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## Chapter 1 General Provisions

### **Section 1-101 Ordinances of the Town of West Springfield**

This Code shall be designated the Ordinances of the Town of West Springfield.

### **Section 1-102 Definitions and Rules of Construction**

1. The following rules of construction shall be observed in construing these Ordinances, unless inconsistent with the manifest intent of the context of the ordinances:
  - (a) Words importing the singular shall include the plural; words importing the plural shall include the singular; and words importing the masculine gender shall include the feminine and neutral genders.
  - (b) Words purporting to give a joint authority to three (3) or more officers or other persons shall be construed as granting such authority to a majority of such officers or persons.
  - (c) Words prohibiting anything from being done except in accordance with a license, permit or authority from a board or officer shall be construed as giving such board or officer power to license, permit or authorize such a thing to be done.
2. As used in these Ordinances, the following terms shall have the meanings indicated:

OWNER – As applied to a building or land, includes any part owner, joint owner, tenant in common or joint tenant of the whole or of a part of such building or land.

PERSON – Includes a corporation, trust, society, association, partnership, or any other legal entity.

TENANT or OCCUPANT – As applied to a building or land, includes any person who occupies the whole or a part of such building or land either alone or with other persons.

WAYS, STREETS and HIGHWAYS – Includes all public ways, private ways, highways, town ways, roads, bridges, streets, avenues, boulevards, alleys, squares, lanes, courts, crosswalks and sidewalks.
3. As used in these Ordinances, the use of the word “Charter” or “HRC” refers to the West Springfield Home Rule Charter.

### **Section 1-103 Repeal of Ordinances**

All ordinances or parts of ordinances heretofore adopted are hereby repealed and annulled; but the provisions of these Ordinances, as far as the same are identical with the provisions of ordinances heretofore adopted, shall be construed as a continuation thereof.

### **Section 1-104 Effect of Repeal**

The repeal of an Ordinance heretofore adopted shall not affect any act done, ratified or confirmed or any right accrued or established, nor any action, suit or proceeding commenced, nor affect any punishment, penalty or forfeiture incurred under such ordinance.

**Section 1-105            Violations and Penalties**

Whoever shall offend against or fail to comply with any of the provisions of these Ordinances shall, unless some other penalty is provided by law or these ordinances, for each and every offense forfeit and pay a penalty of twenty-five dollars (\$25.) for the first violation; fifty dollars (\$50.) for the second violation; and two hundred dollars (\$200.) for the third violation and each subsequent offense. Each day that a person is in violation shall constitute a separate offense. This penalty is not intended to, in any way, limit the applicability of the provisions of the noncriminal disposition procedures set forth in these Ordinances.

**Section 1-106            Amendment of Ordinances**

These Ordinances may be altered, amended or repealed by the Town Council , as set forth in the West Springfield Home Rule Charter provided an article or articles setting forth the substance of the proposed alteration, amendment or repeal is set out in the agenda of the meeting at which the initial public hearing on the ordinance is held.

**Section 1-107            When Ordinances Become Effective**

These ordinances shall take effect when duly adopted by the Town Council pursuant to section 2-9 of the West Springfield Home Rule Charter and when approved by the Mayor or Council override pursuant to section 3-7 of the West Springfield Home Rule Charter.

Chapter 2 Governmental Operations

**Section 2-100            Reserved**

**Section 2-101            Defense and Prosecution; Employment of Counsel**

The Mayor is hereby authorized and instructed to defend all suits at law and in equity that may be brought against the town and to prosecute any suits in the name of the town and to employ a Town Attorney to accomplish same, who may be the head of the Law Department and the Town Attorney may employ such other counsel or specialist as he / she deems in the best interest of the Town.

**Section 2-102            Sale and Conveyance of Land**

Subject to the requirements of General Laws Chapter 30B and Chapter 40 as amended, the Mayor may sell and convey in the name and on behalf of the town, at such prices and under such terms and conditions as said Mayor may determine, the whole or any part of any parcels of land which the town has acquired or may hereafter acquire, whether by purchase, gift, eminent domain or by any other method, provided however, this section shall not limit the power of the Treasurer under the

General Laws to convey real property acquired by tax title. The Mayor may grant licenses to use municipal real estate on such terms and conditions as he/she deems appropriate.

**Section 2-103            Gifts of Land or Interests therein**

The Mayor shall have the authority to accept on behalf of the Town land in fee simple or an easement or any other interest in any land for any municipal purpose in any case when such conveyance shall not require the payment of any monetary consideration for said land or interest in said land by the Town.

**Section 2-104            Use of Town Vehicles**

1.     Rate; turnpike tolls. The rate to be paid for use of a motor vehicle for travel by town officials or employees shall be eighty percent (80%) (rounded to the nearest penny) of the rate allowed by the Internal Revenue Service for each mile of travel. Turnpike tolls shall be paid when a receipt of payment is submitted for reimbursement.
2.     Restrictions on use. No person shall use any town vehicles for his personal use. Said vehicle shall only be driven by the individual to whom it has been assigned and shall not be used outside of the town unless on official town business.
3.     Marking of vehicles. All town vehicles, except for certain Police Department vehicles as designated by the Mayor, shall be appropriately marked with departmental or town seals or appropriate lettering that is highly visible and identifiable as a town-owned vehicle.
4.     Taking vehicles to and from work. Notwithstanding the foregoing, the following department heads and/or employees who have been assigned a town vehicle shall be permitted to take said vehicle to and from work:
  - A.     Mayor.
  - B.     Fire.
  - C.     Police.
  - D.     Water.
  - E.     Operations

No other employee shall be permitted to take a municipal vehicle to and from work without written authorization from the Mayor or his or her designee.

5.     Parking in designated areas. All other town vehicles shall be parked in a designated area in the municipal parking lot across from the Municipal Office Building.
6.     Violations and penalties. The penalty for failing to comply with this Ordinance shall be governed by Section 1-105 of the Ordinances of the Town of West Springfield.



**Section 3-100                      Councilors Salary**

1.     Salary. Pursuant to the requirement of Section 2-4 of the West Springfield Home Rule Charter, the annual salary of each member Councilor shall be: \$8,000.00 per year.<sup>1</sup>
  - a)    The annual salary of the Council President shall be 125% of the annual salary of a member Councilor.
  
2.     Review. Salaries of the Town Councilors shall be reviewed by the Town Council in each year ending in a “0” and a “6”, but may be reviewed in other even numbered years by a majority vote of the Council, to determine whether the compensation then being paid is appropriate.
  
3.     Limit. At no time shall the salary of any Town Councilor, excluding the President, exceed ten percent (10%) of the Mayor’s Salary.

Town Council approved amendment to Section 3-100 by vote of the Town Council on December 31, 2001 increasing the salary from \$2,000 to \$4,000.(**Ordinance #104**)  
Town Council approved amendment to Section 3-100 by vote of the Town Council on November 17, 2003 increasing the salary from \$4,000 to \$6,000 (**Ordinance #116**)  
Town Council approved amendment to Section 3-100 by vote of the Town Council on April 9, 2008 increasing the salary from \$6,000 to \$8,000 effective January 1., 2010 (**Ordinance # 139**)

**Section 3-101                      Clerk of the Council**

1.     Hours. The position of the Clerk of Council is a full time position with office hours as established by vote of the majority of the Council.
  
2.     Salary. The Clerk of the Council shall be paid an annual salary and shall also be paid a stipend for the attendance at all regular and special meetings of the Town Council. Said salary and stipend of the Clerk of the Council shall be the amount appropriated for the position of Clerk of Council in the annual budget or any supplemental appropriation adopted by the Council and approved by the Mayor. The salary range <sup>1</sup> and annual compensation<sup>2</sup> of the Clerk of the Council shall be set forth in footnotes to this section.
  
3.     Benefits. The Clerk of the Council shall be entitled to those benefits as approved from time to time by the Town Council.
  
4.     Absence. If the Clerk of the Council is unavailable for any reason, the Town Clerk or his/her designee, if acceptable to the Council, shall perform the duties of the Clerk of the Council until his/her return.
  
5.     Duties and Responsibilities. The Clerk of the Council shall perform all duties and responsibilities established by the West Springfield Home Rule Charter for the office and

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<sup>1</sup> The salary range for the Clerk of the Council is currently \$29,000- \$41,000

<sup>2</sup> The current compensation \$36,943.53annual salary and \$4,750.00 stipend)

described in the job description and those assigned or delegated by the Council or the President of the Council. The performance of the Clerk of the Council shall be evaluated, by the Council of the whole using an evaluation form adopted by it, annually, by December 1. The evaluations shall be summarized by the President, Vice President and Chair of the Human Resources Subcommittee. They shall review the summary with the Clerk of the Council by December 31.

6. Discipline, Suspension or Removal. A two-thirds vote of the Council of the whole may, after compliance with the applicable provisions of G.L., Ch. 39, s.23B, discipline, suspend or remove the Clerk of the Council or any Officer or Department Head, elected or appointed by it, by filing a written statement with the Department of Human Resources, setting forth the action taken. A written statement setting forth the reasons for the action taken shall be delivered or mailed by certified mail return receipt requested to the last and usual place of abode of the said Clerk, Officer or Department Head. He or she may file a written reply, by filing it with the President of the Council, within ten (10) days of the date of the filing of the action by the Council with the Department of Human Resources, and may request a meeting with the Council, in conformity with the provisions of Ch. 39 s.23B involving employee discipline, within said ten (10) day period by filing a written request with the Council President if a meeting under Ch. 39 s.23B between the Council and the said Clerk, Officer or Department Head has not been held prior to the Council's filing the statement with the Department of Human Resources.

The filing of a reply or request for a meeting shall have no effect on the removal, suspension or discipline of any party subject to the above.

The removal, suspension or discipline shall take effect on the filing by the Council with the Department of Human Resources.

*Town Council approved Section 3-101 by vote of Town Council on November 17, 2003. (Ordinance #116), deleted the original in its entirety and replaced it with the above by a vote on August 18, 2008*

## **Section 3-102            Town Clerk**

*Town Council approved Section 3-102 by vote of Town Council on November 21, 2005. (Ordinance #126)*

1.     Title: Town Clerk
2.     Hours: The Town Clerk is a full—time position with office hours as established by vote by a majority of the Council from time to time. The office of the Town Clerk shall be open to the public on the same schedule as that of other town hall offices.
3.     Salary: The salary and additional compensation for the position of Town Clerk shall be the compensation appropriated for said position in the annual town budget

adopted by the Council<sup>4</sup>. The annual compensation of the Town Clerk shall be set forth in a footnote to this section.

4. Benefits: The Town Clerk shall be entitled to those benefits as approved from time to time by the Council.

~~The Town Clerk shall also be entitled to receive the — benefits, if requested, for the “S” classification in the compensation plan and classification plan ordinance. Deleted and replaced by vote of the Council, Dec. 5, 2011~~

5. Absence: If, the Town Clerk is unavailable for any reason the Assistant Town Clerk shall perform the duties of the Town Clerk until his/her return.

6. Duties Responsibilities & Evaluation: The Town Clerk shall perform all duties and responsibilities contained in the job description as well as those assigned to the office of Town Clerk by the Massachusetts General Laws, the West Springfield Home Rule Charter, the West Springfield General Ordinances, the Executive Orders of the Mayor and those duties and responsibilities assigned or delegated by the Council or the President of the Council. The performance of the Town Clerk shall be evaluated by the entire membership of the council using an evaluation form adopted by it annually by December 1. The evaluation shall be summarized by the President, Vice— President and chair of the Human Resources Sub— committee. They shall review the summary with the Town Clerk by December 31.

7. Discipline, Suspension or Removal: The Council may by a two thirds vote of the entire membership of the council, after compliance with the applicable provisions of G.L., ch. 39, §23B, discipline, suspend or remove the Town Clerk or any officer or department head, elected or appointed by it by filing a written statement with the Department of Human Resources, setting forth the action taken and shall be a part of the Town Clerk’s personnel file. A written statement setting forth reasons for the action taken shall be delivered or mailed by certified mail, return receipt requested to the last and usual place of abode of the said Town Clerk. The Town Clerk may make a written reply, by filing it with the Clerk of the Council, within ten (10) days of the date of the filing of the action by the Council with the Department of Human Resources and may request a meeting with the Council in conformity with the provisions of Ch.39, §23B involving employee discipline, within said ten (10) day period by filing a written request with the Clerk of the Council, if a meeting under said Ch. 39, §23B between the Council and the said Town Clerk has not been held prior to the Council’s filing the statement with the Department of Human Resources. The filing of a reply or request for a meeting shall have no affect upon the removal or suspension. The removal or suspension shall take effect on the filing by the Council with the Department of Human Resources.

8. This ordinance shall take effect upon approval as set forth in section 3-7 of the HRC.

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<sup>4</sup>The current compensation based on the job description adopted by the Council is \$55,575.00, including all stipends, except \$1,800.00 as a registrar of voters the total **compensation** being \$57,375.00. (effective Jan 1, 2013)

(If the vice president and chair is one and the same person, the Human Resources Subcommittee shall designate another member of its subcommittee to participate in the summary and review.)

### **Section 3-103                    Regular Meetings of the Town Council – Time/Place**

*Town Council approved Section 3-103 by vote of Town Council on November 21, 2012. (Ordinance #143)*

1.     Meetings; Dates and Times Established. The Town Council shall hold regular meetings on the first and third Mondays of the month for the months of September through June, and on the third Monday of each month for the months of July and August from 7:00 PM to not later than 10:00 PM. When the day fixed for any regular meeting of the Council falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday. When a regularly scheduled meeting is postponed, such meeting shall be reposted.
  
2.     Time of Meeting; Extension. The time of a meeting may be extended by the President or by a two-thirds (2/3) vote of the members of the Council present beyond the time specified herein.
  
3.     Adjournment; Notice. Any meeting of the Council may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular meeting. The Clerk of the Council is responsible for noticing said adjourned meeting in conforming with the Open Meeting Law (MGL 30A, Section 18-25).
  
4.     Meetings; Location. All regular meetings of the Council shall be held in the Council Chambers of the Town unless otherwise specified by the Council.
  
5.     Meeting Time and/or Location; Change The Council, may by resolution, change the time and place of the regular meeting. The resolution shall set forth the circumstances necessitating such change. Such resolution shall be posted at least forty-eight (48) hours prior to the meeting to be held pursuant to the change and filed with the Town Clerk. Forty-eight (48) hours prior to the meeting to be held pursuant to such change, the Clerk of the Council shall give each Council member, notice of any change from the regular meeting established by this section.
  
6.     Meetings Open to Public; Exceptions. Except for executive sessions as permitted by state Open Meeting Law or other applicable statute or regulation, all regular meetings of the Town Council and its committees shall be open to the public, subject to recording by various means by notification of the Council President, provided that such arrangements do not interfere with the orderly conduct of the meetings and are done under such rules as the Council may prescribe.

## Chapter 4 Offices, Officials and Multiple Member Bodies

### Section 4-100 Election of Officers

*Approved by the Town Council Jan. 16, 2007 Ord.#135*

Election of officers: Each municipal board or commission shall annually, at its first meeting of each calendar year, elect a chairman, vice-chairman and secretary for the ensuing year, except that the Building and Other Facilities Planning and Construction Committee, Board of Assessors and the Capital Planning Committee shall elect its officers on a fiscal year basis at its first meeting of each fiscal year.

Each municipal board or commission shall file with the Office of the Mayor a statement identifying the newly elected officers no later than thirty (30) days after the election of officers.”

### Section 4-101 Removal of a Member from a Multiple-Member Body

*Town Council approved Section 4-101 by vote of Town Council on February 2, 2003. (Ordinance #112)*

*Amended by Vote of Town Council Sept. 4, 2012 (Ordinance #142)*

1. Removal. The Mayor may remove a member of a multiple-member body appointed by the Mayor for cause.
2. Procedure. The Mayor shall, prior to the removal of any member of a multiple-member body, notify said member in writing by certified mail of the reason(s) for removal with a copy to the Town Council. The member may, within 10 days of the date of the notice, request a meeting with the Town Council President, Vice President and Chair of the Human Resource Committee to discuss the removal. Said request shall be in writing. The member may at such meeting have counsel or a representative of his/her own choosing present for the purpose of advising said member only, but not for the purpose of representation or participation in the meeting. The member may speak in his/her own behalf.

Should any one of the above named parties – Town Council President, Vice President or Chair of the Human Resource Committee - conclude, based on the evidence presented, the member has been removed without cause, the Council President will schedule a discussion and vote of said removal for the next regularly scheduled meeting of the Town Council. If at the Council meeting at least six members believe the member was removed without cause, and there is a vote reflecting the same, the member shall not be removed.

~~Procedure. The Mayor shall, prior to the removal of any member of a multiple-member body, notify said member in writing by certified mail of the reason(s) for removal. The member may, within 10 days of the date of the notice, request a meeting with the Mayor to discuss the removal. Said request shall be in writing.~~

~~The member may at such meeting have counsel or a representative of his/her own choosing present for the purpose of advising said member only, but not for the purpose of representation or participation in the meeting. The member may speak in his/her own behalf.~~

*Removed and replaced by vote of Town Council Sept. 6, 2012*

3. Decision. The decision of the Town Council shall be final. If the Council votes to remove the member it shall be effective upon the Clerk of the Council filing a notice of removal with the Town Clerk, with a copy to the Mayor.

~~Decision. The decision of the Mayor shall be final and shall be effective upon his/her filing of a notice of removal with the Town Clerk and a copy with the Clerk of the Council.~~

~~If no meeting is requested, as provided in the prior section, the Mayor shall file the notice of removal after the time to request a meeting has expired.~~

*Removed and replaced by vote of Town Council Sept. 6, 2012*

If no meeting is requested, as provided in the prior section, the Mayor shall file the notice of removal after the time to request a meeting has expired.

4. Property Rights. No member of a multiple-member body shall have any property interest in said membership.

**Section 4-102            Arts Council**

**Section 4-103            Board of Appeals-Zoning**

The Board of Appeals established in accordance with the provision of General Laws chapter 40A and shall be responsible for interpreting the zoning under the Zoning Ordinance of the Town of West Springfield. Said board shall be the Board of Appeals for the purposes of MGL C. 41, § 81Z.

**Section 4-104            Board of Assessors**

*(by vote of Town Council on January 16, 2007-Ordinance #131)*

**1. Membership and Organization:**

There shall be a principal assessor who shall also be the head of the assessing division in the department of municipal finance and a Board of Assessors consisting of the principal assessor and two part-time assessors appointed by the mayor pursuant to section 2-10 of the charter.

