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In the event that any person wishes to become a water taker immediately and without complying with the provisions of this Bylaw, he shall be required to pay to said Department of Director of the Department of Public Works in advance of any construction the full cost of same and may thereafter petition said Department of Director of the Department of Public Works for the privilege of being brought under the terms of this Bylaw. The Department of Director of the Department of Public Works is hereby authorized to expend money collected under this provision for such purposes.

In the event that a Town Meeting shall vote to approve said extension, the petitioners shall have an amount equal to eighty per cent (80%) of the cost of said extension refunded to them and they shall not be required to furnish surety or to make any further payment to the Town.

The provisions of Sections 1 and 2 of this Bylaw shall apply only to water mains installed on accepted streets or parts thereof that were accepted as Town ways prior to May 1, 1954.

### SECTION 3 CONNECTION PAYMENT

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Upon vote of the Town to construct a water main in accordance with Section 1, the Department of Director of the Department of Public Works shall proceed with the construction provided the petitioners furnish surety satisfactory to said Department of Director of the Department of Public Works and agree in writing to pay annually to the Town a sum equal to 2% of the net cost of the extension for a period of ten years.

In determining said net cost, the Department of Director of the Department of Public Works shall be governed by the following condition:

Petitioners shall not contribute to the cost of hydrant installation or to the added cost resulting from the use of pipe larger than eight inches (8") in diameter.

Any proposed voted water main installation exceeding an estimated cost of One Thousand Dollars (\$1,000) shall be submitted to open public bid.

### SECTION 4 WATER MAIN EXTENSION STANDARDS

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In constructing water main extensions the Department of Director of the Department of Public Works shall be governed by the following restrictions:

- (A) Fire hydrants shall be placed along all extensions at distances not to exceed 800 feet between hydrants.
- (B) Pipes used for hydrant branches shall not be less than 6-inch diameter.
- (C) All extensions shall be of cast iron, cement lined pipe or its equivalent.
- (D) Pipe used in water main extensions other than hydrant branches shall not be less than 8 inches in diameter.

### SECTION 5 PRIVATE WAYS

---

All water mains and services installed on private or unaccepted streets that will be served by the Town water system shall conform to Section 4 of this Bylaw and such rules and regulations of the Department of Director of the Department of Public Works than may apply to such installations.

Approved water mains shall be installed on private or unaccepted streets, where Town water service is available, before that street may be accepted by the Town as a public way.

## **ARTICLE 49 – TERMINATION OF WATER SERVICES**

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### **SECTION 1           TERMINATION**

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The Town may stop water from entering the premises of any person failing to pay the amount due therefore; and for such propose, the officers, servants, or workmen thereof may, after thirty (30) days written notice by mail, return receipt, enter said premises between the hours of eight in the forenoon and four in the afternoon and may disconnect any, meter, pipe, fittings or other works, whether they are the property of the Town or not, from its mains or pipes. In the event a person is being serviced by water at two or more premises at the same time, the Town may enter only those premises to which the unpaid amount relates.

### **SECTION 2           NOTICE PROVISIONS**

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Notwithstanding the foregoing, the Town shall not shut off water service to any residential tenant residing in a dwelling unit who under a rental arrangement receives the benefit of water, but who is not the customer of record of the Town, without first complying with the foregoing notice provisions and has given to each tenant affected thereby. Such notice shall contain the following information:

- (A)    The amount then due and payable for such water service;
- (B)    The date on or after which such service will be shut off, such date to be not less than fifteen nor more than thirty days, after the day on which such notice is first given;
- (C)    The date on which said notice is given; and
- (D)    The right of the occupant of such building to pay the amount due or such portion thereof as prescribed by the Town and thereby void a cessation of service, and to recover the amounts so paid from the person to whom they would otherwise pay their rent.

Any officer or servant of the Town may, at any reasonable time, enter the common hallways of such building for the purpose of complying with the provisions of this Section. At any time after the date such notice is given any persons who are occupants of the dwelling units within such building may pay the Town the amount due or such portion thereof as mutually agreed upon by the occupants and the Town. If such amount is received after service has been shut off, service shall be restored by the Town as soon as practicable.

### **SECTION 3           NOTICE OF HEARING**

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Such notice of termination shall be sent by the Town through its Collector of Taxes and such notice shall state the amount outstanding and the right of the person receiving such notice to request a hearing before the Board of Selectmen as provided in Section 4.

## SECTION 4 APPEAL TO SELECTMEN

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Within thirty (30) days of receipt of the termination notice sent by the Collector of Taxes, the person receiving such notice may request a hearing before the Board of Selectmen. After such hearing, the Board of Selectmen may abate the bill in whole or in part, rescind the termination notice, extend the time period before such termination of service would take place or take any action the Board deems appropriate. (ATM 1989)

## **ARTICLE 50 – UNDERGROUND SPRINKLER SYSTEMS**

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No person shall make any opening in or connection with any Town water pipe or otherwise use water from the Town water system for the purpose of providing an underground lawn sprinkler system at its residence or place of business. Residential systems in existence on January 1, 1996 are exempt from the provisions of the Bylaw. Commercial systems in existence as of the effective date of this Bylaw will have a year in which to transfer their underground system to a private water source. For purposes of this Section, each successive day on which any violation is committed or continued shall be a separate offense. A violation shall be \$100. (See Article 31) (ATM 1996)

## **ARTICLE 51 – WATER USE RESTRICTION**

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### SECTION 1 AUTHORITY

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Adopted by the Town of Westborough under its police powers to protect public health and welfare and its powers under MGL Chapter 40, Section 21 et seq, and implements the Town's authority to regulate water use pursuant to MGL Chapter 41, Section 69B. This Bylaw also implements the Town's authority under MGL Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

### SECTION 2 PURPOSE

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The purpose of this Bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions, or conditions imposed by the Town or by the Department of Environmental Protection.

### SECTION 3 DEFINITIONS

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“Person” – Shall mean any individual, corporation, trust, partnership or association, or other entity.

“State of Water Supply Emergency” – Shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under MGL Chapter 21G, Section 15-17.



“State of Water Supply Conservation” – Shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this Bylaw.

“Water Users or Water Consumers” – Shall mean all public and private users of the Town=s public water system, irrespective of any person=s responsibility for billing purposes for water used at any particular facility.

#### SECTION 4 DECLARATION OF A STATE OF WATER SUPPLY CONSERVATION

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The Town, through its Town Manager or by a majority vote of its Board of Selectmen may declare a State of Water Supply Conservation upon a determination by the DPW that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under Section 6 of this Bylaw before it may be enforced.