**2. Terms and Compensation:**

The appointment of the part-time assessors shall be made on the first business day of July, for a term of two (2) years or until his successor is appointed and qualified, staggered so that one term expires each year.

The principal assessor shall be appointed pursuant to the provisions of the department of municipal finance ordinance.

The part-time assessors shall receive compensation for their services as determined by the mayor, subject to appropriation.

**3. Powers and Authority:**

The Principal Assessor shall have no greater authority or power in the performance of the statutory duties of assessors than either of the part-time assessors, including but not limited, recommending the annual tax rate to the mayor and council and granting abatements.

**4. Special Municipal Employees:**

The part-time assessors shall be special municipal employees.

**Section 4-105 Board of Health**

**Section 4-106 Board of License Commission**  
*(added by vote of Town Council on January 16, 2007-Ordinance # 132)*

**Section 1. Title:**

Board of License Commissioners

**Section 2. Purpose:**

Pursuant to the requirements of Section 6-7 of the West Springfield Home Rule Charter (HRC) there is hereby established a Board of License Commissioners whose duty it shall be to issue, oversee and enforce the various licenses issued by the Town of West Springfield.

**Section 3. Membership:**

The Board shall consist of three members who shall be appointed by the Mayor for three (3) year terms or until their successor has been appointed and qualified. Appointments shall be for three years and shall begin on the first business day in January. Said terms shall be staggered so that one member is appointed each year. If a vacancy occurs the Mayor shall appoint a new member who shall serve for the balance of the term of the member replaced.

**Section 4. Powers:**

The Board shall be responsible for the issuance, renewal, modification, suspension and revocation of licenses issued under the authority set forth in chapters 138 and 140 of the General Laws, and all other licenses and permits previously issued by the Board of Selectmen and any and all licenses and permits established by ordinance, unless by ordinance or the HRC the issuance of such licenses has been assigned to another municipal board, department or office. The Board shall establish the fees for said licenses and permits subject to the approval of the Mayor.

**Section 5. Rules and Regulations:**

The Board may adopt rules and regulations, subject to approval by the Mayor.

**Section 6. Special Municipal Employee:**

Commission members shall be special municipal employees.

**Section 7. Severability:**

If any portion of this ordinance is declared to be illegal or unenforceable it shall be deemed stricken and the remaining portions shall remain in full force and effect.

**Section 4-107            Board of Registrars of Voters**

**Section 4-107A            Building and Other Facilities Planning and Construction Committee**  
*Town Council approved Section 4107A by vote of the Town Council on March 18, 2002. (Ordinance #106)*

1.    Membership and Organization. There shall be a Building and Other Facilities Planning and Construction Committee, which may be referred to as the Planning and Construction Committee and which shall consist of seven members, all of whom shall be residents of the town. In making appointments to the committee, the Mayor shall seek persons having experience in the fields of architecture, engineering, construction, real estate or law.
  
2.    Terms and Compensation. The terms of the six members appointed by the Mayor, after the initial terms shall be for three (3) years and shall be so arranged that the term of two members shall expire each year. The seventh member of the committee shall be designated, annually, by the school committee and may, but need not, be a member of the school committee. The initial appointment shall be two to expire January 1, 2005, two to expire January 1, 2004 and two to expire January 1, 2003. Committee members shall serve without compensation.
  
3.    Powers and Duties. Whenever any construction, reconstruction or remodeling of any municipal or school building or other Town of West Springfield facility is proposed to be undertaken the proposed project shall be referred to the Building and Other Facilities Planning and Construction Committee by the Mayor, if deemed appropriate. The Building and Other Facilities Planning and Construction Committee shall evaluate the proposal and shall file a written report, including its recommendations, with the Mayor. The Mayor shall determine what action, if any, shall be taken in connection with said recommendations. The Building and Other Facilities Planning and Construction Committee shall be the designer selection committee. The Committee shall be responsible for overseeing all construction, reconstruction or remodeling work which is authorized to be undertaken including, but not limited to site acquisition, site preparation, schematic design, preliminary design, bid preparation, bid award, and supervision of construction.

The Building and Other Facilities Planning and Construction Committee shall be responsible for monitoring the physical condition of all municipal buildings and other facilities, including schools. The committee shall meet from time to time with representatives of municipal agencies to evaluate the need for the construction of new buildings or other facilities or additions, renovations, or remodeling of any existing building or facility. The Committee shall file an annual written report, with the Mayor by June 30<sup>th</sup> of each year. The report shall state the needs of the community to be addressed by the project(s) and make recommendations as to the priority of the project(s) listed. The Committee shall make such additional reports as it deems appropriate or as requested by the Mayor. The Committee shall review the condition of any existing building or facility or the components thereof or future building or facility needs as requested by the Mayor.



The Building and Other Facilities Planning and Construction Committee shall review all plans and proposals for capital improvements to municipal buildings and other facilities, including all proposals made by or on behalf of the school committee, and shall evaluate and assign priorities to each such proposed project on a continuing basis. A member of the Capital Program Planning Committee shall serve as a liaison to said committee.

4. Special Municipal Employee: Committee members shall be special municipal employees.

**Section 4-108            Ordinance Review Committee**

**Section 4-109            Cable Television Committee**

**Section 4-110            Capital Program Planning Committee**

**Section 4-111            Commission on Disabilities**

**Section 4-112            Community Preservation Committee**

- 1: Membership and Organization:

There is hereby established a Community Preservation Committee consisting of nine (9) voting members pursuant to MGL, Chapter 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

- (a) One member of the Conservation Commission – as designated by the Commission for a term of three (3) years
- (b) One member of the Historical Commission – as designated by the Commission for a term of three (3) years
- (c) One member of the Planning Board – as designated by the Board for a term of three (3) years
- (d) One member of the Park and Recreation Commission – as designated by the Commissioners for a initial term of one (1) year and thereafter for a term of three (3) years
- (e) One member of the Housing Authority – as designated by the Authority for an initial term of two (2) years and thereafter a term of three (3) years
- (f) One member of the Council on Aging – as designated by the Council for an initial term of one (1) year and thereafter a term of three (3) years
- (g) Three (3) members, who are residents of the town of West Springfield, to be appointed by the Mayor in accordance with Section 3-3 of the West Springfield Home Rule Charter, one member’s initial term of one (1) year and thereafter a term of three years; two members’ initial term of two (2) years and thereafter a term of three (3) years.

Should any of the Commissions, Boards, Councils, Committees or Authorities (hereinafter “Boards”) who have appointment authority under this Chapter be no longer in existence, the appointment authority of said Boards shall become the responsibility of the Mayor in accordance with Section 3-3 of the West Springfield Home Rule Charter.

Should any member of the Committee appointed by the above Boards cease to serve as a member of the appointing Boards, his term shall automatically expire.

2: Duties:

- (a) The Community Preservation Committee shall conduct an initial study identifying and evaluating the community preservation needs of the Town of West Springfield.
- (b) The Community Preservation Committee, in developing the initial needs study and the annual reviews, shall consult with the Conservation Commission, the Historical Commission, the Planning Board, the Park & Recreation Commission and the Housing Authority and, in addition, may consult with any other municipal department.
- (c) The Community Preservation Committee shall make written recommendations to the Town Council for funding of acquisitions and initiatives. The recommendations shall comply with the Community Preservation Act as set forth in MGL Chapter 44B. The Committee shall include with its recommendations, any pertinent financial information in its possession, regarding estimated acquisition costs, financing options, administrative expenses, debt services and any existing or ongoing operating expenses.
- (d) The Community Preservation Committee shall hold at least one public informational hearing as part of the initial study and a public hearing as part of the annual review process. Notice of the public hearing shall be posted at least two (2) weeks before the hearing date. Notice of the informational meeting shall also be published in a newspaper of general circulation in the Town of West Springfield for each of the two (2) weeks before the hearing date.

3: Quorum Requirement:

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Committee shall approve its actions by a majority vote of those members present and voting.

4: Severability:

In case any section, paragraph or part of this chapter is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

*(This ordinance is per order of the West Springfield Town Council, by a vote of 9 in favor 0 opposed, and approved on the 2nd day of February 2009. Approved by the Mayor on February 13, 2009. Town Clerk’s Records Ordinance #140)*

**Section 4-113**

**Connecticut River Walk and Bike Way Committee**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-112.*

**Section 4-114 Conservation Commission**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-113.*

1. Membership. A Conservation Commission of seven (7) members is hereby established pursuant to the provisions of M.G.L. Ch. 40, Section 8C, for the purposes set forth in said section.
  
2. Terms of Office. The terms of office of the members shall commence on the first business day in January and appointments shall be staggered so that not more than three (3) members terms shall expire in any one year, or until their successors shall have been appointed and qualified. *(Amended by vote of Town Council on January 16, 2007-changing month from May to January with staggered terms and deleting section 3-Ordinance #133)*

**Section 4-115 Council on Aging**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-114.*

1. Membership. Council on Aging consisting of fifteen (15) members is hereby established pursuant to the provisions of MGL C. 40, § 8B, for the purpose of coordinating or carrying out programs designated to meet the problems of the aging in coordination with programs of the Council for the Aging established under MGL C. 6, § 73.
  
2. Residency and Compensation. All members of said Council shall be residents of the town and shall serve without compensation.
  
3. Appointment. The members of said Council shall be appointed annually, as hereinafter provided, by the Mayor.
  
4. Terms of office. The terms of office of all the members of said Council shall commence on the first day of May following their appointment and shall be for three (3) years or until their successors shall have been duly appointed and qualified.
  
5. Vacancies. Any vacancy in the membership of the Council shall be filled by the Mayor for the remainder of the unexpired term.
  
6. Election of Officers. The Council shall annually in the month of May elect its Chairperson and such other officers as it deems appropriate.

**Section 4-116 Historic District Commission**

1. **Membership.** There shall be a West Springfield Historical Commission which shall be a citizen lead group consisting of seven (7) members and four (4) alternates including one

member from two nominees submitted by the local historical society or, in the absence thereof, by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the chapter of the American Institute of Architects covering the area, and one member from two nominees of the board of realtors, if any, covering the area. If within thirty days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made the Mayor may proceed to appoint the three members without nominations by such organization.; all of whom shall be residents of the Town, appointed by the Mayor, subject to the provisions of Section 2-10 of the West Springfield Home Rule Charter.

**2. Terms and Compensation.** The terms of each appointment shall be for three (3) years, with terms being staggered to accommodate transition of Commission members. Commission members shall serve without compensation.

**3. Powers and Duties.**

a. The Commission shall have the power, subject to appropriation or receipt of money:

- i. To conduct a survey of buildings and sites in the Town to determine which are historically significant, revise detailed listing of historic site and buildings in said Town;
- ii. To devise a system of markers for historic sites and buildings, to arrange for the manufacture and installation of such markers, and to arrange care for such markers; and
- iii. To arrange for the preparation and publication of printed matter relating to historic sites and structures of said Town, whether for walking tours, general public information or otherwise.
- iv. To collect, preserve, inventory and make available for public view and use any and all records of historical significance. The Commission shall also digitize archived records as appropriate for electronic public access.

b. The Commission shall also have the power, in accordance with the provision of the Historic Districts Act, so-called, as mentioned in this chapter, to:

- i. Propose the establishment of additional historic districts or change in existing historic districts; and
- ii. To consult with and advise the Planning Board, the Redevelopment Authority and other departments or agencies of said City in matters concerning historic sites and structures.

- 4. Limitations on Powers and Duties.** The Committee shall not have authority to infringe upon the statutory or regulatory powers or jurisdiction of any other Town Department, Committee or Commission, or upon those duties and jurisdictions set out in relation to such Departments, Committees or Commissions by state or federal law or regulation, by the Charter or Town Ordinances.
- 5. Minutes and Proceedings.**
- a. The Commission shall meet on an as needed basis, but not less frequently than quarterly;
  - b. Special meetings may be called by the Mayor, the Chair of the Historical Commission or majority vote of the Commission;
  - c. Minutes shall be kept of all public meetings;
  - d. The Commission may establish its own rules of procedure including those governing the conduct of its meetings;
  - e. The Commission may request information from various Town Departments, Commissions, and Committees as may be deemed necessary to effectuate the duty of the Historical Commission. Such requests shall be made with reasonable advance notice; and
  - f. The Commission shall observe and be subject to the Massachusetts Open Meeting Laws (G.L. c. 30A, §§ 18-25) in regard to all regular and special meetings.
- 6. Broadway Historic District.** There is hereby established under the provisions of and in accordance with the Historic Districts Act, G. L. c. 40C, the Broadway Historic District as shown on the plan entitled “The Broadway Historic District” dated November 1971; said plan to be considered a part of this section.
- 7. White Church Historic District.** There is hereby established under the provisions of and in accordance with the Historic Districts Act, G. L. c. 40C, the White Church Historic District as shown on the plan entitled “The White Church Historic District” dated February 1973; said plan to be considered a part of this section.
- 8. Certificate of Appropriateness.** The Commission shall take action within 60 days of the filing of an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in accordance with the provisions of Section 11 of the Historic Districts Act, so-called, as mentioned in this chapter, or any section relative thereto or in amendment thereof.

**Section 4-117           Town Historian**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-116*

1.    Creation of office; appointment. There is hereby created the office of Town Historian. The Mayor shall appoint a Town Historian.
  
2.    Duties. It shall be the duty of the Town Historian to preserve or to arrange the preservation of all historical records of the town in cooperation with all departments and in particular in cooperation with the Board of Library Trustees and any incorporated historical society functioning in the town.
  
3.    Town Historian: Custody and preservation of records. All records in the custody of the town boards, commissions, committees and officers required to be so kept shall remain in such custody, but the Town Historian shall have the right to examine the method of preservation and make recommendations to the persons concerned therewith as to proper preservation thereof.

**Section 4-118           Housing Authority**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-117.*

The Housing Authority is established pursuant to the provisions of M.G.L. Chapter 121B and is a separate body politic.

**Section 4-119           Library Board of Trustees**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-118.*

**Section 4-120           Park & Recreation Commission**

*Town Council approved Section 4-119 by vote of Town Council on November 5, 2001. (Ordinance #101)*

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-119.*

1.    Membership. There shall be a Board of Park and Recreation Commissioners consisting of seven members, all of whom shall be residents of the Town, appointed by the Mayor and subject to the provisions of Section 2-10 of the West Springfield Home Rule Charter (HRC).
  
2.    Terms and Compensation. The terms of each appointment, after the initial terms shall be for three (3) years and shall be arranged so that at least two (2) members' terms shall expire in each odd numbered year. Commission members shall serve without compensation.
  
3.    Powers and Duties. The commission shall act in an advisory capacity to the Mayor under his/her supervision and control. The commission shall review and report to the Mayor on matters related to the operation and functions of the parks, the Park and Recreation Department and park and recreation facilities including, but not limited to:
  - (a)    Operation of programs;

- (b) Viability of programs;
- (c) Program Needs;
- (d) Adequacy of Staff;
- (e) Procedures for the use of facilities;
- (f) Appropriateness of budget requests;
- (g) Appropriateness of expenditures;
- (h) Appropriateness of policies with suggested revisions as applicable;
- (i) Appropriateness of fees;
- (j) Short term needs of the Department;
- (k) Long range planning needs and options;.
- (l) Appropriateness of long term capital projects;
- (m) Report, annually, on adequacy of personnel and programs;
- (n) Policies and procedures deemed needed to be implemented or deleted to enhance services to town residents;
- (o) Annually assess and report the status of the fields, and play areas, parks and park equipment, facilities and programs, including school field and recreational areas;
- (p) Shall meet with the Park and Recreation Director or supervisory staff on a regular basis, not less than once every two months;
- (q) Shall meet with the Director of Department of Public Works, on a regular basis not less than once every two months. Review and report on the status and needs of the parks and facilities at least annually;
- (r) Any other duty or responsibility the Mayor may assign to the commission.

4. Meetings & Proceedings.

- (a) The Commission shall meet on a regular basis, as established by it, but not less frequently than monthly;
- (b) Special meetings may be called by the Mayor, Chairman of the Commission or majority vote of the Commission;

- (c) Minutes shall be kept of all public meetings;
- (d) The Commission may establish its own rules of procedure including those governing the conduct of its meetings;
- (e) The Park and Recreation Department shall supply the Commission with any information it may request in writing in a timely manner that is reasonably related to the responsibilities and operation of the dept;
- (f) The Director of the Department of Public Works shall provide the Commission with any information it may request, in writing, in a timely manner that is reasonably related to the responsibilities and operation of the parks, recreational facilities and play areas;
- (g) The Director of Maintenance for the School Department shall provide the Commission with any information it may request, in writing, in a timely manner that is reasonably related to the responsibilities and operation of indoor and outdoor school athletic facilities, recreational areas, playgrounds and related areas;
- (h) The Park and Recreation Department shall provide to the Commission, secretarial services, a filing cabinet and materials to enable it to conduct its duties and responsibilities.

3. Special Employees. Commission members shall be special municipal employees.

**Section 4-121**

**Planning Board**

*Added by vote of Town Council on January 16, 2007, Ordinance #134*

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-120.*

1. Membership, Terms and Organization: There shall be a Planning Board, which shall consist of five (5) members and one alternate (appointed by the mayor for a one year term in January) appointed by the Mayor for five (5) year terms staggered so that one member's term will expire annually in January. The Board shall annually at its first meeting in the calendar year, elect a chairperson, vice chairperson and secretary who shall keep a record of its meetings.

2. Powers and Duties: (a) The Planning Board shall exercise the powers provided in General Laws, chapters 40A and 41, § 70 to 72 and § 81A through 81 JJ, as amended and any other powers given Planning Boards by the general laws or ordinances.

(b) The Planning Board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The Planning Board shall make, and may from time to time amend a comprehensive or master plan, that sets forth in graphic and textual form, policies to govern future growth and development in the



Town. The Planning Board shall monitor, and report on, progress made by the Town implementing the recommendations of the master plan and other plans and studies prepared by the Board.

(c) The Planning Board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development and the administration of such rules and regulations upon the application of landowners for the subdivision of land as authorized by the Subdivision Control Law, G.L. c. 41, s. 81Q.

## **Section 4-122            Public Safety Committee**

*Town Council approved Section 4-121 by vote of Town Council on March 18, 2002.-Ordinance #108*

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-121*

1.    Membership and Organization: There shall be a Public Safety Commission consisting of five members, all of whom shall be residents and registered voters of the Town, appointed by the Mayor subject to provisions of Section 2-10 of the West Springfield Home Rule Charter (HRC).

The Commission shall elect annually, at the first meeting in each calendar year, a chairperson, vice chairperson and a secretary who shall keep a record of its meetings.

2.    Terms and Compensation: The terms of each appointment shall, after the initial appointment, be for three (3) years. The initial appointment shall be two to expire January 1, 2005, two to expire January 1, 2004 and one to expire January 1, 2003. Commission members shall serve without compensation.

3.    Powers and Duties:

(a)    The commission shall assist the Mayor in the supervision and oversight of the police and fire departments, including the coordination of the administration of both departments with one another, and with other town departments and agencies by making recommendations to the Mayor concerning:

1.        setting priorities within said departments;
2.        the annual operating budgets of both departments, after the Mayor and commission have met with the chiefs to discuss the proposed budgets;
3.        the capital budget requests of both departments, after the Mayor and the commission have met with the chiefs to discuss the requests; provided however, that commission members may only inspect the departments on an annual basis in connection with the budget review or in relation to a written complaint from the public. Inspections shall be made only

after approval from the chief has been obtained to insure it will not unduly disrupt department operations.

4. final interviews for appointments and promotions of officers and men and women, in both departments, shall be conducted by the commission and the chief. The chief shall submit his/her recommendations to the commission and the commission, if it does not agree with said recommendations, shall submit written reasons for not concurring with said recommendation to the Mayor.

(b) The Commission shall review written complaints made by the public concerning:

1. the operation of the police and fire departments;
2. the conduct of employees of both departments;

All written complaints received by the Commission shall be forwarded to the chief of the department to which they relate. The chief shall investigate or cause to be investigated said complaints and submit his/her findings and recommendations, in connection therewith, to the Commission.

(c) The Commission shall adopt such rules and regulations, consistent with this Ordinance, the civil service statute and police and fire collective bargaining agreements, as it deems necessary to establish procedures to be followed in filing of written complaints by the public, investigating such complaints and holding hearings concerning such complaints made to it regarding the operation of the police or fire department and the conduct of officers and employees of each department. Citizen complaints shall be considered part of the employee's personnel file.

(d) The commission shall apply the principle of progressive discipline, except in those instances where more severe punishment is warranted.

4. Meetings and Proceedings.

- (a) The commission shall meet on a regular basis but not less frequently than every other month;
- (b) special meetings may be called by the Mayor, Chairman of the Commission or majority vote of the Commission;
- (c) Minutes shall be kept of its meetings;
- (d) The Commission may establish its own rules of procedure including those governing the conduct of its meetings;

5. Filing of Vacancies: The Mayor shall make an appointment for balance of said term subject to Town Council approval pursuant to Section 2-10 of HRC.

6. Qualification of Member: No member of the Commission shall be a past or present employee of the police department or fire department, nor shall any member of his or her family be an employee of the police department or fire department.

Family member shall mean father, mother, father-in-law, mother-in-law, spouse, child, step-child, son-in-law, daughter-in-law, grandchild, brother, sister, brother-in-law, sister-in-law, aunt, uncle, nephew, and niece.

7. Special Municipal Employee: Commission members shall be special municipal employees.

#### **Section 4-123            Redevelopment Authority**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-122.*

The Redevelopment Authority is established pursuant to the provisions of M.G.L. Chapter 121B and is a separate body politic.

#### **Section 4-124            Retirement Board**

*Note: After the adoption of the Community Preservation Committee Ordinance, by the Council, on February 2, 2009, this General Ordinance was renumbered. It was previously numbered Section 4-123*

The West Springfield Retirement Board is established pursuant to the provisions of M.G.L. Chapter 32 and is a separate body politic.

#### **Section 4-125            Tree and Urban Forest Committee**

1. Membership. There shall be a West Springfield Tree and Urban Forest Committee (“TUFC”) which shall be a citizen lead group consisting of a minimum of three (3), maximum of seven (7) members; all of whom shall be residents of the Town, appointed by the Mayor, subject to the provisions of Section 2-10 of the West Springfield Home Rule Charter (“HRC”).
2. Purpose. The TUFC shall be a citizen led group which will work with Town officials to improve the health of the Urban and Community Forest through tree plantings, advocacy, education, management and maintenance activities. The TUFC shall also assist with education campaigns, bringing additional resources into the Community for Town trees and forests and apply for grants. In summary, this Committee shall raise public awareness and improve West Springfield’s Urban and Community Forests.
3. Terms and Compensation. The terms of each appointment shall be for three (3) years, with terms being staggered after the initial appointment to accommodate transition of Committee members. Committee members shall serve without compensation.
4. Powers and Duties. The TUFC shall:
  - (a) Develop and maintain, in consultation with the Mayor, the Tree Warden, the Town Conservation Agent, and the DPW Director, a public shade tree inventory and

a public shade tree management plan pursuant to G. L. c. 132, § 16 and other applicable laws and regulations referenced or promulgated hereunder;

(b) Develop and maintain, in consultation with the Mayor, the Tree Warden, the Town Conservation Agent, and the DPW Director, ordinances and guidelines governing the management of the Town's public trees, including planting strategies and protocols for their care and maintenance;

(c) Seek grants and other funding to assist in the mission of the TUFC;

(d) Oversee adherence to all applicable Massachusetts and other laws and regulations in consultation with the Mayor, Town Attorney, and other appropriate Town officials;

(e) At the direction of the Mayor, the TUFC shall report to the Mayor or to any of the Town Department Heads, Committees, Commissions, ad hoc committees or community groups on tree related matters; and

(f) Further act in an advisory capacity to the Mayor under his/her supervision and control.

5. Limitations on Powers and Duties. The Committee shall have not authority to infringe upon the statutory or regulatory powers or jurisdiction of any other Town Department, Committee or Commission, or upon those duties and jurisdictions set out in relation to such Departments, Committees or Commissions by state or federal law or regulation, by the HRC or Town Ordinances.

6. Meetings and Proceedings.

(a) The TUFC shall meet on an as needed basis, but not less frequently than quarterly;

(b) Special meetings may be called by the Mayor, the Chair of the TUFC or majority vote of the Committee;

(c) Minutes shall be kept of all public meetings;

(d) The TUFC may establish its own rules of procedure including those governing the conduct of its meetings;

(e) The TUFC may request information from various Town Departments, Commissions, Committees as may be deemed necessary to effectuate the duty of the TUFC. Such requests shall be made with reasonable advance notice; and

(f) The TUFC shall observe and be subject to the Massachusetts Open Meeting Laws (G.L. c. 30A, §§ 18-25) in regard to all regular and special meetings.

7. Special Municipal Employees. TUFC members shall be special municipal employees.

**Section 4-126 Veterans' Advisory Board.**

1. **Membership and Purpose.** There shall be a Veterans' Advisory Board (the "Board") consisting of seven (7) members, four (4) of whom shall be veterans as defined in MGL c. 115, § 1 and all of whom shall either be residents and registered voters of the Town or be a member in good standing of a recognized Non-Governmental Support Organization ("NGSO") that provides support for residents of the Town, appointed by the Mayor subject to provisions of Section 2-10 of the West Springfield Home Rule Charter (HRC).

The Board shall elect annually, at the first meeting in each calendar year, a chairperson, vice chairperson and a secretary who shall keep a record of its meetings.

The Board shall work together in the best interests of the veterans of the Town of West Springfield to provide a collective voice to the Town's executive and legislative branches.

2. **Authority.** This section is adopted under the authority of G. L. c. 115, § 12.
3. **Terms and Compensation.** The terms of each appointment shall be for two (2) years, with terms being staggered after the initial appointment to accommodate transition of Board members. Board members shall serve without compensation.
4. **Powers and Duties.** The Board shall organize and implement the Memorial and Veterans' Day activities, shall organize nomination criteria and vetting procedures for formal recognition of the Town's "Veteran of the Year" and shall promote and assist in other patriotic events and activities in the Town during each year. Additionally, the Board shall have the ability to recognize a resident or local business that it determines has been an asset to the Town's veteran community. The Director of Veterans Services shall serve as the liaison and resource to the Board.
5. **Limitations on Powers and Duties.**
  - (a) The Board shall not have authority to infringe upon the statutory or regulatory powers or jurisdiction of any Town Department, Committee or Commission, or upon those duties and jurisdictions set out in relation to such Departments, Committees or Commissions by state or federal law or regulation, by the West Springfield Home Rule Charter or Town Ordinances; and
  - (b) The Board shall be subject to the published rules and regulations as established by the Massachusetts Commissioner of Veterans' Services.
6. **Rules and Regulations.** The Board may adopt rules and regulations, subject to the approval of the Mayor.
7. **Meetings and Proceedings.**

- a. The Board shall meet on an as needed basis, but not less frequently than quarterly;

- b. Special meetings may be called by the Mayor, the Chair of the Board or majority vote of all members of the Board;
- c. Minutes shall be kept of all public meetings;
- d. The Board may establish its own rules of procedure including those governing the conduct of its meetings; and
- e. The Board shall observe and be subject to the Massachusetts Open Meeting Laws (G.L. c. 30A, §§ 18-25) in regard to all regular and special meetings.

## Chapter 5 Administrative Departments

<b>Section 5-100</b>	<b>Reserved</b>
<b>Section 5-101</b>	<b>Accounting</b>
<b>Section 5-102</b>	<b>Assessors</b>
<b>Section 5-103</b>	<b>Building</b>
<b>Section 5-104</b>	<b>Collector/Treasurer</b>
<b>Section 5-105</b>	<b>Community Development</b>
<b>Section 5-106</b>	<b>Computer Systems</b>
<b>Section 5-107</b>	<b>Council on Aging</b>

**Section 5-108            Department of Emergency Management**

1.     Established. The Mayor shall appoint an emergency management and civil defense director.
2.     Powers and Duties. There shall be an emergency management department under the supervision of an emergency management director.

The emergency management department seeks to maximize survival of persons and preservation of property in the town in the event of a natural or man-made disaster by effective planning and by making use of all manpower, equipment, available shelter and other resources during an actual emergency.

The emergency management department provides planning, resources, communications and recovery services in support and coordinating and / or planning disaster or emergency responses and / or dealing with terrorist activities in the town, adjacent communities, and the Commonwealth. The department functions as the emergency preparedness department consistent with the intent of Chapter 639 of the Acts of 1950 and is responsible for coordinating and planning all disaster emergency functions and services and / or terrorist response procedures with the town amongst all municipal and non-municipal agencies and departments.

**Section 5-109 Department of Public Works**

1. Establishment. The town establishes a Department of Public Works under the control of a Director.
2. Appointment of Director. The Mayor shall appoint the Director who shall be responsible for daily operation of the Department and hire, with the approval of the Mayor, such employees as are determined necessary for proper operation of the Department.

**Section 5-110 Fire**

**Section 5-111 Health**

**Section 5-112 Department of Human Resources**

*Town Council approved Section 5-112 by vote of Town Council on March 18, 2002. (Ordinance #107)*

1. Establishment:
  - (a) All town departments and all positions in the town service, excepting elected officials and employees of the school department, shall be subject to the provisions of this Ordinance, in pursuance of the provisions of G.L. c.41, section 108A. The provisions of any approved collective bargaining agreement that conflicts with any provisions of this Ordinance, with respect to employees covered under such labor agreement shall prevail over this Ordinance.

The purpose of this Ordinance is to establish a system of personnel management that meets the various needs of town government. It is the intent of the ordinance to provide a means to recruit, select, develop and maintain a responsive and productive work force. All personnel actions in the town service shall be made without regard to sex, race, religion, color, age, sexual orientation, disability or political affiliation and shall be based on merit, fitness for the particular position and education.

(b) Scope of Activities -- The department shall be responsible for and shall include, but not be limited to, the following functions:

1. Study, develop, establish and coordinate uniform personnel practices and procedures for town departments.
2. Provide assistance to all individual employees on personnel matters, as requested by an employee or when determined to be beneficial by the department.
3. Develop and administer a recruitment and placement program designed to fill vacant positions in the town with the best-qualified persons.
4. Provide advice and assistance to the mayor, department heads, supervisors and elected and appointed officials on all personnel matters, including position classifications, pay administration, recruitment and placement, employee relations, performance evaluation, disciplinary action, employee grievances and employee training.
5. Develop and maintain a position classification system for all non-union full time personnel, which shall include the assignment and utilization of personnel in all departments. Make recommendations to the Mayor and the heads of such departments

for changes that may be necessary to effect the proper classification and assignment of personnel in such duties as will permit the town to receive maximum benefits from the skills and capabilities of such personnel.

6. Administer the position classification system providing for the classification of all positions, other than those filled by popular elections, into groups and classes doing substantially similar work or having substantially equal responsibilities so as to insure the payment of equitable compensation.
7. Provide assistance to supervisory personnel at all levels in planning, developing and conducting training programs.
8. Standardize forms and records to be used in the town's personnel administration program other than those forms and records whose format is regulated by statute or by state agency or agencies authorized, by law, to exercise oversight over specific elements of personnel management.
9. Provide guidance and assistance to appointing authorities on civil service law, furnish information regarding civil service examinations, render assistance to all departments in civil service matters, and perform liaison duties between town departments and the Division of Personnel Administration of the Commonwealth.
10. Assist and participate (to the extent directed by the Mayor), in the negotiation, implementation, and administration of the town's collective bargaining agreements.
11. Recommend to the Mayor the enactment of such ordinances as are considered necessary to implement and administer the town's personnel administration program.
12. Maintain a centralized, secure location for the individual personnel records of all town employees. Said records shall contain all the vital statistics and other pertinent data for each and every person employed by the town. It shall be the duty of each department head and every other supervisory person, to provide to the Director of Human Resources such records and reports as the Director may require.
13. Study, develop, establish, coordinate and oversee an occupational safety and training program for the town, at a minimum, as required by state and federal laws.
14. Perform the duties required as affirmative action and equal employment officer for the town, to insure compliance by the town with both affirmative action requirements applicable to the town and equal opportunity employment.
15. Administer and oversee the various insurance policies maintained by the town, including a review of coverage needs, insurance costs and the handling of claims.
16. Provide and maintain a central information, coordination and processing point for all employee benefit programs, including but not limited to group insurance, 'tax shelter' plans, worker compensation claims, and unemployment compensation.
17. Develop, maintain and administer procedures for compliance with state and federal employment rules, regulations, executive orders and laws as they relate to all town employees.
18. The duties and functions previously performed by the Advisory Board of Review shall now be performed by the Human Resource Department. The Advisory Board of Review shall continue to perform its duties until notified in writing by the Mayor of the date when its duties shall be transferred to the Human Resource Department and on said date the Advisory Board of Review shall be dissolved.



2. Director of Human Resources: The department shall be headed by a Director of Human Resources who shall be appointed by the Mayor and shall serve at the discretion of the Mayor and be removed pursuant to the provisions of section 3-4 of the West Springfield Home Rule Charter. The duties and responsibilities of the Director shall be those set forth in the position's job description.

The Director, subject to the approval of the Mayor, is authorized and empowered to establish a personnel code, consisting of personnel policies and regulations for the maintenance of a personnel management system based on merit in accordance with the provisions of this Ordinance and the HRC.

**Section 5-113            Library**

**Section 5-114            Park and Recreation Department**

1. Purpose:

(a) There is hereby established a Park and Recreation Department that shall be responsible for the planning and coordinating of the use of the Town's parks and recreational facilities, including school recreational facilities and reviewing the needs of the Town for recreational facilities and activities.

(b) Priority for the use of school facilities shall be given to school activities first, then recreational activities.

(c) Priority for the use of any Town facility, as determined by the Director or his/her designee, shall be given to recreation programs first, then residents' requests, if appropriate.

2. Department: The Department shall be headed by a Director who shall be appointed by the Mayor and who may adopt rules and regulations reasonably required for the operation of the department and its programs, subject to approval of the Mayor. The Director may hire such staff and support personnel as he/she determines to be reasonably required to perform the duties of the department, subject to the approval of the Mayor and Town Council appropriation.
3. Cooperation: The Director shall fully cooperate with all proper requests made by the Park and Recreation Commission.
4. Consultation: The Director shall consult with the Director of the Department of Public Works and the Director of Maintenance for the School Department on a regular basis to insure that Parks and Recreation facilities are satisfactory and sufficient to meet the recreational needs of the Town. The Director of the Department of Public Works and the Director of Maintenance for the School Department shall meet with the Director, to discuss said recreational needs and the condition of facilities, at his/her request.

Town Council approved Section 5-114 by vote of Town Council on November 5, 2001. (Ordinance #102)

**Section 5-115**            **Planning**  
*(was voted by Town Council on January 16, 2007-Ordinance #130)*

**Section 1.    Title:**  
  
Department of Planning and Development

**Section 2.    Purpose:**  
  
The Department shall: (a) coordinate all planning and development activities of the town so as to streamline planning, development and requests related to the same, (b) avoid undue administrative requirements in all aspects of planning and development, (c) provide assistance to private and government project applicants in obtaining and complying with local and state plans and developmental requirements, (d) be responsible for all aspects of economic development planning. The Department shall apply the above bearing in mind that all development is to be done so as to enhance the amenities and overall quality and character of life of the persons employed or residing in the community and business and residential taxpayers of the town.

**Section 3.    Department:**  
  
The Department shall be headed by a Director of Planning and Development who shall be known as the Director. The Director shall be appointed by the Mayor and shall serve at his discretion and may be removed pursuant to the provisions of section 3-4 of the Home Rule Charter (Charter). The duties and responsibilities of the Director shall be set forth in the position’s job description. The Director shall have direct supervisory authority over all employees of the department, including division heads, and shall be the administrative head of the Appeals Division, the Conservation Division and the Records Division unless, with the written approval of the Mayor, he has delegated said authority, in writing, to an employee of the department.

The Director may enact such rules and regulations, as he deems necessary, for the proper and efficient operations of the department and to accomplish the purposes and objectives of the department, subject to the approval of the Mayor. The Director may hire such staff and support personnel as he determines to be reasonably required to perform the purposes, duties and responsibilities of the department subject to the approval of the Mayor and appropriation.