#### SECTION 5 RESTRICTED WATER USES.

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A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions, or requirements shall be included in the public notice required under Section 6.

- (A) Odd/Even Day Outdoor Watering – Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by water users with even-numbered addresses is restricted to even-numbered days.
- (B) Outdoor Watering Ban – Outdoor watering is prohibited.
- (C) Outdoor Watering Hours – Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- (D) Filling Swimming Pools – Filling swimming pools is prohibited.
- (E) Automatic Sprinkler Use. The use of automatic sprinkler systems is prohibited.

#### SECTION 6 PUBLIC NOTIFICATION OF WATER SUPPLY CONSERVATION: NOTIFICATION OF DEP

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Notification of any provision, restriction, requirement, or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 5 shall

not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

## SECTION 7            TERMINATION OF A STATE OF WATER SUPPLY CONSERVATION: NOTICE

---

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Selectmen, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

## SECTION 8            STATE OF WATER SUPPLY EMERGENCY: COMPLIANCE WITH DEP ORDERS

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Upon notification to the public that a declaration of State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

## SECTION 9            PENALTIES

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Any person violating this Bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation which shall inure to the Town for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the Massachusetts General Laws.

In addition, and not in limitation to the foregoing, the Town, upon notification provided for in Section 6, may restrain the use of water on public or private premises by shutting off the water pursuant to the provisions of MGL Chapter 40, Section 41A and pursuant to the State of Water Supply Emergency declared by the Department of Environmental Protection.

## SECTION 10          SEVERABILITY

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The invalidity of any portion or provision of this Bylaw shall not invalidate any other portion or provision thereof.     (ATM 1998)

## **ARTICLE 52 – SEWER REGULATIONS**

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### **SECTION 1           COLLECTION SYSTEM RULES AND REGULATIONS**

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The Manager of the Department of Public Works may promulgate Rules and Regulations for the connection to and operation and maintenance of the municipal sewer collection system.

### **SECTION 2           TREATMENT PLANT BOARD RULES AND REGULATIONS**

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The Westborough Treatment Plant Board may promulgate Rules and Regulations for the operation of the Wastewater Treatment Plant including pre-treatment regulations as may be required pursuant to Federal and/or State regulations.

### **SECTION 3           RULES AND REGULATIONS – APPROVAL BY BOARD OF SELECTMEN**

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Rules and Regulations promulgated under this Bylaw shall be subject to approval of the Board of Selectmen.

### **SECTION 4           PENALTIES FOR VIOLATION**

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Penalties for violation of Rules and Regulations adopted under this Bylaw shall be set forth in Article 31 as amended, or in accordance with any special act Chapter 378 of the Acts of 1986) adopted by the legislature specifically for this purpose.       (ATM 1986)

### **SECTION 5           ENFORCEMENT**

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The Town acting by and through its manager of the Department of Public Works shall enforce Rules and Regulations promulgated under Section 1 of this Bylaw. The Town acting by and through the Westborough Treatment Plant Board shall enforce Rules and Regulations promulgated under Sec. 2 of this Bylaw.       (ATM 1987)

### **SECTION 6           FIXTURES INSTALLED IN BASEMENTS**

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Bathroom fixtures, showers, sinks, tubs or washing machines installed in basements or lower building level that may be below the hydraulic grade line of the existing street sewers are installed at the building owner's risk. The Town will not assume any responsibility for back-ups or flooding of fixtures or basements as a result of installation of these fixtures.

## **ARTICLE 53 – SEWER COST APPORTIONMENT**

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### **SECTION 1           PURPOSE**

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The purpose for imposing a cost for new sewer connections and changes in use to existing connections is for new customers to pay their fair share of the capital cost and capital maintenance for the existing system which is being paid by existing customers.

### **SECTION 2           SEWER PRIVILEGE FEE**

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In lieu of sewer betterment assessments under MGL Ch. 80 & 83, the Town of Westborough shall hereafter charge a permanent sewer privilege fee as established by this Bylaw. The fees established herein may be changed from time to time by vote of the Town at any Town Meeting.

### **SECTION 3           PAYMENT OF FEE**

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Upon approval of an application for a sewer permit by the Department of Public Works, the permanent sewer privilege fee shall be paid. Such fee shall be that which is in effect at the time the connection is made; or in the case of a change of use of a property previously connected to the Town sewer system, then the fee in effect at the time an application for a building permit is filed; or if no such permit is required, then at the time an occupancy permit is issued; or if none, then at the time the new use begins.

Notwithstanding the foregoing, a single family dwelling or dwelling unit in a multiple family dwelling not in an approved subdivision subject to the provisions of Section 5(a)(1) may elect to have the permanent sewer privilege fee assessed against the property and such assessment shall be apportioned in accordance with the provisions of MGL Ch. 80, §13.

### **SECTION 4           PER UNIT FEE**

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The permanent sewer privilege fee shall be at the rate of \$10,000 per unit. In the case of an existing (effective date of March 19, 2012) residence having frontage on an existing street but for which there is no sewer available as of the effective date, the property owners shall have a one year grace period from the effective date in which the sewer becomes available to said property to connect at the rate of \$5,000. At the end of the one year grace period, the rate shall be \$10,000 per unit.

### **SECTION 5           UNIT CALCULATION**

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For the purpose of this Bylaw, the number of units to be assessed on each such connection shall be as follows:

- (A) Residential:

- (1) Each single family building connected directly to the Town sewer system shall be assessed as one unit.
- (2) A multiple family dwelling whether connected directly or indirectly and whether in one or more buildings, shall be assessed as one unit for the first dwelling unit and one-half unit for each additional dwelling unit.
- (3) In the case of an approved subdivision when branch or secondary mains are installed and paid for by persons other than the Town of Westborough, each single family dwelling connected to the Town sewer system shall be assessed one-half unit for a period of five (5) years from the date the Planning Board releases the lot. Section 5(a)(1) shall apply to all connections made after the original five (5) year period.

(B) Commercial, Industrial and Other Uses:

- (1) All new uses other than single or multiple family dwellings shall be based on the Title 5 flow rate (310 CMR 15.203) divided by the estimated flow rate for a 4-bedroom single family residence (440 gallons per day, or one unit) multiplied by 0.5 which will equal the number of units or portion thereof to be charged to the commercial, industrial or other use. The minimum assessed will be one unit.
- (2) Commercial, Industrial and Other Uses may use the Alternative Water Conservation Unit calculation which will encourage the property owner to install facilities that will conserve water and reduce the water usage below the calculation in (4)(b)(1) above. In order to qualify for the Water Conservation Unit calculation, the property owner must have a professional engineer provide the basis for the calculation and certify the estimated gallons per day for the facility. This estimate must be approved by the Town Engineer and the estimated flow will be divided by the estimated flow for a single family residence (440 gallons per day, or one unit) which will equal the number of units to be charged to the commercial, industrial or other use. After two years, the actual usage will be compared with the engineer's estimated flow, if the actual usage is higher, the number of units will be recalculated at the higher usage rate and the property owner will be responsible for the difference. The initial fee under this Section and any additional fee shall be collectible as described in Section 6 of this Bylaw.