**Section 4.    Department Division:**

The Department shall consist of the following divisions:

- A.    Planning Division - headed by the planning administrator
- B.    Appeals Division
- C.    Conservation Division
- D.    Community Development Division – headed by a community development administrator

- E. Economic Development Division – headed by the economic development administrator
- F. Building Division – headed by the building commissioner
- G. Records Division

**Section 5. Planning Division:**

- A. The Planning Division shall be responsible for all duties and responsibilities of Planning Boards required or allowed by the general law and any and all other duties and responsibilities assigned to it by ordinance, executive order or rules and regulations adopted by the Director. The Planning Division shall consist of a planning administrator, a five (5) member volunteer Planning Board and an alternate appointed pursuant to § 4-120 and the Planning and Construction of Buildings and other Facilities Committee established pursuant to section 4-107a. Copies of all records, decisions and minutes of the Division shall be filed with the Records Division. The Planning Board shall perform those duties and responsibilities given to planning boards by general laws.
- B. The planning administrator shall make careful studies of the resources, possibilities and needs of the town and shall make careful plans for the development of the town and shall inform the Capital Improvement Program Committee and Planning and Construction of Building and Other Facilities Committee of long term capital needs of the department and the town.
- C. The Planning Board shall have, the provisions of section 5.1. notwithstanding, the power to regulate the development of land within the town as set forth in section 4-120.
- D. The Planning Board shall report to the town council its recommendations for all amendments and revisions of the zoning ordinance and zoning map as is provided in G.L., chapter 40A, section 5.
- E. The Planning and Construction of Building and other Facilities Committee shall perform the power and duties set forth in section 4-107a.

**Section 6. Appeals Division:**

The Appeals Division shall consist of a Board of Appeals of three (3) members and not less than two (2) alternates and each shall serve for three (3) year terms or until his successor has been appointed and qualified. The Board shall have all powers given to boards of appeals by the General Laws, ordinances, local executive orders and rules and regulations. Said appointment shall be made on the first business day of January and said terms shall be staggered so that not more than one member's term and one alternate's term shall expire in any one year. The Appeals Division shall hear all appeals of municipal decisions in accordance with the provisions the General Laws , including G.L. c. 40A, c. 40B, c. 41, and local zoning or general ordinances, local executive orders, and rules or

regulations adopted by the Director. The Division shall cause to be filed a copy of each decision with the Records Division.<sup>3</sup>

**Section 7. Conservation Division:**

- A. The Conservation Division shall consist of a volunteer commission consisting of seven members appointed by the Mayor, pursuant to section 4-113.2 and staff and support personnel pursuant to section 3. The Commission shall have all powers and may perform all duties and responsibilities required or allowed by the General Laws, to be performed by a local conservation commission and any ordinances, local executive orders and rules and regulations adopted by the Director, including the provisions of general laws, chapter 131, sections 40 and 40A. All applications and related material, minutes and decisions of the Commission shall be filed with the Records Division.
- B. The Conservation Commission is established to protect, promote and enhance the quantity and quality of the natural resources within the town, especially wetlands, wildlife and water resources; through planning, acquisition, land management, regulation, research and public education.
- C. The Conservation Commission may receive gifts, bequests or devises of personal property or interests in real property in the name of the town, subject to approval of the Mayor. The Conservation Commission may receive monetary gifts for development of a conservation fund, and expend the same, subject to general laws and the approval of the Mayor.

**Section 8. Economic Development Division:**

The Economic Development Division shall consist of a economic development administrator and staff and support personnel pursuant to section 3. The economic development administrator shall be responsible for developing, coordinating, implementing, and maintaining economic development and projects throughout the community and developing, implementing and maintaining ongoing programs, to attract new, vibrant or diverse economic developments or projects to the town that are compatible with the town's master plan and are economically beneficial to the town's infrastructure. The division is also responsible for creating a business environment which is conducive to improving investment and job creation within the community. Research and apply for grants could further the goals and responsibilities of the Department. All records of the division shall be filed with and maintained by the Records Division.

**Section 9. Community Development Division:**

The Community Development Division shall consist of a community development administrator and staff and personnel pursuant to section 3. The community development administrator shall be responsible for the development and improvement of the residential and commercial neighborhoods

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<sup>3</sup> The Building Code Board of Appeals, authorized by 789CMR 122.7 is hereby dissolved and any appeals that could have been heard by it shall be appealed to the State Building Code Board of Appeals as set forth in 780 CMR 122.1.

of the town. The Division shall seek to create and stimulate economic development and promote safe and affordable housing, provide public improvements, create opportunity for arts and culture and deliver public services for the benefit of those in need, consistent with the town's master plan. The Division shall research and apply for available funds, including, but not limited to federal and state grants that further the goals and responsibilities of the department or are deemed beneficial to the Town. All records of the division shall be filed with and maintained by the Records Division.

#### **Section 10. Building Division:**

The Building Division shall be headed by the building commissioner appointed by the Mayor, and shall perform all of the duties required to be performed by the building commissioner and local building inspectors under the General Laws and the Code of Massachusetts Regulations pertaining to buildings and other structures known as the State Building Code, general ordinances, zoning ordinances, local executive orders and rules and regulations adopted by the Director.

The Division shall be responsible for the enforcement of the provisions of the Code of Massachusetts Regulations pertaining to buildings and other structures (the State Building Code), enforcement of the zoning ordinances and investigation and enforcement of violations of general ordinances unless some other municipal department is designated as the enforcing entity. For administrative purposes, the fence viewers (G.L. c. 49) shall be considered to be within the Building Division. The building commissioner shall be the Zoning Enforcement Officer, provided however, he may assign so much of his duties and responsibilities as he determines to local inspectors. The planning administrator shall be the "Municipal Hearing Officer" and shall hear appeals of code violations of the State Building Code, 780 CMR or the State Fire Code, 527 CMR pursuant to the requirements of G.L., c 148A.

All records of the Building Division shall be filed with and maintained by the Records Division.

#### **Section 11. Records Division:**

The Records Division shall maintain the records of all of the other divisions and of the Director. The Director shall directly oversee the operation of the division and shall insure compliance with the public records laws and the public posting and publication requirements for both public meetings and public hearings held by various divisions. Documents and decisions required to be filed with other departments or entities by any of the divisions shall be filed with said departments or entities by the Records Division.

#### **Section 12. License and Inspections:**

A coordinated and expedited procedure shall be established by the Director or his designee so that all license and permit applications filed or hearings held by the various divisions are reviewed and decisions entered so as to insure compliance and accuracy of information and to streamline, to the extent practical, the time required for the review and final action on said applications.

**Section 13. Division Appointments:**

The Mayor shall appoint the person(s) who shall perform the duties and responsibilities of planning administrator, community development administrator, economic development administrator and building commissioner. Each shall be the head of the respective division and responsible for proper operation of the division. All other divisions shall be headed by the Director unless by rules and regulations he assigns responsibility to another division head. The Director may assign any duties and responsibilities to any division head, as he deems appropriate, the provisions of the job description notwithstanding. The Director and heads of each division shall be evaluated annually by the mayor using a procedure developed by the human resource director and approved by the Mayor. All other employees of the department shall be hired by the Director subject to approval by the Mayor. The Director or any other individual may be appointed as head of any or all divisions.

**Section 14. Special Municipal Employee:**

The members of the Conservation Commission, Planning Board, Board of Appeals and the Planning and Construction of Building and Other Facilities Committee shall be special municipal employees.

**Section 15. Appointments of Boards or Commissions:**

Incumbents in office on all of the boards and commissions subject to this title on the effective date of this ordinance shall remain in office for the balance of their term except that the end date of their current term shall be changed to the first business day of January and they shall continue beyond said date only until their successor has been appointed and qualified. The new term for said position shall begin on the first business day of January.

**Section 16. Severability:**

If any portion of this ordinance is declared to be illegal or unenforceable it shall be deemed stricken and the remaining portions shall remain in full force and effect.

**Section 5-116 Police**

**Section 5-117 School Department**

1. Salaries of School Committee Members.
  - a. Salary. Pursuant to Section 4-4 of the West Springfield Home Rule Charter, the annual salary of each member of the School Committee, excluding the Chairperson, shall be four thousand dollars and no cents (\$4,000.00)
    - i. The annual salary of the Chairperson shall be one hundred and twenty five percent (125%) of the annual salary of a regular School Committee Member.

- b. Said salaries shall be reviewed by the Town Council in each year ending in “0” and “6”, and may be reviewed in other even numbered years by majority vote of the council, to determine whether the compensation then being paid is appropriate.
- c. Limit. At no time shall the salary of any School Committee Member, excluding the Chairperson, exceed five percent (5%) of the Mayor’s salary.

Pursuant to Section 9-6, paragraph 6 of the West Springfield Home Rule Charter: The salary of the chair of the school committee is established, provided the chair is one of the persons elected directly by the voters as a member of the school committee.

Town Council approved increase of \$4,000.00 for School Committee Members and 125% for School Committee Chair on Dec. 22, 2014, to become effective January 1, 2016 (Ordinance #154)

Town Council approved increase of \$3,750.00 for School Committee Chair and \$3,000 for School Committee Member on Sept 5, 2006, approved by Mayor Sept 13, 2006, to become effective January 1, 2008-(Ordinance # 127)

Town Council approved Section 5-117 by vote of Town Council on November 21, 2005 (Ordinance #123)

**Section 5-118            Veteran’s Services**

**Section 5-119            Weights & Measures**

**Section 5-120            Central Municipal Maintenance Department**

- 9. Purpose. The creation and intent of this ordinance, in conjunction with the Charter, shall be to provide the municipality with improvement opportunities for best practices related to: organizational transition, management systems, preventative maintenance, and cost effective service and delivery of the same.
- 10. Authority. This section is adopted under the authority of Section 4-5 of the West Springfield Home Rule Charter.
- 11. Establishment. The Town establishes a Central Municipal Maintenance Division within the Department of Public Works under the direction and control of the Director.
- 12. Scope. The division shall be responsible for the routine and extraordinary maintenance and upkeep of the school buildings and grounds as well as all other municipal buildings, grounds and recreational facilities.

Chapter 6 Financial Regulations

**Section 6-100            Department of Municipal Finance**  
*(was voted by Town Council on January 16, 2007-Ordinance #129)*

**Section 1.            Title:**  
  
 Department of Municipal Finance

**Section 2. Purpose:**

The purpose of this ordinance is to establish and consolidate therein various existing municipal departments to the extent not prohibited by the General Laws of the Commonwealth and the West Springfield Home Rule Charter, (Charter) dealing with the fiscal, financial and information and technology systems activities of the town, including the duties of the chief procurement officer as delegated to it by the Mayor.

**Section 3. Establishment:**

The department shall be responsible for the performance of all of the fiscal and financial activities except those by the charter imposed upon the Town Council and informational systems and technology activities of the town. The department shall assume all of the duties and responsibilities related to municipal finance activities which were performed by or under the authority of (1) the Town Accountant, (2) the Town Treasurer, (3) the Town Collector and (4) the Board of Assessors, except those by the charter imposed upon the Town Council and (5) Information and Technology Systems Department. The Municipal Finance Department shall be headed by a Director of Municipal Finance, also referred to as Chief Financial Officer, (hereinafter referred to as the "Director"). The Mayor may, by written order, assign so much of the duties and responsibilities of the chief procurement officer as he determines appropriate to the Director. The Director may delegate to an employee or employees of the department any or all of his procurement duties and responsibilities, provided said delegation is made in writing and approved in writing by the Mayor and filed in compliance with the procurement statute. The Director or his designee shall perform all activities of procurement delegated to the department. No contract, including contracts of the school department, shall be valid unless signed by the Director with a statement an appropriation exists sufficient to pay all financial obligations required of the town as a result of said contract. The Mayor shall sign all contracts, including those of the school department, greater than \$25,000.00. All contracts shall, also, be signed by the procurement officer or his designee as to compliance with the requirements of G. L. Chapter 30B.

**Section 4. Scope of Department Activities:**

The Department of Municipal Finance shall be responsible for and shall include but not be limited to the following functions:

- A. Coordination of all financial services and activities of the town government;
- B. Maintenance of all accounting records and other financial statements for all offices and agencies of the town government;
- C. The payment of all financial obligations on behalf of the town;
- D. The receipt of all funds due to the town from any source;
- E. Maintenance of all property valuation records and systems;
- F. The rendering of advice, assistance and guidance to all other town offices and agencies in any matter relating to financial or fiscal affairs;



- G. The monitoring throughout the fiscal year of the expenditure of funds by town offices and agencies, including the periodic reporting on the status of all accounts with recommendation concerning fiscal and financial policies to be implemented by such offices and agencies;
- H. Coordination of all financial transactions associated with the procurement of all goods, supplies and materials by town offices and agencies.
- I. Coordinate usage of computers (both networked and stand-alone) and the central data processing system in accordance with overall Town-wide data processing priorities and develop, maintain and upgrade as necessary the specific application needs of user departments
- J. Development and oversight of specialized computer transfer of data maintained by other parties which needs to be downloaded or uploaded to computer files on Town systems so the same can be read and utilized.
- K. Development and implementation of educational and support programs for computer system users. Training of staff in the use of computers and software applications.
- L. Recommend appropriate hardware and/or software to meet the operating and information needs of the departments; assure that proper documentation is maintained on all programs and systems.
- M. Coordinate efforts of users to build, expand, and/or apply GIS and related databases.
- N. Develop and enforce data standards and procedures that will promote a GIS resource base that can be confidently incorporated into the town-wide applications by users and develop protocols to optimize the utility of GIS resources.
- O. Coordination of all municipal data and voice systems.

**Section 5. Director of Municipal Finance:**

The department shall be headed by a Director who has the education, experience and training to perform the duties of the office. The Director shall be appointed by the Mayor and shall serve at the Mayor's discretion and may be removed pursuant to section 3-4 of the Charter. The duties and responsibilities of the Director shall be set forth in the position's job description. The Director shall have direct supervisory authority over all employees of the department, including division heads. Provided however, said treasurer, collector, town accountant, principal assessor and administrator of information and technology systems shall have such powers and duties as may be vested in those offices expressly by general or special law, but shall otherwise report to and be under the direction and supervision of the Director.

The Director, subject to the approval of the Mayor, is authorized and directed to establish a comprehensive system of department administration to insure the efficient and effective delivery, coordination and oversight of all fiscal and financial duties and responsibilities of the department in accordance with all federal and state laws, town ordinances, rules and regulations. The Director may enact rules and regulations he

deems necessary for the proper and efficient operations of the department, subject to the written approval of the Mayor.

**Section 6. Department Divisions:**

The Department shall consist of the following divisions:

- A. Collector – Treasurer Division, headed by the collector/treasurer;
- B. Accounting Division, headed by the town accountant;
- C. Assessing Division, headed by the principal assessor; and
- D. Information and Technology Systems Division, headed by the administrator of information and technology systems.

**Section 7. Collector-Treasurer Division:**

The Collector-Treasurer Division shall perform all duties and responsibilities currently performed by the Collector’s Department and the Treasurer’s Department and any and all other duties and responsibilities assigned to it by ordinance, local executive order or rules and regulations adopted by the Director.

The Division shall be headed by a collector-treasurer who shall receive and take charge of all money belonging to the town, and it shall collect all accounts due to the town. Upon receipt of a tax list and warrant from the Board of Assessors the collector/treasurer shall collect the taxes and make a return thereon to the Board of Assessors. The collector-treasurer shall, according to the order of the various department heads or the Mayor, make all disbursements of funds on behalf of the town. Except as otherwise provided, the collector-treasurer shall have all of the powers, duties and responsibilities that are given to city collectors and to city treasurers by general law or assigned in writing by the Director.

There shall be established the positions of deputy collector and deputy treasurer who shall act as the head of the treasurer’s office or the collector’s office respectively when the collector-treasurer is unavailable and each shall have all of the powers and responsibility of said collector or treasurer during his absence. In addition, said deputies shall be responsible for aspects of collective bargaining matters, in their respective offices, dealing with the review of the collective bargaining agreements for changes that will be beneficial to the operation of their respective offices, they shall be part of the Town’s bargaining team when the collective bargaining agreements are negotiated or modifications are requested and they shall handle all grievances and other labor matters involving the enforcement and/or interpretations of the collective bargaining agreements arising out of their respective offices, subject to review by the Director, as the department head, as set forth in said agreement(s). The deputies shall, for the purposes of union grievances and other matters involving the enforcement and/or interpretation of the collective bargaining agreement, be considered the division head for matters involving employees of their respective offices.

Said deputies shall be bonded before assuming their duties.

Upon the retirement or termination of employment of the current parking clerk, the Director shall designate or appoint a parking clerk. (c. 90, § 20 ½) The parking clerk shall supervise and coordinate the processing of parking notices in the town (c. 90, §§ 20A-E) and shall be a part of the Collector-Treasurer Division and under the direct supervision of the deputy collector unless the Director determines otherwise.

**Section 8. Accounting Division:**

The Accounting Division shall perform all duties and responsibilities currently performed by the Accounting Department as required or allowed by the General Laws and any and all other duties and responsibilities assigned to it by ordinance, local executive order or rules and regulations adopted by the Director and shall be responsible for, but not limited to, the following:

- A. the maintenance of accounts for all financial transactions of the town;
- B. the preparation of payrolls;
- C. the preparation of warrants for payment of all bills of the town;
- D. the preparation of periodic reports on the status of departmental receipts and expenditures;
- E. the maintenance of central grant and contract files;
- F. the maintenance of all special accounts, gifts, trusts, all revolving funds and enterprise funds and any other monies.
- G. Departmental audits as requested by the Mayor.

The Accounting Division shall be headed by the town accountant who shall assist all town agencies in keeping the books and accounts of all offices and agencies entrusted with the custody or expenditure of money. The division of accounting shall provide the Auditor/Budget Analyst (hereinafter "Auditor") appointed by the town council with free access to all of its books, accounts, bills, vouchers and other records of financial transactions as may be necessary for the performance of the auditing and oversight function of the town council. The accountant may require the auditor and his employees to sign confidentiality agreements. The division of accounting shall at least once in each fiscal year verify the cash balances of all town offices and agencies by actual count of the case and by reconciliation of bank balances. The division of accounting shall prepare all warrants for the expenditure of town funds before any payments made by the division of collection and treasury management. Except as otherwise provided the town accountant shall have all of the other powers, duties and responsibilities that are given to town accountants and town auditors by the general law. The accountant shall report matters of fraud, waste, improper or illegal activity to the Mayor.

There shall be established the position of deputy accountant who shall act as the accountant when the accountant is unavailable and shall have all of the powers and responsibilities of said accountant during his absence. In addition, said deputy shall be responsible for aspects of collective bargaining matters, in the accounting division, dealing with the review of the collective bargaining agreements for changes that will be beneficial to the operation of their division, he shall be part of the Town's bargaining team when all collective bargaining agreements are negotiated or modifications are requested and he shall handle all grievances and labor matters involving the enforcement and/or

interpretations of the collective bargaining agreements arising out of the accounting division, subject to review by the Director, as the department head.

The deputy shall, for the purposes of union grievances and other matters involving the enforcement and/or interpretation of the collective bargaining agreement, be considered the division head.

**Section 9. Assessing Division:**

The Assessing Division shall consist of a Principal Assessor and a Board of Assessors as set forth in section 4-104. The Assessing Division shall perform all duties and responsibilities currently performed by the Assessors Department as required or allowed by the General Laws and any and all other duties and responsibilities assigned to it by ordinance, local executive order or rules and regulations adopted by the Director.

The principal assessor shall have all the powers, and perform the duties of assessors in cities and towns in accordance and in compliance with the general laws, except those responsibilities that are given herein to the Board of Assessors. The principal assessor shall review every application for exemption or abatement of taxes and shall report his findings to the Board of Assessors.

It shall be the duty of said Board of Assessors to review the findings of the principal assessor on applications for exemptions or abatements of taxes, and to grant or deny all such applications after such hearing as said board of assessors deems proper and to make recommendations regarding the annual tax rate.

The assessing division shall be responsible for, but not limited to, the following:

- A. establish the valuation of all real and personal property;
- B. maintain records substantiating all assessments made;
- C. prepare and issue commitments for the collection of property taxes and motor vehicle excise taxes by the office of the collector;
- D. acting on abatement and exemption applications filed with it and defending the town in valuation proceedings before the Appellate Tax Board.

**Section 10. Information and Technology Systems Division:**

The Information and Technology Systems Division shall perform all duties and responsibilities currently performed by the Informational and Technology Systems Department, including all GIS functions and any and all other duties and responsibilities assigned to it by ordinance, local executive order or rules and regulation adopted by the Director. The division shall be headed by the administrator of information and technology systems. The administrator shall be responsible for maintaining and upgrading the towns' computers, data storage and transfer capabilities as well as the towns' voice and electronic communication systems and the GIS system and upgrades of the same. The administrator shall also be responsible for coordinating and approving all purchases of computers and related or associated equipment and training for all employees.

**Section 11. Division Appointments:**

The Mayor shall appoint the persons who shall perform the duties and responsibilities of the collector/treasurer, town accountant, principal assessor and the administrator of information and technology systems and such other duties and responsibilities as may be assigned to them by the Director. They shall be the heads of their respective division and each shall be responsible for the proper operation of his division.

All other employees of the Department of Municipal Finance shall be hired by the Director subject to the approval of the Mayor. Any qualified person, including the Director, may be appointed as a division head, provided that no one person shall, at the same time, perform the duties and responsibilities of accountant and either treasurer, collector or treasurer-collector.

The Mayor shall perform an annual review of the finance director, accountant, collector-treasurer, principal assessor and information and technology administrator using a procedure developed by the human resource director and approved by the Mayor.

**Section 12. Severability:**

If any portion of this ordinance is declared to be illegal or unenforceable it shall be deemed stricken and the remaining portions shall remain in full force and effect.

**Section 6-101 Fees and Charges by Municipal Agencies**

Any municipal office which is otherwise authorized to issue a license, certificate or permit, or to render a service, or to perform work for a person or class of persons, may from time to time fix a reasonable fee for the license, certificate, permit or for the rendering the service or for performing the work where no fee is established by statute or ordinance.

No municipal office, excepting the Town Council, shall establish a fee or charge pursuant to this section without the prior review and written approval of the Mayor, or if appointed by the school committee, without the written approval of the school committee. The fees set by the Town Clerk shall be approved by the Council.

All fees or charges in effect at the time these Ordinances are adopted, shall remain in effect until otherwise changed, revised or modified.

**Fee schedules once established or amended shall be filed with the Town Clerk, who shall maintain the current schedules in a separate volume.**

**Section 6-102 Disposition of Fees Received**

All town officers shall pay all fees received by them by virtue of their office into the town treasury.

**Section 6-103 Permission by Mayor for Sale of Services and Materials**

No Town officer and no paid employee of the Town or any agent or partner of any such officer or employee nor any legal entity owned or controlled by such officer, employee, agent or partner shall sell materials or provide services to the Town or any entity that is then a contractor for the Town without written permission of the Mayor which permission shall be filed with the Office of the Town Clerk and maintained in a separate volume.

**Section 6-104 Departmental Transfers and Supplemental Appropriations**

1. Intradepartmental transfers of funds from one line item to another line item in the same department may be made when authorized, in writing, by the Mayor.
2. Written notice of said transfer and the reason it was deemed advisable shall be filed with the Clerk of the Council.
3. The transfer shall be effective upon filing of said notice with the Clerk of the Council.
4. Interdepartmental transfers and supplemental appropriations of funds must be approved by the Council.
5. When the Mayor seeks an interdepartmental transfer or supplemental appropriation, he or she shall submit a written request to the Clerk of the Council setting forth:
  - (a) the amount or amounts requested;
  - (b) the reasons for the request;
  - (c) the source of the funds requested;
  - (d) the department or other entity responsible for expenditure of the funds.
6. Said request shall be accompanied by a certificate signed by the head of the department, from which the funds are being taken, that such transfer will not prevent the department from performing its vital functions and that the remaining departmental funds are sufficient to meet the monetary needs of the department for the balance of the fiscal year.
7. The Council shall hold a public hearing for requests for interdepartmental transfers and supplemental appropriations. Said hearing shall be held within twenty-one (21) days of receipt of the filing of request with the Clerk of the Council.
8. Notice of the public hearing for an interdepartmental transfer or supplemental appropriation shall be posted on the Town Bulletin Board at least ten days before the public hearing to consider the request.
9. Interdepartmental transfer and supplemental appropriation requests of Twenty-Five Thousand (\$25,000.00) dollars, or more, shall be published once in a newspaper of general circulation in the town. Said publication shall be at least ten days prior to the public hearing.
10. Approval of said requests shall require a majority vote of the Council present.
11. The form of the certification by the department head shall be substantially as follows:

I \_\_\_\_\_ being responsible for the operation of the \_\_\_\_\_  
Department certify that I approve the transfer of the sum of  
\$ \_\_\_\_\_ dollars to the \_\_\_\_\_ Department from my  
current budget and certify that the approval of said transfer will not prevent the department  
from performing its vital functions nor result in the department expending funds in excess of  
the remaining appropriation for the current fiscal year.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department Head

12. The Clerk of the Council, shall forward a copy of each intradepartmental transfer, Interdepartmental transfer, and supplement appropriation to each councilor.
13. This ordinance shall take effect upon passage.

### **Section 6-105            Municipal Charges Lien**

1. Authority. This ordinance is adopted pursuant to the authority of M.G.L., c. 40, § 21 and c. 40, § 58 and any other relevant statutes and regulations.
  2. Purpose. The purpose of the establishment of a Municipal Charges Lien is to provide a cost effective method of collecting a charge and/or fine assessed against an owner of real property in the Town who fails and/or refuses to pay said charge and/or fee when due, by placing a lien upon real estate owned by the property owner.
  3. Charges and/or Fee. The Municipal Charges Lien shall apply to the following municipal charge and/or fees:
    - (a) Charges or penalties for violations of the water use restriction ordinance including interest and all costs to record said lien(s) in the Hampden County Registry of Deeds.
    - (b) Charges or penalties for violations of the zoning by-laws (ordinance) including interest and costs to record said liens in the Hampden County Registry of Deeds.
    - (c) Charges or penalties for violations of the snow removal ordinance including interest and costs to record said liens in the Hampden County Registry of Deeds.
    - (d) Charges or penalties for violation of orders of the Building Department for violations of the building code including interest and all costs to record said lien in the Hampden County Registry of Deeds.
    - (e) Charges or penalties for violation of the rules and regulations of the Board of Health and the State Sanitation Code including interest and all costs to record said lien in the Hampden County Registry of Deeds.
    - (f) Charges or penalties for violation of the Ordinances of the Town of West Springfield, including interest and all costs to record said lien in the Hampden County Registry of Deeds.
    - (g) Charges or penalties for violations of the illicit discharge ordinance, including interest and costs to record said lien in the Hampden County Registry of Deeds.
    - (h)\* *Charges and penalties for violations of the Rules and Regulations adopted pursuant to Section 9-400 Recycling, including interest and all costs to record said liens in the Hampden County Registry of Deeds.*
- \*(added-see last paragraph of Ordinance #118 per order of Town Council vote on May 17, 2004; amended on May 7, 2007, by vote of Town Council -Ordinance #136 of Town Clerk's Records)*
4. The Municipal Charges Lien will take effect upon the recording of a statement of unpaid municipal charges and fees, setting forth the amount due, including recording costs, the address(es) of the land to which the lien is to apply and the name of the assessed owner.
  5. Collection of Lien
    - (a) The Tax Collector shall be in charge of collecting the lien.
    - (b) The Town Clerk shall notify the Assessors of all unpaid tickets that have not been paid or appealed to the court at the end of each month.

- (c) The Assessor shall prepare a statement of Municipal Charges Lien for each person from the list(s) received from the Town Clerk or person responsible for collecting the charge or penalty and shall forward said statement of lien to the Tax Collector who shall cause said statement(s) to be recorded in the Hampden County Registry of Deeds.
6. Unpaid Municipal Charges Liens
    - (a) If a charge or fee secured by the lien is unpaid when the assessors are preparing the real estate tax list and warrant, the Tax Collector shall certify the charge or penalty to the assessors' department and the assessors shall add the charge or fee to the next property tax bill to which it relates, and commit it with the warrant to the Collector as part of the tax.
    - (b) If the property to which the charge or fee relates is tax exempt, the charge or fee shall be committed as a tax on said property.
  7. Release of Lien. The Municipal Charge Lien may be discharged by filing a certificate from the Tax Collector that all municipal charges or fees constituting a lien, together with any interests and costs have been paid or legally abated.
  8. Abatement. *The Assessor, prior to a charge or fee being certified to the assessors by the Tax Collector under Section 6, may abate any charge or fee for justifiable cause which shall be effective upon the issuing of a written statement setting forth said cause, and filing of said statement with the Tax Collector.-(This was deleted and the following was inserted in place thereof):*
  8. Abatement. A municipal charges lien may be abated in whole or in part by a written statement of the reasons for the abatement signed by the Head of the Department that imposed the lien and with written approval of the Mayor. The Tax Collector shall, upon receipt of said statement, issue the abatement requested. Said statement of reasons shall contain an itemized list of all charges, fees, interest and/or penalties to be abated. An abatement shall be effective upon the filing, by the Tax Collector, of said statement with the Office of the Town Clerk. The Town Clerk shall maintain, in a separate volume, all such abatements for six (6) years from the date of the filing.” *(Note: this amendment, which was voted by Council on November 22, 2005, replaces original which is noted above as being deleted)*

*Town Council approved Section 6-105 by vote of Town Council on June 17, 2002(Ordinance #111); Section 3 was amended: (h) was added by vote of Town Council on May 17, 2004 (in last paragraph of Ordinance #118); Section 8 was amended by vote of Town Council on November 21, 2005.*

**Section 6-200                      Ambulance service: Fee Imposed**

1. Fee Imposed. A fee, to be determined by the Mayor, shall be charged for each person transported in the town ambulance.
2. Purpose of fee; review. Said fee shall result in the ambulance service being self-supporting and shall be reviewed on an annual basis prior to the beginning of each fiscal year by the Mayor.
3. Reserve fund: said fees shall be sufficient to establish and maintain a reserve fund and the amount of said funds shall be determined by the Mayor.



**Section 6-300            School Committee Rental Income**

The Town adopts the provisions set forth in M.G.L. Chap. 40, §3 lines 40-43 to permit the proceeds from renting any school facilities to remain and accumulate in a revolving account to be expended for the upkeep and maintenance of any facility under the control of the School Committee rather than being returned to the General Fund at the end of the first fiscal year.

**Section 6-400            Personnel**

The Classification Plan Ordinance and Compensation Plan are on file in the office of the Town Clerk for examination by the public.

**Section 6-500            Miscellaneous**

**Section 6-502            Compensation of Public Employees Serving in the Armed Forces**

1. Title: Compensation of Public Employees serving in the Armed Services of the USA
2. Authority: This Ordinance is adopted under the authority granted to cities and towns under Article 89 of the Amedments to the Constitution of the Commonwealth, G.L. ch. 43B and the West Springfield Home Rule Charter.
3. Purpose: The purpose of this ordinance is to protect the salaries of certain public employees who served in or are serving the in the armed forces by paying them the difference between their military compensation and municipal comeensation, provided, any payments hereunder shall not exceed the regular base municipal salary.
4. Compensation: An employee in the service of the town, including an employee of a school district, who has been granted a military leave of absence because the employee is a member of the army national guard, the air national guard or a reserve component of the armed forces of the United States called to active service in the armed forces of the United States after September 11, 2002, shall be entitled to receive pay at his regular base salary as such a public employee, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensatory municipal time; provided, however, such employee shall accrue municipal vacation leave, sick leave or personal leave while in the service of the military on active duty as set forth in this section as if employed by the Town during their time on active service. An employee eligible under this section shall be paid his regular base salary for each pay period of such military leave of absence after September 11, 2001, and before September 11, 2014<sup>4</sup> reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period including overtime pay, shift differential pay, hazardous duty pay or any other additional compensation excluding travel pay. For the purposes of this section, the words “active service” shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States.

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<sup>4</sup> Town Council approved this ordinance for period covering September 11, 2001 through September 11, 2005 by vote on March 7, 2005; and covering September 11, 2001 through September 11, 2008 by vote on November 7, 2005, and voted to insert Sept 11, 2011 on Sept 16, 2008. Sept. 20, 2011 Town Council voted to replace September 11, 2011 with September 11, 2014.

5. **Prior Year Payments:** The Council hereby authorizes the Treasurer to expend in the current fiscal year associated costs incurred in prior fiscal years pursuant to this ordinance.
6. **Military income:** In order to receive the compensation as set forth in Section 4, the employee must, after his/her release from active duty, return to the employ of the town and must provide satisfactory evidence, as determined by the Town accountant, of the compensation paid to said employee as a result of his/her active service in the armed forces of the United States before any payment hereunder shall be made, unless he/she is physically or mentally unable to return to work due to said physical or mental condition and said condition was sustained as a direct result of active service.
7. **Effective Date:** This ordinance shall become effective upon approval as required by section 3-7 of the Home Rule Charter.

*Section 6-502 was approved by vote of Town Council on March 7, 2005 and further amended (see footnote 4)*

### **Section 6-600 Salary of Mayor**

1. **Salary.** Pursuant to section 3-1 of the West Springfield Home Rule Charter, the annual salary of the Mayor shall be One Hundred Ten Thousand dollars and no cents. (\$110,000.00)
2. **Review.** The salary of the Mayor shall be reviewed by the Town Council in each year ending in a “0” and “6”, but may be reviewed in other even numbered years by a majority vote of the Council, to determine whether the compensation then being paid is appropriate.

Town Council approved increase to \$110,000 by vote on Dec. 15, 2014, to become effective Jan 1, 2016 .

Town Council approved increase to \$90,000 by vote on April 5, 2010, approved by the Mayor on April 9, 2010 to become effective Jan 1, 2012.

Town Council approved increase to \$85,000.00 by vote on September 5, 2006, approved by the Mayor on September 13, 2006, to become effective January 1, 2008,

Ordinance #128. Town Council approved Section 4-100 by vote of Town Council on November 21, 2005. (Ordinance #124)

### **Section 6-700 Senior Tax Work Off Abatements**

1. **Authority.** Senior and Veteran tax work off abatements are available pursuant to Sections 5K and 5N of Chapter 59 of the General Laws. Tax abatements shall be available beginning Fiscal Year 2017. Volunteer services must be performed before a work off abatement check will be issued in any year.
2. **Annual Abatements.** The total number of annual abatements shall not exceed 40.
3. **Eligibility.** In order to be eligible for this abatement program the applicant must:
  - a. be 60 years of age or older at the time the application for the work off abatement is filed or a veteran as defined by clause Forty-third of section 7 of chapter 4;
  - b. must be an owner or deeded life tenant of the property for which said abatement is requested;
  - c. must apply for said abatement program each year that he/she wishes to be considered for participation;
  - d. must possess the minimum qualifications for the available positions;
  - e. preference shall be given to the most qualified candidate for the position;
  - f. must not be currently employed by the Town; and
  - g. only one abatement per household.

4. **Compensation.** Any person performing volunteer services under this chapter shall be paid for said services at a rate per hour equal to the minimum wage in effect in this Commonwealth at the time services are performed. Said payment, including all required deductions shall not exceed 125 hours per fiscal year. Said check shall be endorsed payable to the Town of West Springfield by the senior or veteran and shall be applied to the tax on said senior's residence for the fiscal year in which the services were performed. All work must be completed by November 30th of each year.
5. **Rules and Regulations.** The Human Resource Director, subject to Executive Order 104, may adopt such rules and regulations for the implementation and operation of this ordinance, including but not limited to the following:
  - a. the types of work or services said volunteers shall perform;
  - b. the hours when said services shall be performed;
  - c. procedures for overseeing said volunteers; and
  - d. record keeping procedures to be used to establish the amount of the abatement; and requirements for continued participation in the program once accepted.
6. **Required Language.** The following language must be added to all information relative to the Senior and Veteran rebate regarding property tax: *Please be aware that participation in this program may affect your eligibility or rights under other town, state, federal or local programs. You may wish to contact the West Springfield Council on Aging or other appropriate representative for further clarification.*

Ordinance #145 – Codification of Senior Rebate statute originally adopted ATM November, 8, 2000 (Chapter 103 of Town By-Laws)  
 Ordinance #146 – Amendment of original acceptance to reflect changes in MGL.

## Chapter 7 Preservation of Public Peace and Order

### **Section 7-100 Authorization to Enforce Rules and Regulations and Non Criminal Disposition**

A noncriminal disposition procedure using the civil infraction procedure in GL C. 40, §21D, is enacted for violations of these Ordinances and the rules and regulations currently existing or hereafter adopted by the various Boards, Committees and Departments of the Town.

Any officer, employee, person or entity observing a violation of a ordinance, rule or regulation he or she is responsible for enforcing may give to the offender a ticket in a form in compliance with the requirements of and in the manner established by said GL C. 40, § 21D, payable through the District Court having the Town of West Springfield within its jurisdiction.

### **Section 7-101 Penalties for Violation of Ordinances, Rules or Regulations**

1. The penalty under the civil infraction procedure of section 7-100 for each violation of any ordinance, rule or regulation shall be:
  - (a) Twenty-five dollars (\$25.) for the first offense.
  - (b) One hundred dollars (\$100.) for the second offense.

- (c) Three hundred dollars (\$300.) for the third and all subsequent offenses, unless a different penalty is specified in a particular ordinance, rule or regulation as the non-criminal civil infraction penalty.
2. Each day of violation shall be considered a separate violation. This penalty is in addition to the criminal penalties that are set forth in this ordinance, however, the use of either does not prevent the use of the other for future violations.