(C) Changes in Use:

- (1) When a property that exceeds 3,000 square feet (defined as gross square feet measured on the exterior perimeter of the building multiplied by the number of floors) has previously been connected to the Town sewer system and the use of the facility changes then the per unit fee assessed will be the difference between the fee required under the new use minus the fee required under the original use. For properties that had paid a fee under the prior Bylaw (prior to March 17, 2012), the difference shall be the fee required by the new use minus the fee previously

paid. For properties of less than 3,000 square feet, there will be no additional sewer connection fee required.

## SECTION 6 SEWER CONNECTION

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The owner or occupant of any building upon land abutting on a public or private way, in which there is a common sewer, shall connect the same therewith by a sufficient drain. A variance from this requirement may be granted by the Board of Health on the following conditions:

- (A) That said building has a private disposal system in use which meets the requirements of the Board of Health, said variance to be only for so long as said system continues to meet those requirements as they may be amended or revised; or
- (B) That said land, by reason of its grade or level or any other cause cannot be drained into such sewer, until such incapacity is removed and, further, provided that a private septic system is installed which meets the requirements as they may be amended or revised.

## SECTION 7 ASSESSMENT OF FEE

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The fee under this Bylaw shall be assessed by the Manager of Public Works upon the estate benefited thereby. Such assessment shall be made by filing with the Board of Assessors of the Town a certificate, designating the way on which the premises connected lies, and giving the name or names of the owners of the estate for which such connection has been made and the amount of the assessment to be paid by such owner or owners.

A copy or duplicate of this certificate shall, within thirty days after the filing of the same with the Board of Assessors, be recorded in the Registry of Deeds for the County of Worcester, or, in the case of registered land, filed in the office of the assistant recorder for the Worcester County Registry District.

The Board of Assessors shall, upon receipt of such certificate, forthwith commit such assessment with this warrant to the Town Collector, who shall forthwith make a demand in writing for the payment of such assessment, and every owner shall, within three months after such demand is served upon him or on the occupant of such estate, or sent by mail to the last address of the owner known to the Town Collector pay to the Town Collector the sum of assessed or charged.

## SECTION 8 FEE TO BE LIEN

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Except as herein provided, the provisions of the General Laws relative to the assessment, apportionment, division, re-assessment, abatement, and collection of sewer assessments, to liens therefore, and to interest thereon shall apply to assessments made under this Bylaw. In applying said provisions to assessments made under this Bylaw, the notice referred to herein shall be deemed to be the demand of the Town Collector.

The lien for any assessment made under this act shall attach upon the recording or filing for registration of the copy or duplicate for the certificate of assessment.

## SECTION 9 SEWER USE FEE

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In addition to the fees prescribed by this Bylaw, the owner shall pay the rates established from time to time for sewer usage and shall also pay for all service work, materials, and inspection from the main to the building or buildings serviced.

## SECTION 10 WAIVER

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Under circumstances where a private property owner extends sewer in a public way through a public bidding process for their own service, a Committee consisting of the DPW Manager, Chair of the Board of Selectmen and Town Manager may waive all or a portion of the sewer privilege fee in Section 5 above to the extent of the cost paid by the private property owner.

Town Counsel and Town Engineer shall serve on this Committee in a non-voting advisory capacity.

# ARTICLE 54 – STORM WATER MANAGEMENT AND EROSION CONTROL

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## SECTION 1 PURPOSE

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Erosion and sedimentation is a significant environmental concern in Westborough. Inadequate stormwater management systems can result in property damage, flooding, the contamination of drinking water supplies, the loss of recreational opportunities, adverse impacts on fisheries and wildlife, the loss of wetlands, costly maintenance of the Town's stormwater system, and the loss of valuable agricultural soils. The purpose of this bylaw is to prevent or diminish these impacts by controlling runoff and preventing soil erosion and sedimentation resulting from site construction and development.

This bylaw also establishes stormwater management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be borne by abutters, townspeople and the general public.

## SECTION 2 DEFINITIONS

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“Alteration of Drainage Characteristics” – Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge, change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

“Best Management Practice or BMP” – A structural, nonstructural, or vegetative measure which reduces erosion, sediment, peak storm discharge, and/or improves the quality of stormwater runoff as described in Stormwater Management or in a publication substantially equivalent.

“The Board” – Town of Westborough Conservation Commission OR its authorized agent(s).

“Clearing” – Any activity that removes the surface cover from land and exposes soil to the potential influence of stormwater.

“Critical Areas” –

(A) Disturbed areas 2,000 square feet or greater within the watershed of any of the Town’s drinking water supplies; or

(B) Disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 15%.

“Development” – Any construction or grading activities other than for agricultural and silvicultural purposes.

“Disturbed Area” – An area where the natural vegetation has been removed, or is proposed to be removed, in connection with a development resulting in exposing the underlying soil or covering up of vegetation. In addition, it includes moving soil, asphalt, rock, sand and gravel.

“Enforcing Agent” – The Town of Westborough Conservation Commission and its employees or appointed agents shall be in charge of enforcing the requirements of this bylaw as they affect water bodies or wetland issues. The Town of Westborough Department of Public Works (DPW) and its employees or appointed agents shall be in charge of enforcing the requirements of this bylaw as they affect the municipal storm drain system.

“Erosion” – A condition in which the earth's surface, including soil or rock fragment, is detached and moved away by the action of water, wind, ice, gravity or other means.

“Grading” – Changing the level or shape of the ground surface.

“Grubbing” – The act of clearing land surface by digging up roots and stumps.

“Impervious Surface” – Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

“Massachusetts Stormwater Management Policy” – The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. Ch. 131 § 40 and Massachusetts Clean Waters Act G.L. Ch. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.



“Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System” – The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westborough.

“Notice of Intent” – The written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under MGL Ch. 131 § 40.

“Operation and Maintenance Plan” – A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

“Order of Conditions” – The document issued by a conservation commission containing conditions which regulate or prohibit an activity.