**Section 7-102 Enforcement Officer; Report on Fines**

It shall be the responsibility of the Chief Procurement Officer or his designee to purchase, distribute and track the citations issued under this chapter. The Town Collector shall monthly forward a report of the fines received pursuant to this section, showing by Departments, Board or Committees the amount received as a result of tickets issued by each such Department, Board or Committee.

**Section 7-200 Violations of School Committee Rules and Regulations**

1. A noncriminal disposition procedure, using the civil infraction procedure in GL, C. 40, § 21D, is enacted for violations of the School Committee rule and regulation prohibiting the use of tobacco products within school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel.
2. Any authorized employee observing a violation of a rule or regulation is empowered to enforce and shall give to the offender a ticket in a form in compliance with the requirement of and in the manner established by said Section 21D, payable through the District Court having jurisdiction of the Town of West Springfield.

**Section 7-201 School Committee Issuance of Citations**

Citations for violations shall be issued by any School Committee employee (as defined in GL, C. 268A, § 1) authorized in writing by the School Committee which has voted to have the above cited rule and regulation enforced under this ordinance.

**Section 7-300 Peace and Good Order**

1. Disorderly behavior; profane language; loitering. No person shall behave in a disorderly manner or use any indecent, profane language in any street or public place in the town or near any dwelling house or other buildings therein or in any licensed place of public amusement, or be or remain upon any sidewalk or upon any doorstep, portico or other projection from any building or be on any property other than his own, without a right to be there, to the annoyance or disturbance of any person.
2. Nude bathing. No person shall swim or bathe in any pond, stream or river in the town in a state of nudity.

3. Obstruction of streets and sidewalks by groups of people. Three (3) or more persons shall not stand together or near each other on any street, footwalk or sidewalk in the town so as to obstruct the free passage for pedestrians, and any person or persons so standing shall move on immediately after a request to do so made by any police officer, constable or watchman.
4. Playing in streets. No person shall, within the limits of any street, highway or park in the town, play at any game of ball or fly any kite or balloon or engage in any other game, amusement or exercise interfering with free, safe and convenient use of such street, highway or park by any person using, traveling or passing along the same, except at such times and places as the Mayor or designee may prescribe.
5. Smoking in buses. No person shall smoke or carry a lighted pipe, cigar or cigarette on a bus or motor vehicle operated for the carriage of passengers for hire in such a manner as to afford a means of transportation similar to that afforded by a street railway company, except a chartered or private bus or motor vehicle or on that part of a bus where smoking is permitted by the company operating the same.
6. Tobacco product use. Tobacco product use is prohibited within school buildings, school facilities, on school grounds and on school buses by any individual, including school personnel. Any individual violating this ordinance shall be punished by a fine of twenty-five dollars (\$25.) for the first offense; one hundred dollars (\$100.) for the second offense; three hundred dollars (\$300.) for the third and all subsequent offenses.
7. Flammable substances in sewers. No person shall make or maintain any connection with any public sewer or appurtenance thereof whereby there may be conveyed into the same, or cause to enter or flow into any public sewer or appurtenance thereof, any hot, corrosive, suffocating, flammable or explosive liquid, gas, vapor, substance or material of any kind, provided that the provisions of this section shall not apply to water from ordinary hot-water boilers in residences.
8. Activities involving the use of municipal property. Activities involving the use of municipal property for the purposes set forth in the following four paragraphs shall be permitted only after an application, on a form prepared by the licensing commission, has been reviewed by the licensing commission and a permit issued:
  - (a) Musical performances in public places; license required. No person shall sing, play or perform on any musical instrument in any street or public place for which they or others solicit or receive any compensation or contribution from bystanders or the public without first having obtained a license from the Licensing Commission.
  - (b) Speeches and exhibitions; license required. No person shall make or give any speech, address, show or exhibition in any street or public place for which they or others solicit or receive any compensation or contribution therefor from bystanders or the public without first having obtained a license from the Licensing Commission.
  - (c) Posting of notices and advertising matter; permit required. No person, unless required by law so to do, shall, without a permit from the Director of Public Works, post or affix in any manner, paint, print or write, or cause to be painted, printed or written,

any notice, advertisement, bill, picture, drawing or writing upon any curbstone, sidewalk, tree, pole, post or hydrant, in any street, or upon any walk or fence or other public place.

- (d) Parades; permission required. No person shall take part in or sponsor any parade, pageant or procession on any public way or in any other public place in the town unless a permit has been granted for such parade, pageant or procession by the Chief of Police.

- 9. Carrying contents of cesspools through streets. No person or persons shall at any time carry into or through any public street of the town any part of the contents of any privy vaults or cesspools in any cart, wagon or other vehicle or utensil which shall not be closely covered, watertight and kept clean upon the outer surface.

### **Section 7-400            Alcoholic Beverages**

- 1. Open containers in public prohibited. It shall be unlawful for any person to possess, consume from and/or transport an open container of an alcoholic beverage on any public street, public sidewalk, public park, public playground, or public way or on any grounds owned by the town within the limits of the town.
- 2. Nonapplicability. This section shall not apply at events or festivals duly licensed by the License Commission and approved in writing by the board, commission, department or official of the Town of West Springfield having the care and custody of the premises so licensed, to the extent of such license and approval.
- 3. Violations and penalties. The fine for an unlawful act as provided in this section shall be fifteen dollars (\$15.).
- 4. Evidence of violation. Possession of an open can, bottle or other container, which upon analysis by the police department is determined to contain an alcoholic beverage as defined in chapter 138, section 1 of the General Laws, shall be prima facie evidence of a violation of this section. All containers of alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person or persons summoned before the court.

### **Section 7-500            Animals**

#### **Section 7-501            Definitions**

“**Farm animal**” any poultry, ungulate, species of cattle, sheep, swine, goats, llamas, equine, or other fur-bearing animals which are raised for commercial or subsistence purposes.

“**Livestock or fowl**”, any fowl or other animal, including farm animals, kept or propagated by the owner for food or as a means of livelihood and deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, said department in proper houses or suitable enclosed yards. Such term shall not include dogs, cats and other pets.

**Section 7-502            Animals in streets prohibited**

No person shall permit any sheep, goat, swine, mule, ass, horse or neat cattle belonging to him/her or under his/her care or control to go at large in or depasture any street, lane or alley or to be on any common in the city.

**Section 7-503            Animals on sidewalks**

No person shall permit any goat, sheep, swine, horse, mule, ox or cow under his/her care to go upon any sidewalk in the city except for the purpose of crossing such sidewalk to go to or from some adjoining enclosure.

**Section 7-600            Dogs and Cats.**

**Section 7-601            Authority.**

The city may create ordinances or by-laws relative to the licensing and control of animals not inconsistent with M. G. L. c. 140 sections 136A to 174E, inclusive, pursuant to M. G. L. c. 140, § 173.

**Section 7-602            Definitions.**

“**Adequate shelter**” means a structure that is large enough for the animal to stand naturally, turn around and lay down inside of the structure without being exposed to the elements of weather. During cold weather, a moveable flap shall be placed over the entrance to a dog shelter to preserve the dog’s body heat.

“**Animal control officer**”, an appointed officer authorized to enforce G. L. c. 193, §§ 137–174E, inclusive, and Sections 7-500 and 7-600 of these ordinances.

“**At large**” means any dog which is off the owner’s or keeper’s property and not under physical control of the owner or keeper, and any cat off the owner or keeper’s property and not under physical control of the owner or keeper.

“**Attack**”, aggressive physical contact initiated by an animal.

“**Companion animal**” means any dog or cat. Companion animal shall not include a “farm animal” as defined in this chapter.

“**Dangerous dog**”, a dog that either: Without justification, attacks a person or domestic animal causing physical injury or death. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to 1 or more persons, domestic or owned animals.

However, no dog shall be deemed dangerous:

1. Solely based upon growling or barking;
2. Based upon the breed of such dog;
3. If such dog was reacting to another animal or to a person and such dog’s reaction was not grossly disproportionate to any of the following circumstances:

4. such dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
5. the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of such dog;
6. the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking such dog; at the time of such attack or threat, the person or animal that was attacked or threatened by such dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

**“Euthanize”**, to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

**“Hearing Authority”**, The Hearing Authority shall be comprised of the Town Clerk, The Health Director and a designee from the Police Department chosen by the Police Chief. The Hearing Authority shall create additional procedures for the management of outdoor cat populations and the determination of dangerous or potentially dangerous dogs and cats with approval from the Town Council in accordance with MGL Ch. 140, Section 173.

**“Keeper,”** any person, business, corporation, entity or society, other than the owner, harboring or having in such person’s possession any dog or cat.

**“Kennel”** means one pack or collection of dogs and/or cats on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of four or more dogs six months of age or older, or five or more cats six months or older (including companion animals and pets), owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

**“Kennel, commercial”** means any premises maintained for any of (or combination of) the following:

1. The boarding or in-residence training of any number of dogs and/or cats;
2. The day care of any number of dogs and/or cats that is not the owner/operator’s companion animal or pets and at which such services are rendered in exchange for consideration and in the absence of the owner of such animal;
3. Ten or more dogs six months of age or older or ten or more cats six months of age or older kept as companion animals or pets; or for/from breeding;
4. An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or for exchange to wholesalers, brokers or pet shops in return for consideration.
5. This definition shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a facility which does not provide overnight boarding for animals but does provide dog grooming, dog training, supervised playtime of dogs or dog walking with not more than 12 dogs on a single premises or individuals who temporarily, and not in the normal course of business, board or care for animals owned by others or veterinary hospital or clinic that boards dogs for reasons in addition to medical



treatment or care; provided, however, that this definition shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment, observation, or will do so, only for the period of time needed to accomplish the needed veterinary care.

**“Kennel, personal”** means any premises where an owner or keeper maintains as companion animals or pets, or for breeding, four or more, but not more than nine dogs six months of age or older, and/or seven or more but not more than nine cats six months of age or older. Providing however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed, use in legal sporting activity or other personal reasons; provided, further, that selling, trading, bartering or the distribution of such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that personal kennels shall not sell, trade, barter or distribute any dogs not bred from their personally owned dogs; and provided, further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.

**“License period”** means the period of time for which the city clerk prescribes the validity of a license, from date of issuance to and including the date of expiration. The annual license period is January 1 through December 31.

**“Nuisance dog”**, a dog that:

- A. by excessive barking or other disturbance is a source of annoyance to any sick person residing in the vicinity; or
- B. by excessive barking, causing damage or other interference, a reasonable person would find disruptive to one’s quiet and peaceful enjoyment; or
- C. has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances

**“Owner”** means any person possessing, harboring, keeping, having an interest in, or having control or custody of an animal. If a person under the age of 18 owns the animal, that person’s custodial parent(s) or legal guardian(s) shall be responsible for complying with all requirements of this article.

**“Shelter”**, a public animal control facility or any other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

### **Section 7-603            Licensing of dogs.**

1. Any person who, at the commencement of a license period, is or who, during any license period, becomes the owner or keeper of a dog six months old or older, shall cause the dog to be licensed within 30 days. The city clerk shall issue dog licenses and tags on a form prescribed and furnished by the city.
2. The license record shall include the name, address, and phone number of the owner or keeper of the dog, and the name, license number, breed, color, age, sex, and the rabies expiration date of each dog and indicate whether the dog has been spayed or neutered. The license tag shall include the license number, the name of the city and the year of issue.
3. The owner or keeper shall cause each dog to wear around its neck or body a collar or harness to which he shall securely attach the license tags. In the event that any tag is lost, defaced or destroyed, a substitute tag shall be obtained by the owner or keeper from the city clerk at the cost of \$5. Such monies shall be transmitted to the city treasurer in the same manner as license fees. The city clerk

shall not issue a license for any dog unless the owner or keeper provides the city clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies.

4. The city clerk shall not grant such licenses for any dog unless the owner thereof provides either a veterinarian's certificate that such dog has been certified exempt from rabies vaccination, or a notarized letter from a veterinarian that a certificate was issued.

**Section 7-604                    Licensing fees.**

1. The fees for dog licenses shall be established in the fee schedule of the Town Clerk as voted on from time to time by the Town Council<sup>5</sup>
2. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind, deaf or handicapped person upon presentation to the city clerk of a certificate of such training.
3. No license may be issued for any dog unless all prior overdue licenses (i.e., licenses from prior years which were required but had not been obtained) have been paid for. Unless an amnesty period shall be in effect, recommended by the Town Clerk and approved by vote of the Town Council.
4. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, or removal from the commonwealth or other disposal, of the dog.
5. The City Clerk shall have the authority to make reasonable accommodations to reduce fees and fines owed in the case of financial hardships.
6. Any owner or keeper of a dog who moves into the city and has a valid dog license for his/her dog from another city or town in the commonwealth shall, within 30 days, obtain a dog license for a fee of \$1. upon producing evidence of the previous license.
7. The city clerk shall collect a late fee of \$25 for every dog license issued after March 1 of each year. This fee would be waived during an approved amnesty period. The city clerk shall have the authority to waive or reduce the late fee in cases of financial hardship or in conjunction with participation in a town sponsored rabies vaccination clinic.

**Section 7-605                    Vaccination against rabies.**

1. Whoever is the owner or keeper of a dog, cat or ferret in the city, six months of age or older, shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by the manufacturer.
2. Unvaccinated dogs, cats or ferrets acquired or moved into the city shall be vaccinated within 30 days after the acquisition or arrival of such animal into the city or upon reaching the age of 6 months, whichever last occurs.
3. A licensing authority may grant an exemption from this section for any dog, cat or ferret that:
  - a. the local board of health has declared exempt from the rabies vaccination requirement upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, that such inoculation is considered inadvisable for a specified period of time for such reasons;
  - b. is in transit; or
  - c. was brought into the commonwealth temporarily for the sole purpose of display in shows or for exhibition.
4. This section shall not apply to dogs, cats or ferrets housed in a research institution.

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<sup>5</sup> Current License Fee: Spayed/Neutered - \$6, Intact - \$15

5. Whoever violates this section shall be punished by a fine of not more than \$100.<sup>6</sup>

**Section 7-606                    Limit on number of dogs; fine.**

1. No person shall keep more than three dogs over the age of six months at any residence without complying with the requirements of the West Springfield Zoning Ordinance, and obtaining a kennel license as defined herein.
2. Those persons who kept more than three dogs at their premises in compliance with the applicable ordinances and regulations in effect at the time may keep said dogs in excess of the aforesaid limit, but said dogs may not be replaced so as to exceed the three dog limit.
3. Additional restrictions on the number of companion animals may be imposed by the Animal Control Officer if after an investigation of a dwelling or property it is revealed the living conditions are not healthy and these conditions are the result of an overcrowding of animals in said dwelling or property. An appeal of the above restriction may be made in writing to the Town Clerk and a final decision shall be rendered by the Hearing Authority designated in Section 7-621 of these ordinances.
4. Any person who violates the provisions of this section shall receive a written warning, issued by the animal control officer or police officer, for the first offense, and for each subsequent offense shall be liable for payment of a fine of \$50 for each day in violation of this section, which shall be paid to the city clerk. A reasonable amount of time will be allowed for proper placement of animals into alternate care before fines are imposed. The Animal Control Officer may assist persons in need with placement of animals as necessary.

**Section 7-607                    Kennel licenses; fees.**

1. Any person or business maintained for a personal kennel or commercial kennel as defined in this article shall obtain the appropriate kennel license from the city clerk. The city clerk shall not issue any kennel license for any use not in compliance with the zoning ordinance. The city clerk shall not issue a personal kennel license unless the owner or keeper provides the city clerk with a veterinarian's certificate verifying that each dog or cat six months of age or older is currently vaccinated against rabies.
2. Issuance of a personal or commercial kennel license, and continued use of said license, shall be contingent upon inspection and approval by the animal control officer to ensure that basic standards of cleanliness and proper care and confinement of said dogs or cats exist on the premises.
3. Such license shall be in a form prescribed by the city clerk. Such license shall be in lieu of any other license for any dog or cat while kept at such kennel during any portion of the period for which such kennel license is issued. The holder of a license for a kennel shall cause each dog or cat kept therein to wear a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of such kennel license, the year of issue and the inscription "WEST SPRINGFIELD".
4. The fees for Kennel Licenses shall be included in the fee schedule of the Town Clerk and shall be set by the Council from time to time.<sup>7</sup>

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<sup>6</sup> Whoever violates this section shall be punished by a fine of not less than \$50 nor more than \$100. The animal control officer shall apportion this fine based on the severity of the violation and the time since the vaccination has lapsed.

<sup>7</sup> Kennel License Fees:    4 Tags - \$25  
                                  5-10 Tags - \$50  
                                  11-25 Tags - \$75

5. The name and address of the owner of each dog or cat kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog or cat six months of age or older is currently vaccinated against rabies, shall be kept on file thereat and available for inspection by the animal control officer, animal inspector, or police officer.
6. The city clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and the relief of suffering among animals.
7. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling, breeding or boarding of dogs or cats for other than medical purposes, in which case it shall apply for a kennel license.
8. The license period for a kennel license shall be the same as for a single license: January 1 through December 31, inclusive.

**Section 7-608 Kennel inspection and regulation**

The procedure for the inspection of Kennels shall be as established in MGL Chapter 140: Section 137C.

**Section 7-609 Barking dogs, meowing cats**

No person owning or keeping or otherwise responsible for a dog or cat shall allow or permit said dog or cat to annoy another person's reasonable right to peace or privacy by making loud and continuous noise, where such noise is plainly audible at a distance of 150 feet from the building, premises, vehicle or conveyance housing said dog or cat, and such noise is continuous in excess of ten minutes. The fact that such noise is plainly audible at such distance and continuous in excess of ten minutes shall be prima facie evidence of a violation.<sup>8</sup> Fines will be issued only after an investigation by the Animal Control Officer has determined that the barking/meowing of the animal is not the result of willful instigation from a third party.

**Section 7-610 Payments to veterinarians for emergency treatment of dogs or cats injured on ways.**

Payment to veterinarians shall be made as defined in MGL Chapter 140, Section 151B.

**Section 7-611 Designation of animal control officer; warrant**

Pursuant to M. G. L. c. 140, § 151(a), the mayor shall annually designate an animal control officer. Pursuant to c. 140, § 151A, the mayor shall annually issue a warrant to the animal control officer directing the officer to seek out, catch and confine all dogs within the city which are not licensed, collared or harnessed, or tagged, as required by these ordinances, and to prosecute against the owners or keepers of such dogs for failure to comply.