“Outfall” – The point at which stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

“Outstanding Resource Waters (ORWs)” – Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

“Owner” – A person with a legal or equitable interest in property.

“Person” – An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

“Point Source” – Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

“Project Area” – The area within the boundaries of a development and shall include the area within any proposed subdivision or as depicted on a site plan.

“Redevelopment” – Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

“Runoff” – Rainfall, snowmelt, or irrigation water flowing over the ground surface.

“Sediment” – Solid material, whether mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

“Stabilized” – The reduction in the soil erosion rate which results in an erosion rate typical of undisturbed soils. Soils which are disturbed will be considered stabilized when covered with a healthy, mature growth of grass. As a temporary measure only, disturbed soils will be considered stabilized if covered with a sufficient covering of hay or straw mulch, applied in an amount of at least two tons per acre, sufficient to prevent erosion on an interim basis.

“Stormwater Management Plan” – A plan required as part of the application for a Stormwater Management Permit. (See Section 4).

“Stormwater Management” – As a text, shall mean the Stormwater Management Standards and Handbooks, as revised, prepared by the Massachusetts Department of Environmental Protection and the Massachusetts Office of Coastal Zone Management.

“Stormwater Runoff” – Water from precipitation which is not absorbed, evaporated or otherwise stored within the contributing drainage area.

“TSS” – Total Suspended Solids.

“Watershed” – The land area which drains into any number of streams, ponds, and rivers within the Town including Westborough Reservoir and Sandra Pond.

### SECTION 3            APPLICABILITY

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All projects shall prevent the discharge of polluted stormwater to wetlands, water bodies, or the Municipal Storm Drain System of the Town of Westborough.

Where a project is subject to Subdivision Approval, Site Plan Review, Special Permit, Wetland Protection Act, Order of Conditions or Comprehensive Permit, the Stormwater Management and Erosion Control Bylaw requirements shall be met during review.

For projects involving:

- (A)     Disturbance of more than 5,000 square feet up to 1 acre (43,560 square feet) of land; or
- (B)     Stockpiling more than 100 cubic yards of excavate or fill.

The applicant shall be required to follow the procedures as outlined below:

- (1)     Notify DPW in writing of the date and nature (including a sketch) of the proposed project at least 10 days prior to commencement of site clearing or stockpiling activities;
- (2)     Implement measures to prevent the offsite discharge of sediment;
- (3)     Construction materials (paints, glue, thinners, etc.) shall be managed so as not to pollute stormwater. Containers/materials shall be stored and disposed of properly;

- (4) Implement other stormwater management measures at the direction of the DPW;
- (5) The erosion control system shall be inspected by the DPW, Conservation Commission, or its agent prior to disturbing the site. The applicant shall be responsible for maintaining and removing this system at project completion; and
- (6) Provide additional stormwater-related information at the request of the DPW, Conservation Commission or its agent. This may include providing an engineered plan prepared and stamped by a Massachusetts Registered Professional Engineer or a Certified Professional In Erosion and Sediment Control evaluating existing drainage systems as required.

For projects involving:

- (A) Total cumulative disturbed area of more than 1 acre (43,560 square feet); or
- (B) Development which causes alteration of drainage characteristics (see definition in Section 2 of alteration of drainage characteristics)

A Stormwater Management Application as described in Section 4 shall be filed with the DPW. No person shall start any project subject to the provisions of this bylaw without first obtaining the approval of the DPW, Conservation Commission or its agent.

Exemptions:

- (A) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
- (B) Maintenance of existing landscaping, gardens or lawn areas (not to exceed 2,000 square feet) associated with a single or two-family dwelling;
- (C) The construction of fencing that will not substantially alter existing terrain or drainage characteristics or patterns;
- (D) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage characteristics or patterns;
- (E) The exemptions applicable to agricultural or forestry operations, contained in the Wetlands Protection Act, MGL c. 131, § 40, shall apply to this chapter;
- (F) The reconstruction or resurfacing of any public way shall be exempt from the provisions of this chapter. The use of Best Management Practices shall be employed;
- (G) Municipal maintenance activities; and
- (H) Firefighting activities

## SECTION 4 APPLICATION REQUIREMENTS

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The Plan shall be designed to meet the Massachusetts Stormwater Management Standards, DEP Stormwater Management Handbooks, as revised, and those criteria identified in Section 5 of the Bylaw. The plans, documents and calculations submitted must be stamped by a Massachusetts Professional Engineer or a Certified Professional in Erosion and Sediment Control. The applicant shall complete and sign the Stormwater Permit Application and deliver the application, Stormwater Management Plan and drawings to the DPW. The Stormwater Management Plan shall fully describe the project in drawings and narrative. It shall include:

(A) Contact information

- (1) The location of the Stormwater Management Plan.
- (2) The name, address and the beeper or cell phone number, if applicable, of the:
  - (a) Owner of the project;
  - (b) Operator of the project;
  - (c) Emergency contact;
  - (d) Person responsible for routine inspections of Best Management Practices;
  - (e) Person responsible for maintaining the Best Management Practices;
  - (f) Person responsible for documenting changes to the Stormwater Management Plan;
  - (g) Person responsible for communicating changes in the Stormwater Management Plan to the people working on the site.

(B) Site map requirements:

- (1) A locus map showing the parcel in relation to the surrounding properties
- (2) A North arrow, scale and date
- (3) The property lines
- (4) Easements and/or legal rights of other persons within the property lines
- (5) All structures, utilities, downstream culverts, roads and other paved areas
- (6) Topographic contours at two foot intervals
- (7) Critical area boundaries at the site
- (8) Surface water and wetlands, drainage patterns and watershed boundaries
- (9) Existing vegetation at the site
- (10) The extent of one-hundred-year floodplain boundaries if identified on the Federal Emergency Management Agency floodplain maps
- (11) Soils information for design purposes from the Natural Resources Conservation Services soil survey and available site soil samples
- (12) A depiction of areas of soil disturbance
- (13) A depiction of areas of cut and fill
- (14) A construction details sheet showing notes specifying materials to be used and construction specifications

(C) Site and activity description including:

- (1) Location
  - (2) Existing conditions
  - (3) Proposed conditions
  - (4) Area to be disturbed in square feet and acres.
  - (5) Topography
  - (6) Wetlands and water bodies
  - (7) Land type
- (D) Identification of potential pollutant sources such as paint, pesticides, oil, or other toxic chemicals etc.
- (E) Description of controls to reduce pollutants
- (1) List and discuss each Best Management Practice, its purpose, its construction sequence and installation timing as they apply to the site and the project proposed.
  - (2) Design calculations of all temporary and permanent stormwater management and erosion and sediment control best management practices.
- (F) Phases as related to soil disturbance.
- (1) Tabulated sequence of construction.
  - (2) The construction schedule.
  - (3) The earth movement schedule.
- (G) Maintenance/inspection procedures
- (1) Proposed schedule for the inspection and maintenance of all best management practices.
  - (2) Proposed inspection forms to be filled out by the person responsible for routine inspections of Best Management Practices.

The DPW, Conservation Commission, or its agent may waive all, or some, of the requirements for a stormwater management and erosion control application if it determines that some, or all, of the application requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site.

The applicant shall make all requests for waivers in writing. The applicant must submit supporting technical information and documentation to demonstrate that, because of minimal environmental impact, some, or all, of the requirements are unnecessary. The Enforcing Agent's decision to grant or deny waiver shall be in writing and shall set forth the reasons for the grant or denial.

## SECTION 5 DESIGN STANDARDS

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The following standards shall be applied in planning for stormwater management and erosion control:

- (A) All measures in the plan shall meet, at a minimum, the Best Management Practices as set forth in the Stormwater Management handbook.
- (B) Whenever practical, natural vegetation shall be retained, protected and/or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.
- (C) Temporary erosion and sediment control measures shall be installed before any soil disturbance.
- (D) The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.
- (E) Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface areas shall be protected from sediment.
- (F) Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried through the project area without causing erosion. Integrity of downstream drainage systems shall be maintained.
- (G) Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
- (H) Measures shall be taken to control the post-development peak rate of runoff and volume of runoff so that it does not exceed predevelopment runoff for the two-year, ten-year and one-hundred-year twenty-four-hour storm event as specified in the design criteria of the Stormwater Management handbook. The drainage design may, at the discretion of the enforcing agent, incorporate the use of open space to minimize the change in volume of runoff in post-development.
- (I) Priority shall be given to preserving natural drainage systems, including perennial and intermittent streams, wetlands, soils and drainage ditches for conveyance of runoff entering and leaving the project area.
- (J) When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.
- (K) All temporary erosion and sedimentation control measures shall be removed after final site stabilization. Stabilization measures such as hydro seeding or application of salt hay/mulch or soil netting shall be applied immediately upon removal of temporary erosion measures and inspected weekly until stabilization is complete. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty days unless adverse weather conditions delay stabilization.

## SECTION 6 RESPONSIBILITY FOR INSTALLATION AND CONSTRUCTION

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- (A) The applicant shall have the responsibility to install, construct, inspect and dispose of all stormwater management and erosion control measures required of this chapter.
- (B) The DPW, Conservation Commission, or its agent may, in its discretion, require a bond or other security in an amount, and with sureties and conditions, satisfactory to the Commission, to assure the actual construction and installation of measures within the time specified by the Commission and expressed in the bond or other security document.
- (C) Site development shall not begin until the stormwater management and erosion control plan receives conditional approval. Best management practices shall be installed, as designed and scheduled, as a condition of final approval of the plan.

## SECTION 7 PLAN APPROVAL AND REVIEW

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- (A) The DPW, Conservation Commission, or its agent shall indicate approval of the stormwater management and erosion control plan, as filed, if it complies with requirements and objectives of this chapter. The approval shall be noted on the face of the plan. If disapproved, the DPW, Conservation Commission, or its agent will give the applicant a list of the plan's deficiencies and will describe the substantive and procedural steps required to submit an alternative plan.
- (B) The DPW, Conservation Commission, or its agent, if it determines such action to be appropriate, may submit the plan for technical review to a qualified professional consultant at the expense of the applicant. The Enforcing Agent may require such fees to be paid as a precondition to its review of the application.
- (C) The DPW, Conservation Commission, or its agent shall adopt, and from time to time amend rules and regulations relative to the issuance of stormwater management and erosion control permits. Such rules shall prescribe substantive specifications consistent with this chapter and the procedures for the submission and approval of such permits.

## SECTION 8 MAINTENANCE AND INSPECTION

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- (A) The DPW, Conservation Commission, or its agent's decision shall incorporate the approved application and the plan and shall describe the maintenance requirements for water quality measures required by stormwater management and erosion and sediment control plans.
- (B) The DPW, Conservation Commission, or its agent may require routine inspections to determine compliance with conditions of the permit and to ascertain if the owner is maintaining water quality protection measures. The DPW, Conservation Commission, or its agent shall notify the landowner before such inspections and shall attempt to arrange

for inspections at reasonable times for the landowner. The application for permit and acceptance of the permit shall be deemed to be consent for such inspections.

- (C) Right of Entry. Filing an application for a Stormwater and Erosion Control Permit grants the DPW, Conservation Commission, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- (D) If the landowner denies the DPW, Conservation Commission, or its agent access to the property in order to inspect the site, the agent shall seek to obtain an administrative search warrant from the appropriate court.
- (E) The DPW, Conservation Commission, or its agent may require a fee for routine inspections. It shall be the duty of the owner of the site to pay the fee. The Commission shall establish a fee schedule which will adequately and reasonably reflect the actual cost of performing inspections for various types of water quality measures and for compliance with the conditions of the permit.
- (F) The DPW, Conservation Commission, or its agent may appoint an inspector, at the owner's expense, to perform inspections during construction. This inspector shall have the authority to shut down the project if, in the inspector's opinion, the owner is not complying with the conditions of the permit during the period of construction.
- (G) The contractor is responsible to inspect and maintain the Best Management Practices regularly. The contractor shall keep a record of all inspection and follow-up maintenance of Best Management Practices. The DPW, Conservation Commission, or its agent shall be given copies of the inspection reports every 2 weeks or as they see necessary. The contractor is to keep a record of all amendments to the Stormwater Management Plan and inform the DPW, Conservation Commission or its agent of such changes.