**Section 7-612 Dogs at large prohibited; leashing required; fine**

1. Any person owning, keeping or being responsible for a dog shall not allow nor permit said dog to run at large on any of the streets or public places in the city or upon any private property, unless the owner or lawful occupant of such property grants permission therefor.
2. No dog shall be allowed or permitted in any public place or street within the city unless it is effectively restrained and controlled by a chain or other form of leash, that is sufficient to hold the dog unless it is within and confined to a motor vehicle.

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<sup>8</sup> Section 1-105: 1<sup>st</sup> Offense - \$25, 2<sup>nd</sup> Offense - \$50, 3<sup>rd</sup> & subsequent Offenses - \$200

3. In any prosecution hereunder, the presence of such dog at large upon premises other than the premises of the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had.
4. Fines will be issued in accordance with Section 1-105 of these Ordinances.

**Section 7-613 Enforcement of unleashed or at large dog(s)**

1. It shall be the duty of the animal control officer, or police officer, to apprehend any dog found running at large and to impound such dog in the animal shelter or other boarding facility.
2. The animal control officer or impounding officer shall keep a register and make a complete record of each impounding.
3. The record shall contain the following information: breed, color and sex of each dog; whether or not the dog is licensed; the license number, if any; the name and address of owner, if known; the date and place of apprehension; and the location where the dog is being kept. In the instance of an animal that has been euthanized by gunshot in case of emergency, such record shall contain the disposition of the remains and a description of the situation requiring the gunshot.
4. The owner of an impounded dog, when known, shall be notified verbally or in writing of such impoundment or, if the owner is unknown, written notice shall be posted with the police department.
5. Notice shall contain a description of the dog, date and place of apprehension and location where the dog is being kept.
6. The owner, or keeper or responsible person may reclaim the dog so impounded upon payment of the license fee, if unpaid, and proof of rabies vaccination in the form of a rabies vaccination certificate from a certified veterinarian, and the payment of impoundment and boarding fees and the cost relevant to such impoundment.

**Section 7-614 Fee for reclamation of impounded dog; failure to claim impounded dog or cat**

1. An owner or keeper of a dog reclaiming an impounded dog shall pay to the animal control officer for deposit with the city treasurer an administrative fee of \$25. The reclamation fee is an administrative fee in addition to any fine due of the owner or keeper of the animal for violation of the animal control ordinances of the city.
2. Any dog whose owner or keeper fails to claim said dog or cat within seven days from the day of impounding shall be subject to the provisions set forth in M. G. L. c. 140, § 151A.

**Section 7-615 Animal control facilities; shelters**

1. Any animal control facility or shelter with which the city engages in a contract for services related to this article shall at all times observe the laws of the commonwealth.
2. No shelter shall sell or give away any dog or cat that has not been spayed or neutered, unless a written agreement is entered into and a deposit of not less than \$40 for spaying or neutering has been tendered to the shelter. The shelter may make appropriate arrangements for the spaying or neutering of such dog or cat by a licensed veterinarian, or may return the deposit to the person purchasing or receiving the dog or cat upon presentation of a written statement or receipt from a veterinarian or clinic that the dog or cat has been spayed or neutered by a licensed veterinarian.

**Section 7-616                    Removal of dog or cat waste from public property or the property of others**

No person owning or having the care, custody or control of any dog or cat shall permit such dog or cat to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, wetland, in or upon any public property or in or upon the property of persons other than the owner or persons having the care, custody or control of such dog or cat, unless said person picks up any such waste and disposes of same in a sanitary manner. Fines will be issued in accordance with Section 1-105 of these Ordinances.<sup>9</sup>

**Section 7-617                    Tethering/Outdoor Confinement of Dogs**

A person owning or keeping a dog may confine such dog outside, subject to the restrictions in Massachusetts General Law Chapter 140, Section 174E and in compliance with the following:

1. No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 8 total hours during a 24 hour period.
2. No dog shall be penned, kenneled or kept in any other outdoor enclosure for more than 12 total hours during a 24 hour period.
3. No dog shall be kept outside in any manner between 11 PM and 6 AM. This section shall not prevent an owner/keeper from walking a dog on leash at any time.
4. No dog shall be kept outside in cases of extreme weather, when a heat advisory is in effect or during any time in which an extreme weather advisory has been issued by the town or state, including but not limited to floods, hurricanes, tornadoes and tropical storms.

Fines will be issued in accordance with Section 1-105 of these Ordinances<sup>10</sup>. Consideration may be made at the discretion of the Animal Control Officer with regard to the guidelines in this section if the safety and wellbeing of the animal are not compromised.

**Section 7-618                    Inhumane treatment**

1. Any person owning, keeping, in control of or otherwise responsible for a companion animal, pet, farm animal or any other dog or cat who, in the opinion of the animal control officer, is treating the aforementioned animals in an inhumane manner (such treatment may include, but not be limited to: prolonged chaining or tethering of animals; extended outdoor confinement; lack of access to food, water or shelter; exposure to hazardous conditions) shall be subject to a written warning and/or a fine, issued by the animal control officer or police officer, as detailed in the fee schedule of the Town Clerk<sup>11</sup>, paid to the city treasurer, or by imprisonment for not more than 30 days for the first offense and not more than 60 days for a second or subsequent offense, or both.
2. If any of the aforementioned persons violates this section more than five times, the animal control officer or police officer may, after a hearing conducted by the chief of police or his/her designee, with not less than ten days' notice to owner or keeper, confiscate the subject animal or animals or order the

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<sup>9</sup> Section 1-105: 1<sup>st</sup> Offense - \$25, 2<sup>nd</sup> Offense - \$50, 3<sup>rd</sup> & subsequent Offenses - \$200

<sup>10</sup> Section 1-105: 1<sup>st</sup> Offense - \$25, 2<sup>nd</sup> Offense - \$50, 3<sup>rd</sup> & subsequent Offenses - \$200

<sup>11</sup> 1<sup>st</sup> Offense – Written warning and/or \$150, 2<sup>nd</sup> Offense - \$300, Subsequent offenses - \$300 and animals may be removed

person to permanently surrender the animal or animals for placement. If placement is not obtainable, the animal or animals may be ordered euthanized.

3. Where, in the opinion of the animal control officer, said aforementioned treatment of said animals places the animals at imminent risk, the animal control officer may immediately remove and impound the animal for its own protection.

**Section 7-619 Domestic relations**

Pursuant to M. G. L. c. 209A, § 11, relative to a domestic relations, child custody, domestic abuse or abuse prevention proceeding or matter, a court may include the domesticated animal(s) belonging to a petitioner or to a member of the petitioner’s family or household, in the court’s orders, injunctions or warrants thereof.

**Section 7-620 Regulations regarding cats**

The Hearing Authority shall submit regulations regarding cats pursuant to M. G. L. c. 140, § 173 and this ordinance. These regulations will be in effect upon approval of the Town Council and filing with the Town Clerk.

**Section 7-621 Dangerous and potentially dangerous dogs and cats**

The Hearing Authority shall submit regulations regarding potentially dangerous dogs and cats pursuant to M. G. L. c. 140, § 173 and this ordinance. These regulations will be in effect upon approval of the council and filing with the Town Clerk.

**Section 7-622 Motor vehicles; striking, injuring or killing dogs or cats**

The operator of a motor vehicle that strikes and injures or kills a dog or cat on the byways of the city shall forthwith report such an accident to the owner or keeper of said dog or cat or to a police officer or animal control officer. A violation of this section shall be punished by a fine to be paid to the city clerk.<sup>12</sup>

**Section 7-623 Enforcement**

1. These provisions may be enforced through and pursuant to the noncriminal disposition procedure set forth in Section 7-100 of these ordinances.
2. Violation of any section of this ordinance shall be subject to the following fines, unless otherwise specified in a specific section:
  - a. First offense: \$50.
  - b. Second offense: \$100.
  - c. Subsequent offenses: \$ 300.
3. Each day a violation exists shall constitute a separate offense.
4. A reasonable amount of time to remedy and violations will be allowed before fines are issued except when deemed inappropriate by the animal control officer.

**Section 7-624 Severability**

These rules and regulations are adopted with the intent that each of them shall have force and effect separately and independently of each other, except insofar as by express reference or necessary implication any rule or part of any rule is made dependent upon another rule or part thereof.

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<sup>12</sup> Fine for failure to report striking a dog or cat with a motor vehicle - \$75

### **Section 7-700            Numbering of Buildings**

1. Authority. The Mayor may order a street to be numbered or renumbered whenever he/she deems it necessary and shall keep a suitable record of all such numbering and renumbering.
  
2. Manner of placement of numbers; size. The owner of every home, tenement and business space within the town limits shall cause to be placed and maintained, within a five-foot radius of the center of the front door, building numbers (Roman Simplex Style) as assigned by the Mayor. The size of the numbers are as follows:
  - (a) Three (3) inches or larger for homes, tenements and businesses within sixty (60) feet (measured) from the center of the roadway in front of the building;
  - (b) Four (4) inches or larger for homes, tenements and businesses within one hundred (100) feet (measured) from the center of the roadway in front of the building;
  - (c) Five (5) inches or larger for homes, tenements and businesses within one hundred fifty (150) feet (measured) from the center of the roadway in front of the building; and
  - (d) Where a building is more than one hundred fifty (150) feet from the center of the roadway, a permanent stone or steel post shall be installed, with three-inch numbers mounted forty (40) inches high, next to the driveway. The numbers will be visible at all times and contrast with the building color.
  
3. Compliance with building numbering.
  - (a) Compliance with the provisions of § 7-700 shall be completed within thirty (30) days of the approval of § 7-700.
  - (b) New building: New buildings shall be identified in accordance with this section before a certificate of use and occupancy is issued therefore.

### **Section 7-800            Curfew**

1. Curfew established; exception. No child under sixteen (16) years of age shall be, loiter or remain upon any street, highway, park or other public way or place in the town after the hour of 9:30 p.m. of any day unless accompanied by or under the control or care of a parent, guardian or other adult person or unless in some employment or in the performance of some duty directed in writing by said parent, guardian or other adult person; or due to an emergency that can be verified and no such child while in such employment or performance of such duty shall loiter upon any such street, park or other public place.
2. Curfew: Violations and penalties. Any person violating any of the provisions of this chapter shall be liable to a penalty not exceeding five dollars (\$5.) for each offense.
3. Warning; notification of parents. In enforcing this chapter, a police officer may, in his discretion, warn and send home any child who for the first time violates the provisions of this chapter and shall report such action to the Chief of Police, who shall cause notice thereof to be sent to the parent, guardian or other person having the care of such child.

### **Section 7-900            Firearms and Weapons**

1. Discharge in public places prohibited; exceptions. No person shall discharge any gun, pistol, firearm, air pipe, blowpipe, air gun, spring gun, bow gun or crossbow in any of the streets,



highways or parks in the town, provided that this section shall not apply to the use of such weapons in the lawful defense of the person, family or property of anyone or in the performance of any duty required by law, or ceremonial salutes. The firing of a salute of cannon or artillery may be allowed by permission of the Town Council with the consent of the Mayor.

2. Steel-pointed darts or missiles. No steel-pointed darts or -pointed missiles shall be sold at retail within the limits of the town to any persons less than sixteen (16) years of age.
3. Steel knives, machetes or swords. No steel knives, machetes or swords with a blade length of six (6) inches or more shall be sold at retail within the limits of the town to any person less than sixteen (16) years of age.
4. Projectiles from air guns, etc. No person shall project, by means of any air pipe, blowpipe, air gun, spring gun, bow gun or crossbow, any object whatever in or into any public street, highway, park, avenue or place within the town.
5. Inoperable Firearms, Ammunition and Explosive Devices. No person shall sell or expose for sale within the limits of the town firearms, ammunition or explosive devices which have been rendered inoperable, until first obtaining a license to do so issued by the Chief of Police or his/her designee.
6. Violations. The penalties for violation of this provision shall be \$50.00 for each offense and/or confiscation of said items.

## **Section 7-1000      Fire Prevention**

1. Detectors required in certain occupancies; time limit for compliance.  
Every building or structure containing six (6) or more dwelling units which is not regulated by MGL C. 148, §§ 26A and 26B, shall, within six (6) months of the date this Article is approved, be equipped with an automatic smoke or heat detector in each dwelling unit and each hallway floor and basement. Approved battery-powered smoke detectors shall be allowed in the dwelling units of such buildings.
2. Detectors in hallways and basements. Detectors used in the hallways and basements of such buildings shall be a series of interconnected, approved, electrically powered smoke detectors with an AC primary source of power installed in accordance with the design approved pursuant to 527 CMR 24:04.
3. Enforcement. The head of the Fire Department shall enforce the provisions of this Article.
4. Appeals. Whoever is aggrieved by the head of the Fire Department's interpretation, order, requirement, direction or failure to act under the provisions of this Article may, within forty-five (45) days after the service of notice thereof, appeal from such interpretation, order, requirement, direction or failure to act to the Board of Appeals as provided in the State Building Code and MGL C. 23B, § 23.
5. Violations and penalties. Any owner of a building who, within six (6) months after having received an order to comply with this Article, fails to comply with the requirement of such order, shall be punished by a fine of two hundred dollars (\$200.). The imposition of a fine

shall not restrict the ability to impose non-criminal dispositions as provided in these ordinances.

## **Section 7-1001 Fire Key Boxes**

Section 1. Title: Fire Key Boxes

Section 2. Authority: The ordinance is adopted pursuant to the authority of Article 89 of the Amendments to the Constitution of the Commonwealth, the West Springfield Home Rule Charter, G.L. c.43B and any other relevant statutes.

Section 3. Purpose: The purpose is to provide the ability for immediate access to certain commercial and industrial buildings by the fire department in the event of an emergency.

Section 4. Definitions: In construing this ordinance the following words shall mean: (A) **Key Box**: A metal box either surface mounted or recessed mounted located on the exterior of the building accessible by the fire department and approved in writing by the Fire Chief. (B) **Building**: Any structure containing 7,500 or more of gross space square feet in floor area for commercial or industrial purposes. (C) **Automatic Sprinkler System**: A system of automatic sprinklers in compliance with the provisions of the state building code and the provisions of 780 CMR 918.5. (D) **Fire Alarm System**: A fire protection signaling system that complies with the requirements of 780 CMR 917.0—917.4 inclusive. (E) **Owner**: The person or entity listed in the office of the Board of Assessors as the record owner, or the actual owner if different, of the premises upon which the building is located. (F) **Substantially Renovated**: Any alternation to a building the costs of which are estimated on the permit application filed with the Building Commissioner to be \$25,000.00 or more. (G) **Vacant or Unused**: Any building that has been unoccupied, as determined by the building commissioner, for a period of sixty (60) days. Insignificant use during said period shall not be sufficient to overcome the determination by the commissioner.

### **Section 5. Installation and Contents of Key Boxes:**

(A) The owner of a commercial or industrial building, that contains either an automatic sprinkler system or a fire alarm system, for which a building permit is issued after the effective date of this ordinance shall install a key box in said building.

(B) The owner of a building that contains either an automatic sprinkler system or a fire alarm system and is substantially renovated after the effective date of this ordinance shall install a key box on said building as part of said renovations.

(C) The owner of a vacant or unused building on or after the effective date of this ordinance shall be required to install a key box on said building within 60 days of said date.

(D) The owner shall provide the approved means of access to the Key Box to the Fire Chief or his designee.

(E) The Key Box shall contain keys that provide access to all common areas of the building.

### **Section 6. Violations and Penalties:**

1. The criminal penalty for each violation of this Article shall be \$300.00.
2. A non—criminal enforcement procedure may be utilized pursuant to the provisions of G.L. c. 40, §21D and § 1— 10 of this ordinance as an alternative to criminal enforcement.
3. The fine for a non-criminal violation shall be \$100.00 for each offense. Each day shall constitute a separate violation provided however, that no separate ticket need be given after the initial ticket for a continuous violation.
4. The enforcing authority shall be the Fire Department.
5. Any penalties imposed under this article that are not paid when due shall become a municipal charge and shall be recorded as such against the property in question pursuant to the provisions of the Municipal Charges Lien Ordinance.
6. The owner may delegate, by written agreement or contract, the duty imposed by this ordinance, however the owner shall remain liable for any violations by such designee.

**Section 7. Severability:**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

*Town Council approved Section 7-1001 by Town Council vote on May 17, 2004 (Ordinance # 118)*

**Section 7-1100            Fireworks**

1.     Permit required for fireworks and bonfires. No person shall set fire to any rocket, cracker, squib, serpent or other firework or make any bonfire in any street, lane, highway or park in the town without a permit from the Fire Chief.

**Section 7-1200            Rubbish and Handbills Prohibited; Maintenance of Tree Belt**

1.     No person shall put or place or cause to be put or placed in any street, lane or alley or other public place in the town any house dirt, ashes, filth, shells or any other kind of rubbish, or throw any handbills, circulars, pamphlets, advertisements or other papers.
2.     The tenant or occupant of any real estate in the town which abuts on any public or private way in the town and, in case there is no tenant or occupant, the owner of such real estate shall keep that portion of the public or private way, commonly known as the “tree belt,” mowed and free and clear of all litter, debris, noxious weeds and brush and any other kind of rubbish and shall maintain the same in a clean and sanitary manner.
3.
  - (a)    No person shall place, or cause to be placed, rubbish, recyclables, yard waste, bulky items and holiday trees for collection on any tree belt or driveway apron prior to 3 PM on the day before collection or later than 7 AM on the day of collection.
  - (b)    Reusable rubbish containers, recycling bins and any uncollected items shall be removed from the tree belt or driveway apron as soon as possible after collection, but in no case later than 1 AM of the day following the collection; an
  - (c)    The tree belt shall not be used as a storage area for rubbish. All rubbish shall be

stored in an area so as to be inconspicuous as possible to the public view.

*Note: Section (a) and (b) deleted and replaced as indicated above, and adding (c) on May 7, 2007 by Council vote, Ordinance Number 137 of Town Clerk's Records*

### **Section 7-1300 Power to Appoint Constables**

The Mayor may appoint constables pursuant to the provisions of the General Laws chapter 41, section 91.