## SECTION 9 OPERATION AND MAINTENANCE PLANS

An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The DPW, Conservation Commission, or its agent shall make the final decision of what maintenance option is appropriate in a given situation. The DPW, Conservation Commission, or its agent will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The Operation and Maintenance Plan shall remain on file with the DPW, Conservation Commission, or its agent and shall be an ongoing requirement. The O&M Plan shall include:

- (A) The name(s) of the owner(s) for all components of the system
- (B) Maintenance agreements that specify:



- (1) The names and addresses of the person(s) responsible for operation and maintenance.
  - (2) The person(s) responsible for financing maintenance and emergency repairs.
  - (3) A Maintenance Schedule for all drainage structures, including swales and ponds.
  - (4) A list of easements with the purpose and location of each.
  - (5) The signature(s) of the owner(s).
  - (6) Record Maintenance agreement.
- (C) Stormwater Management Easement(s).
- (1) Stormwater management easements shall be provided by the property owner(s) as necessary for:
    - (a) Access for facility inspections and maintenance;
    - (b) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
    - (c) Direct maintenance access by heavy equipment to structures requiring regular cleanout.
  - (2) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
    - (a) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the DPW, Conservation Commission, or its agent.
    - (b) Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a Certificate of Completion by the DPW, Conservation Commission, or its agent.
- (D) Changes to Operation and Maintenance Plans
- (1) The owner(s) of the stormwater management system must notify DPW, Conservation Commission, or its agent of changes in ownership or assignment of financial responsibility.
  - (2) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the DPW, Conservation Commission, or its agent and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

## SECTION 10 ENFORCEMENT, VIOLATIONS AND PENALTIES

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- (A) The DPW, Conservation Commission, or its agent shall be responsible for enforcing the provisions of this chapter. To this end, they shall have the authority to seek any or all of the

following remedies to enforce this chapter, its regulations and/or the terms and conditions of its permit:

- (1) Written notice of violation.
  - (2) Injunctive relief in a court of appropriate jurisdiction.
  - (3) Non-criminal disposition. Whoever violates any provision of this chapter or a regulation promulgated by the DPW, Conservation Commission, or its agent, a condition contained in a permit issued by the DPW, Conservation Commission, or its agent, the conditions of a notice of violation or the conditions on the cease and desist order may, in the discretion of the DPW, Conservation Commission, or its agent, be subject to the noncriminal procedure established pursuant to the provisions of MGL c. 40, § 21D. The penalty for the first violation shall be \$50. The penalty for the second violation shall be \$100. Each day on which a violation occurs shall be considered a separate offense. The owner or their agent may be denied permits/licenses after being cited for the second violation.
  - (4) Criminal prosecution for violation of any provision of this chapter, the permit and/or regulations promulgated by the DPW, Conservation Commission, or its agent. Any such violation shall be punished by a fine of \$300 for each offense. Each day on which such violation continues shall constitute a separate offense.
  - (5) Issuance of a cease and desist order if the DPW, Conservation Commission, or its agent determines that conditions at the site are in violation of any of the requirements of this chapter, the Stormwater Bylaw or permit and that such violation is either an immediate threat to the environment, the public health or safety; or that the property owner has failed to take the corrective action(s) identified in a written notice of the violation issued under this chapter or has failed to take such corrective action within the time required in the notice of violation.
  - (6) If the DPW, Conservation Commission, or its agent takes remedial action upon failure of the owner to abate or remediate, notice shall be given to the owner of the costs, including administrative costs, incurred by the Town. Said notice shall be sent within thirty (30) days of completion of all measures necessary to abate the violation or to perform remediation. The violator or owner shall also be notified that they may, within thirty (30) days of receipt of said notice, file an appeal in writing to the Board of Selectmen objecting to either the amount or basis of the costs incurred. If the amount due is not received by the expiration of the time in which to file an appeal or within thirty (30) days following a decision by the board of Selectmen affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. c. 59, s. 57 after the thirty-first day at which the costs first become due.
- (B) The DPW, Conservation Commission, or its agent may issue a written notice of violation to any person whom it determined is in violation of any of the requirements of this chapter, the regulations enacted by the Enforcing Agent or a permit and plan approved under this chapter. The notice of violation shall:

- (1) Specify the actions, conditions or omissions which create the violation;
- (2) Identify the necessary corrective actions;
- (3) Specify the time within which the violations must be corrected; and
- (4) Be served by certified mail upon the violator with a copy maintained in the records of the Commission.

## SECTION 11 AUTHORITY

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This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Procedures Act, and the regulations of the federal Clean Water Act found at 40 CFR 122.34g.

## SECTION 12 SEVERABILITY

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The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence or clause of this bylaw, or the application thereof to any person, establishment or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw. (ATM 2008)

# ARTICLE 55 – DISCHARGES TO MUNICIPAL STORM DRAIN SYSTEM

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## SECTION 1 PURPOSE

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Increased and contaminated stormwater runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; and flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Westborough's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

The objectives of this bylaw are:

- (1) To prevent pollutants from entering the town's municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and unauthorized discharges to the MS4;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges;
- (5) And to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

## SECTION 2            DEFINITIONS

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For the purposes of this bylaw, the following shall mean:

“Authorized Enforcement Agency” – The Town of Westborough Department of Public Works (DPW) Manager, its employees or agents designated to enforce this bylaw.

“Best Management Practice (BMP)” – An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

“Clean Water Act” – The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

“Discharge of Pollutants” – The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

“Groundwater” – Water beneath the surface of the ground.

“Illicit Connection” – A surface or subsurface drain or conveyance, which allows an illicit discharge (see definition) into the municipal storm drain system, including sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, without limitation regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

“Illicit Discharge” – Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 7. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 3(H) and Section 8 of this bylaw.

“Impervious Surface” – Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

“Municipal Separate Storm Sewer System (MS4) or Municipal Storm Drain System” – The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westborough.

“National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” – A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

“Non–Stormwater Discharge” – Discharge to the municipal storm drain system not composed entirely of stormwater.

“Person” – An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

“Pollutant” – Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any municipal storm drain system including private sources/systems or to waters of the Commonwealth. Pollutants shall include without limitation:

- (1) Paints, varnishes, and solvents;
- (2) Oil and other automotive fluids;
- (3) Non–hazardous liquid and solid wastes and yard wastes;
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) Pesticides, herbicides, and fertilizers;
- (6) Hazardous materials and wastes;
- (7) Sewage, fecal coliform and pathogens;
- (8) Dissolved and particulate metals;
- (9) Animal wastes;
- (10) Rock, sand, salt, soils;
- (11) Construction wastes and residues;
- (12) Noxious or offensive matter of any kind.

“Process Wastewater” – Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

“Recharge” – The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

“Stormwater” – Storm water runoff, snow melt runoff, and surface water runoff and drainage.

“Surface Water Discharge Permit” – A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 which authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

“Toxic or Hazardous Material or Waste” – Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include without limitation any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

“Watercourse” – A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

“Waters of the Commonwealth” – All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

“Wastewater” – Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### SECTION 3            APPLICABILITY

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This bylaw shall apply to flows entering the municipally owned storm drainage system.

### SECTION 4            AUTHORITY

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This bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### SECTION 5            RESPONSIBILITY FOR ADMINISTRATION

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The DPW Manager or its agent shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the DPW Manager may be delegated in writing by the DPW Manager to employees or agents of the DPW.

### SECTION 6            REGULATIONS

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The DPW Manager or its agent may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the DPW Manager or its agent to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

### SECTION 7            PROHIBITED ACTIVITIES

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Illicit Discharges – No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4 (see definition), into a watercourse, or into the waters of the Commonwealth or the United States.

Illicit Connections – No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

Obstruction of Municipal Storm Drain System – No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from The DPW Manager or its agent.

## SECTION 8 EXEMPTIONS

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Discharge or flow resulting from firefighting activities.

DPW ice and snow control operations.

The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flow from potable water sources;
- (3) Springs;
- (4) Natural flow from riparian habitats and wetlands;
- (5) Diverted stream flow;
- (6) Rising groundwater;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
- (8) Water from exterior foundation drains, roof drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, sump pumps, or air conditioning condensation;
- (9) Discharge from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing, washing walkways, patios, house siding, windows, or similar house-related activities;
- (11) Discharge from de-chlorinated swimming pool water (less than one ppm Chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance.
- (12) Discharge from street sweeping;
- (13) Dye testing, provided verbal notification is given to the DPW or its agent prior to the time of the test;
- (14) Non-stormwater discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, Provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharge for which advanced written approval is received from the DPW Manager or its agent as necessary to protect public health, safety, welfare or the environment.

## SECTION 9            EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS

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The DPW Manager or its agent may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

## SECTION 10          NOTIFICATION OF SPILLS

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Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire department. In the event of a release of non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide to the Authorized Enforcement Agency written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## SECTION 11          ENFORCEMENT

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The DPW Manager or its agent shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

**Civil Relief** – If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued there under, the DPW Manager or its agent may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Orders** – The DPW Manager or its agent may issue a written order to enforce the provisions of this bylaw or the regulations there under, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform



remediation within the specified deadline, the Town of Westborough may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Westborough, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the DPW Manager or its agent within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the DPW Manager or its agent affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59 § 57 after the thirty-first day at which the costs first become due.

**Criminal Penalty** – Any person who violates any provision of this bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than \$ 300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Non-Criminal Disposition** – As an alternative to criminal prosecution or civil action, the Town of Westborough may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, § 21D. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

**Entry to Perform Duties Under this Bylaw** – To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the DPW Manager or its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the DPW Manager or its agent deems reasonably necessary.

**Appeals** – The decisions or orders of the DPW Manager or its agent shall be final. Further relief shall be to a court of competent jurisdiction.

**Remedies Not Exclusive** – The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

## SECTION 12 SEVERABILITY

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The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

## SECTION 13      TRANSITIONAL PROVISIONS

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Residential property owners shall have 30 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period. (ATM 2008)

## **ARTICLE 56 – PUBLIC SHADE TREES**

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### SECTION 1      CONSERVATION OF PUBLIC SHADE TREES

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It shall be the policy of the Board of Selectmen to encourage the conservation of public shade trees in the Town of Westborough and to work for a planned program of replacement for public shade trees that have been removed because of disease or public nuisance, construction or danger, and further, it shall be the policy of the Board to encourage residents, businesses and private builders to conserve and to plant shade trees. Public shade trees shall be those trees as defined by MGL Ch. 87 § 1.

- (A) The Board of Selectmen shall request the DPW Manager or his designee to notify the Board and any abutters at least seven (7) days in advance of any public hearing called for the purpose of presenting cause why a non-diseased public shade tree should be removed and should tag said tree in a conspicuous manner.
- (B) The Board of Selectmen shall request the DPW Manager or his designee to annually list those public shade trees which, in his opinion, constitute a public nuisance or danger or are diseased and submit said list to the Board on or before September 1 of each year.
- (C) The DPW Manager or his designee shall prepare and submit to the Board of Selectmen by November 1, a recommendation and a specific site location plan for public shade tree replacements and additions and a proposed planting budget for said replacements and additions.
- (D) The Board of Selectmen shall encourage all private builders and municipal building committees and municipal agencies to plant and conserve public shade trees.
- (E) The Board of Selectmen shall encourage residents of Westborough to plant public and private shade trees and, from time to time, shall issue public statements that support this procedure and perform a public service by informing residents of best procedures for conservation and planting of shade trees.
- (F) Wherever practical, the DPW Manager or his designee shall institute a planting program, especially in the Downtown District, in anticipation of tree removal.
- (G) These rules and procedures shall not take precedence over any General Laws. (STM2009)

**ARTICLE 57 – RESERVED**

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**ARTICLE 58 – RESERVED**

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**ARTICLE 59 – RESERVED**

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**ARTICLE 60 – RESERVED**

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**ARTICLE 61 – RESERVED**

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**BUILDING/CONSTRUCTION**

**ARTICLE 62 – BUILDING DEPARTMENT**

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**SECTION 1 APPOINTING AUTHORITY**

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There shall be a Building Department consisting of the Building Commissioner, Inspector of Plumbing and Gas, and Inspector of Wires appointed by the Town Manager in accordance with the provisions of Article 4, Section 4-2 of the Charter of the Town of Westborough. (ATM 1998)

**SECTION 2 AUTHORITY**

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The functions of the Building Department shall be to administer and enforce the provisions of the Massachusetts State Building Code - Chapter 802 of the Acts of 1972 as amended and including the provisions of Chapter 143; Section 3L of the M.G.L.A. as amended; Chapter 142, Section 2 of the M.G.L.A. as amended and Chapter 737 of the Acts of 1960.

The Inspector of Buildings may also act as the Zoning Enforcement Officer.

**SECTION 3 COMPENSATION**

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The Inspectors shall receive such compensation as the Town vote under the Salary and Wage Administration Plan.

## SECTION 4 FEES

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Fees for Inspections and/or permits issued by the Department shall be determined from time to time by the Board of Selectmen; the fee schedule will be on file with the Town Clerk and in the Office of the Building Department.

## ARTICLE 63 – BUILDING CODE

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### SECTION 1 STRETCH ENERGY CODE

#### (A) DEFINITIONS

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

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

#### (B) PURPOSE

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

#### (C) APPLICABILITY

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

#### (D) STRETCH CODE

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The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Westborough General Bylaws, Article 63.

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

## SECTION 2 ELECTRICAL SERVICE

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- (A) Each new residence constructed hereafter shall be provided with a minimum of two hundred (200) ampere service. (ATM 1979)
- (B) All underground service entrance conductor for above shall be enclosed within conduit. Said conduit shall be a minimum of two (2) inches. (P.V.C. Schedule 40 allowed).

# **ARTICLE 64 – DEMOLITION OF HISTORICAL OR ARCHITECTURALLY SIGNIFICANT BUILDINGS IN THE TOWN OF WESTBOROUGH**

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## SECTION 1 INTENT AND PURPOSE

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This Bylaw is enacted for the purpose of protecting the historically or architecturally significant buildings within the Town and to encourage owners of such properties to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them.

## SECTION 2 DEFINITIONS

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“Commission” – The Westborough Historical Commission.

“Inspector” – Building Commissioner.

“Demolition” – Any act of pulling down, destroying, removing or razing a building, or commencing the work of total or substantial destruction with the intent of completing the same.

“Significant Building” –

- (A) Any Building listed on the National Register of Historic Places or included in the National Historic District.
- (B) Any Building researched and found by the Commission to be historically significant, or architecturally significant in terms of construction, or association with a famous architect or builder.

### SECTION 3 PROCEDURE

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- (A) Within seven (7) days of receipt of an application for a demolition permit for a structure built prior to 1950, the Inspector shall forward a copy thereof to the Commission. No demolition permit should be issued at that time. (ATM 2004)
- (B) Within twenty (20) days from its receipt of a demolition permit application, the Commission shall determine whether the structure is not a significant building. If the Commission determines the structure is not a significant building the Commission shall notify the inspector in writing and the Inspector may issue a demolition permit. If the Structure is determined to be a significant building, the Commission shall so advise the owner and the Inspector. The Inspector shall not issue a demolition permit for a period of one hundred eighty (180) days from the date of application unless the Commission informs the Inspector prior to the expiration of said one hundred eighty (180) days that the applicant for the demolition has made a reasonable but unsuccessful effort to locate a purchaser for the structure or one who is willing to preserve, rehabilitate or restore the structure, or has agreed to accept a demolition permit on specified conditions approved by the Commission. (ATM 2004)
- (C) Upon completion of the procedure set forth in Sections 3(a) and 3(b) of this Article, where an historically significant property is to be demolished, a member or representative of the Historical Commission shall, prior to the start of demolition, be given copies or be allowed to photograph all elevations, any outbuildings and the property in relation to roads and adjacent properties.

### SECTION 4 EMERGENCY DEMOLITION.

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Nothing in this Bylaw shall restrict the Building Commissioner from immediately ordering the demolition of any building in the event of an imminent danger to the safety of the public.

### SECTION 5 ENFORCEMENT AND REMEDIES

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- (A) The Building Commissioner and/or the commission are authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Bylaw or to prevent a threatened violation thereof.
- (B) No building permit shall be issued with respect to any premises upon which a building built prior to 1950 has been voluntarily demolished with disregard for the provisions of the Bylaw, for a period of two years after the date of the completion of such demolition. As used herein "premises" refers to the parcel of land upon which the building was located and all adjoining parcels of land under common ownership or control.

### SECTION 6 SEVERABILITY

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In case any Section, paragraph or part of this Bylaw be for any reason declared invalid or unconstitutional by any court, every other Section, paragraph and part shall continue in full force and effect. (ATM 1988)

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## **ARTICLE 65 – HANDICAPPED ACCESS BYLAW**

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### **SECTION 1 PUBLIC MEETINGS TO BE ACCESSIBLE**

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Within reason, all public meetings within the Town of Westborough and of a governmental body as defined in the Open Meeting Law, Massachusetts General Laws, Chapter 39, Section 23A, shall be held in locations which are accessible to those with impairments and/or disabilities.

### **SECTION 2 POSTING**

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The advance notice required by law for public meetings shall be posted according to procedure in a specific accessible location and in any appropriate local media.

### **SECTION 3 COMPLIANCE**

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The Disability Affairs Committee is directed to monitor compliance with this Bylaw and is further directed to report at each Annual Town Meeting regarding compliance and recommended changes in this Bylaw, if indicated. (ATM 1991)

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## **ARTICLE 66 – CONSTRUCTION ACTIVITY**

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### **SECTION 1 DAY AND TIME LIMITS**

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In residential areas or in areas adjacent to residential areas of the Town, construction operations shall only be allowed six (6) days per week, Monday through Saturday (excluding State and National holidays), between the hours of 8:00 AM and 6:00 PM, with the exception that on-site only construction activities may begin at 7:00 AM (8:00 AM on Saturday). No starting or idling of equipment shall be allowed prior to 7:00 AM. Deliveries to the site shall not be allowed prior to 7:00 AM. There shall be no construction activities on Sunday. Notwithstanding the foregoing, different hours of construction operations may be granted by the Board of Selectmen for municipal projects or for other projects by the appropriate permit granting authority.

### **SECTION 2 PERMIT REQUIRED**

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There shall be no construction other than that shown on plans approved by the appropriate Town official(s).

## **ARTICLE 67 – CONTAMINATED PROPERTY REDEVELOPMENT INCENTIVE**

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### **SECTION 1 PURPOSE**

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It is the intent of the Town to offer tax abatements to encourage the continued environmental cleanup and redevelopment of sites that are zoned for industrial and/or commercial use that are contaminated with oil and/or other hazardous materials.

### **SECTION 2 AUTHORITY**

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The Town Manager is hereby authorized to work to negotiate agreements regarding the payment of outstanding real estate taxes, interest and penalties, including abatement of those amounts needed to make a cleanup and redevelopment project economically feasible. Said agreement may also contain additional incentives, financial and otherwise as may be deemed appropriate.

### **SECTION 3 SCOPE OF AUTHORITY**

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Agreements may cover property contaminated with oil or other hazardous materials and must be zoned for commercial or industrial use. Agreements may be entered into only with new, innocent purchasers who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release. Agreements must specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue, if any, amount of monthly payments, payment schedule, late penalties and other terms. These obligations may consist of outstanding real estate taxes or other financing packages negotiated with the Town.

Agreements must be signed by the Board of Selectmen and property owner and must be notarized and attested to by the Town Clerk. Copies must be provided to the Massachusetts Commissioner of Revenue, Massachusetts Department of Environmental Protection, United States Environmental Protection Agency, Board of Assessors and the property owner.

### **SECTION 4 APPROVAL OF AGREEMENTS**

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All agreements must be approved by a majority vote of the Board of Selectmen.

## **ARTICLE 68 – RESERVED**

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## **ARTICLE 69 – RESERVED**

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**ARTICLE 70 – RESERVED**

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**ARTICLE 71 – RESERVED**

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**ARTICLE 72 – RESERVED**

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