### **Section 7-1400 Street Furniture**

1. Definitions. When used in this Ordinance, unless the context otherwise requires, the following terms shall have the following meanings:
  - (a) "Director" shall mean the Director of the Public Works Department of the Town of West Springfield or such person as said Director may from time to time designate.
  - (b) "Building Inspector" shall mean the Building Commissioner and any local inspector.
  - (c) "Certificate of Compliance" shall mean the Certificate of Compliance issued by the Director to the Certificate Holder in accordance with the provisions of this Ordinance.
  - (d) "Certificate Holder" shall mean the holder of a Certificate of Compliance issued by the Director in accordance with the provisions of this Ordinance. A Certificate Holder is responsible for the installation and maintenance of street furniture encompassed by any Certificate of Compliance issued pursuant to the provisions of this Ordinance and for compliance with all provisions contained herein.
  - (e) "Licensing Clerk" shall mean the clerk of the Licensing Commission.
  - (f) "Operator" shall mean any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who either own, operate or are otherwise in control of street furniture.
  - (g) "Public Way" shall mean any public highway, private way laid out under authority of statute, way dedicated to public use, or a way under the control of the Town or any department thereof.
  - (h) "Exempt Street Furniture" shall mean governmental and municipal signs, traffic control devices and signs, cable, electric and telephone utility poles, including conduits, transformers, wires, cables and supporting structures, mail boxes, structures belonging to a regional transit authority created under G.L.c 161B, municipal trash receptacles, fire hydrants, call boxes and public safety and all municipal structures.
  - (i) "Street furniture" shall mean any structure erected or placed in or on a public way on a temporary or permanent basis.
  - (j) "Tree belt" — that portion of a street right-of-way located between the paved portion of the street and the outside edge of the right-of-way containing a sidewalk, if any, and commonly planted with trees, shrubs, grass, or other vegetation. However, where the area between the paved portion of the street and the outside edge of street layout is paved or the like, the first four feet from the outside edge toward the paved street shall be considered the sidewalk for the purpose of this ordinance.

2. Certificate of Compliance.

- (a) Requirement. No person shall place, affix, erect, constitute or maintain street furniture in or on any part of a public way without first obtaining a Certificate of Compliance from the Licensing Clerk in accordance with the provisions of this Ordinance.
- (b) The Certificate of Compliance must be renewed annually by application to the Director.
- (c) Issuing Authority. The Licensing Clerk shall be the issuing authority and coordinator of the application process and administration of this Ordinance.
- (d) Approving Authority. The approving authority shall be the Director. The Director or his/her designee shall review and approve for compliance with this section entitled Certificate of Compliance, Section 5, entitled Standards, and Section 8, entitled Installation & Maintenance.
- (e) Application Process. Applicants must complete a written application on a form provided by the Licensing Clerk.
- (f) Application. The application shall describe in sufficient detail, the number, location and type of street furniture for which the Certificate of Compliance is sought and shall contain the following information:
  - 1. The name, address and telephone number of the applicant who is the owner/operator or other person who is the principal responsible person in charge of the street furniture; and
  - 2. The name, address and telephone number of a natural person (if different from the applicant) who the Town may notify and/or contact at any time concerning the applicant's street furniture. This person would be responsible for receiving complaints and notices of violations when a Certificate of Compliance is issued and for providing information relating to the application during the application process; and
  - 3. The number of pieces of furniture with a plan and written description specifying the proposed location of each; and
  - 4. A certificate of liability insurance in an amount not less than \$100,000.00 to cover claims by person(s) for damages of personal and bodily injury, including death, or property damage and costs and expenses suffered or incurred by reason of the design, placement, installation, operation or maintenance of any of the applicant's street furniture. Insurance under this section shall run continuously with the presence of the applicant's street furniture in Town of West Springfield public ways and any termination or lapse of such insurance shall be a violation of this Ordinance, subject to appropriate remedy under section 9 of this Ordinance; and
  - 5. A certification from the applicant *stating* that the proposed locations for all of the street furniture listed in the application are in compliance with the provisions of this Ordinance.
- (g) Issuance of a Certificate of Compliance. Upon a finding by the Director that the application is in compliance with the provisions of this Ordinance, the Licensing

Clerk shall issue a Certificate of Compliance for installation by the applicant. Upon a finding by the Director that some of the proposed street furniture locations for a multi-location application are in compliance with the provisions of this Ordinance, the Licensing Clerk may issue a partial Certificate of Compliance for installation by the applicant of those items of street furniture determined by the Director to be in compliance. The applicant may reapply for substitute alternative locations for locations associated with a multi-location application that have been denied without having to pay an additional application fee. Issuance of a Certificate of Compliance or partial Certificate of Compliance shall designate the applicant to be the Certificate Holder. The Director shall act on a Certificate of Compliance within seventy-two (72) hours (excluding weekends and holidays) of the Licensing Clerk's receipt of a completed application.

- (h) Denial of Certificate of Compliance. If an application for a street furniture location is denied by the Director, the Licensing Clerk shall notify the applicant within fifteen (15) business days of the Licensing Clerk's receipt of the denial. The Director shall state the specific reasons for denial. The applicant may reapply for a substitute alternative location without having to pay an additional application fee. An applicant who has been denied a Certificate of Compliance pursuant to this Ordinance may appeal within thirty (30) days of such denial by filing a request in writing with the Licensing Clerk to appear before the Licensing Commission to review said denial. The appeal shall be heard within thirty days of receipt of the appeal. The decision on the appeal shall be sent to the applicant within seventy-two (72) hours (excluding weekends and holidays) after the meeting.
- (i) The Director reserves the right to order, by written notice to the Certificate Holder, that street furniture be removed from an approved location, either temporarily or permanently, if he/she determines said removal is in the interests of public safety.

3. Fees.

- (a) There shall be a Certificate of Compliance fee in the amount of One Hundred (\$100.00) dollars paid to the Town. This fee shall be due upon the initial application.
- (b) Additional Certificate of Compliance. If at any time after the Director has issued a Certificate of Compliance a Certificate Holder proposes to install additional street furniture, the provisions of Section 2 are to be repeated. Additional Certificate of Compliance fees shall be in accordance with Section (a), except that an additional Certificate of Compliance fee is Fifty and 00/100 (\$50.00) dollars.
- (c) In addition to any Certificate of Compliance fee, an annual fee of Twenty-five (\$25.00) dollars per piece of street furniture authorized shall be paid to the Town to offset the Town's cost of monitoring compliance with this ordinance.
- (d) The Director shall waive any fee established in this section due as a result of an application by a non-profit religious, educational or charitable entity for directional or informational signs upon the receipt of documentation showing it is qualified under the provisions of IRC 501 (c) (3).

4. Placement Standards. Subject to the standards outlined below, all street furniture shall be placed parallel to and facing a sidewalk. Street furniture placed near the wall of a building shall be placed parallel to and not more than 6” from the wall of the building. No street furniture shall be affixed, erected, installed, placed, used or maintained:
  - (a) On a sidewalk or within one foot of a sidewalk; and
  - (b) within three (3) feet of a curb or paved surface of a public way; and
  - (c) within five (5) feet of any marked crosswalk or handicapped ramp; and
  - (d) within five (5) feet of any fire hydrant, fire lane, fire call box, police call box or other emergency facility, mail box, telephone booth or stand; and
  - (e) within five (5) feet of the edge of a drive way; and
  - (f) within Twenty-five (25) feet of any traffic control signal or the intersection of two or more public ways; and
  - (g) which in any way protrudes onto the paved portion of a public way or sidewalk; and
  - (h) on any portion of a public way abutting a public or private school; and
  - (i) on any side of a public way that does not have a sidewalk; and
  - (j) on any public way located in a residential zoning district.
  - (k) within five (5) feet of a bicycle rack; and
  - (l) within five (5) feet ahead or fifteen (15) feet to the rear of any designated bus stop or taxi stand; and
  - (m) no street furniture shall be in excess of fifty-two (52) inches in height; provided, however, an allowed sign may exceed fifty-two (52) inches in height but shall not be greater than eighty-four (84) inches in height; and
  - (n) any piece of street furniture located on a public way at the time of adoption of this Ordinance shall be given preference for approved sites for said location based on the order of filing of applications for the first sixty (60) days after adoption of this Ordinance.
  - (o) proposed new locations shall be approved on a first come, first serve basis by the Director.
  
5. Attachment to Property.
  - (a) Attachment to trees and other objects is prohibited. No operator shall place or cause to be placed and no operator shall suffer to remain any street furniture chained or otherwise attached to any tree, street light post, traffic signal, sign, or structure in or upon a public way.
  - (b) Attachment to other street furniture. Street furniture, when placed side by side, may be chained or otherwise attached to one another, provided that no group of street furniture shall extend for a distance of more than five (5) feet along a sidewalk, and a space of not less than seventy-five (75) feet shall separate each group of street furniture.
  
6. Advertising Prohibited. It shall be unlawful for any operator to use street furniture for advertising or publicity purposes other than that pertaining to the items being dispensed therein. Advertising associated with the dispensing of material shall be non-illuminated, located on the front face of the street furniture and shall be no greater than two square feet in area.

7. Installations and Maintenance. Street furniture shall be of a sturdy material and installed or otherwise placed and maintained by the Certificate Holder in accordance with the following provisions:
- (a) Each street furniture shall display the identifying label issued by the Licensing Clerk for that piece of street furniture on the front face of said furniture.
  - (b) Each piece of street furniture shall be:
    - 1. installed or placed in accordance with this ordinance, in an upright, sufficiently weighted and secure position;
    - 2. constructed so as not to have sharp edges or corners; and
    - 3. handicap accessible, as defined by the state Architectural Access Board at 521 C.M.R.
  - (c) Each piece of street furniture shall be regularly maintained and serviced so that:
    - 1. it is kept free of graffiti; and
    - 2. it is maintained in a state of good repair and in a neat and clean condition; and
    - 3. it is maintained in a condition that is free of trash, rubbish, or debris; and
    - 4. it is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof; and
    - 5. it is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof; and
    - 6. the clear glass or plastic parts thereof, if any, through which the material is being dispensed are not broken and are kept reasonably free of tears, peeling or fading; and
    - 7. the structural parts of the street furniture are not broken or unduly misshapen.
8. Enforcement Procedures.
- (a) Non-Conforming street furniture. Any street furniture found not to be in compliance with this Ordinance shall be subject to the enforcement provisions contained herein.
  - (b) Abandonment. In the event that any street furniture installed pursuant to the provisions of this Ordinance used to hold (newsrack) printed materials does not contain the printed materials being dispensed therein for a period of thirty-five (35) days after the release of the current issue, the Director may deem the newsrack abandoned and take appropriate action under this Ordinance. In the event that a Certificate Holder voluntarily abandons a street furniture location, the Certificate Holder shall notify the Licensing Clerk in writing and shall also completely remove the street furniture and restore the public way to a safe condition. The failure to pay any fee or fine or to properly maintain a piece of street furniture shall be deemed an abandonment, if the fee or fine is not paid when due, and if the required maintenance is not completed in a good workman-like manner within ten (10) days of written notice by first class mail, mailed to the Certificate Holder by the Director.
  - (c) Enforcement.
    - 1. Enforcement of the provisions of this Ordinance shall be carried out by the Director. Upon a determination that a violation of any provision of this Ordinance exists the Building Inspector shall notify the Certificate Holder of the violation in writing by first class mail. The notice shall include:
      - a) the location of the street furniture; and
      - b) the date of the incident or other cause giving rise to the violation; and



- c) a brief and concise statement of the facts causing the violation.
  2. The notice shall inform the Certificate Holder that at the expiration of ten (10) days from the mailing of the violation notice, the street furniture will be removed by the Director unless the violation is corrected
  3. Upon removal of a street furniture, the Building Inspector shall send, by first class mail, written notice of such removal to the Certificate Holder.
  4. Notwithstanding the provisions of the foregoing paragraphs 1(a) - 1(c) of this section, the Building Inspector may order the immediate removal of any street furniture that presents an imminent threat or peril to public health or safety, provided that the Certificate Holder shall be notified by first class mail of such removal within seventy-two (72) hours (excluding weekends and holidays), and further provided that any street furniture so removed shall be stored a period of thirty (30) days in order to allow the Certificate Holder to retrieve the street furniture
  5. Street furniture removed under the provisions of this section shall be disposed of after thirty (30) days.
  6. A certificate holder who has been ordered under this section to remove street furniture may appeal within thirty (30) days by filing a request in writing to the Licensing Clerk to appear before the Licensing Commission. The appeal shall be heard within thirty (30) days of receipt of the appeal.
  7. Street furniture removed by the Town will not be disposed of after thirty (30) days if an appeal is pending, and in the event the appeal is made and the appellant prevails, there will be no storage fee.
9. Fees For Removal And Storage.
- (a) Street furniture removed pursuant to this Ordinance may be retrieved by the certificate holder at any time within thirty (30) days of its removal upon payment of a removal fee of twenty-five (\$25.00) dollars plus a storage fee of five (\$5.00) dollars per day, to a maximum combined removal and storage fee of one hundred eighty (\$180.00) dollars.
  - (b) After thirty (30) days, any street furniture removed by the Building Inspector pursuant to Section 9 of this Ordinance shall be deemed “abandoned property” and become the property of the Town of West Springfield.
  - (c) Failure of a Certificate Holder to retrieve street furniture within the specified thirty-day (30) period shall not operate to dismiss any fees owed to the Town for removal and storage of such street furniture. Unpaid fees accrued pursuant to this Section 9 shall be considered a municipal lien payable to the Town.
10. Regulations. The Director may, with the approval of the Town Council, promulgate such rules and regulations consistent with the provisions of this Ordinance and the laws of the Commonwealth of Massachusetts as shall carry out the purposes of this Ordinance.
11. Affect on Other Laws. Nothing in this chapter shall affect the adoption of regulations affecting street furniture by other government bodies, such as historic district commissions, to the extent such bodies are authorized to adopt such regulations.
12. Severability. The provisions of this ordinance shall be severable and if any section, part, or portion hereof shall be held invalid for any reason by a court, the decision of such court shall not affect or impair any remaining section, part or portion thereof.

13. Effective Date. This ordinance shall take effect thirty (30) days from the date of approval.

*Town Council approved Section 7-1400 by vote of Town Council on December 17, 2001 (Ordinance # 103)*

## **Section 7-1500      Water Use Restrictions**

1. Authority. This ordinance is adopted by the Town in furtherance of its police powers to protect public health and welfare and its powers under M.G.L. c. 40, §21 and implement the Town's authority to regulate water use pursuant to the Acts of 1893, Chapter 206. This ordinance also implements the Town's authority under M.G.L. c. 40, §41A, when in the opinion of the Massachusetts Department of Environmental Protection an emergency exists.
2. Purpose. The purpose of this ordinance is to protect, preserve and maintain the public health, safety and welfare of Town residents whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any restrictions or conservation measures imposed by the Town or by the Massachusetts Department of Environmental Protection.

3. Definitions.

Outdoor Watering shall mean any use of water out of doors for such purpose as the watering of lawns, plants, trees, shrubs flowers and gardens; excluding commercial agricultural and horticultural uses, the commercial washing of vehicles, recreational water use for watering of golf courses and filling of swimming pools, by any water user.

Persons shall mean any individual, corporation trust, partnership, association, or other entity.

State of Water Supply Emergency shall mean a Water Related Emergency declared by the Massachusetts Department of Environmental Protection under M.G.L. c. 21G, §15 or any other applicable statute or regulation.

State of Water Supply Conservation shall mean determination of, or need for water conservation declared by the Town pursuant to Section 4. of this ordinance.

Water User or Water Consumer shall mean all public and private users of the Town's public water system, irrespective of whether the person using the water is responsible for billing purposes for water used at the particular location in issue.

Town shall mean, the Town of West Springfield and where appropriate, the Mayor and his/her designee.

4. Declaration of a State of Water Supply Conservation. The Town, through the Mayor or his/her designee, may declare a State of Water Supply Conservation upon a determination by the Mayor or his or her designee, that a shortage of water exists or may exist unless Conservation measures appropriate to insure an adequate supply of water to all water consumers are adopted. Public notice of a State of Water Conservation shall be given in the manner set forth in section 6.

5. Restricted Water Use. When a declaration of a State of Water Supply Conservation or State of Water Supply Emergency is made, the Mayor, or his or her designee may impose such restrictions on water use from the following:
  - (a) Odd/Even Day Outdoor Watering: Outdoor water by residential water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by residential water users with even numbered addresses is restricted to even numbered days.
  - (b) Outdoor Watering Hours: Outdoor watering is permitted only during daily periods of low demands, to be specified in the declaration of a State of Water Supply Conservation.
  - (c) Filling Swimming Pools: Filling of non-municipal swimming pools is prohibited.
  - (d) Outdoor Watering Ban: Outdoor watering is prohibited.
  - (e) If the Mayor declares a State of Emergency he/she may impose such restrictions as he/she deems necessary until the emergency is at an end.

The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

6. Public Notification of a State of Water Supply Conservation; Notification of DEP. Notification of any restricted water use imposed by the Town in connection with a State of Water Supply Conservation or a State of Water Supply Emergency shall be published in a newspaper of general circulation within the Town at least seven days before its effective date, unless the cause of the conservation measure is the result of a sudden emergency causing a disruption in the water supply or similar emergency in which case notification by newspaper publication shall not be required, but shall be announced by such method deemed most appropriate by the Mayor or his/her designee.
7. Termination of State of Water Supply Conservation or Emergency; Notice. A State of Water Supply Conservation or State of Water Supply Emergency may be terminated by the Mayor or his or her designee, upon a determination that the need for conservation no longer exists. Public notification of the termination of a State of Water Supply Conservation or Emergency shall be given in the same manner by which it was imposed.
8. State of Water Supply Emergency; Compliance with DEP Orders. Upon notification to the public in accordance with the procedure set forth in Section 6 that a declaration of a State of Water Supply Emergency has been issued by the Massachusetts Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by said Department intended to bring about an end to the State of Emergency unless a waiver has been issued in writing by the Mayor or his/her designee.
9. Penalties. Violations shall be enforceable under the non-criminal disposition procedures established by M.G.L. c. 40 § 21D, and adopted set forth in Chapter 1, Article II, of these ordinances. The non-criminal disposition penalties for any person violating this ordinance

shall be for the first offense a written warning; shall be liable to the Town in the amount of \$50.00 for the second violation; and \$100.00 for the third violation and \$150.00 for each subsequent violation and shall be issued to the assessed owner of the property where the violation occurred. The non-criminal disposition penalty provision of this chapter shall take precedence over the penalty provisions of § 6-101, and shall inure to the Town. Each day of violation shall constitute a separate offense. The enforcement duties of this ordinance shall be performed by the Town's Police Department and Public Works Department. Any fines not paid when due shall be collected as a "municipal charge lien" pursuant to the provisions of M.G.L. c. 40, § 58 and this ordinance.

9. Severability. The invalidity of any portion or provision of this ordinance shall not invalidate any other portion or provision of this ordinance.

*Town Council approved Section 7-1500 by vote of Town Council on June 12, 2002 (Ordinance #110)*

## **Section 7-1600            Governing Discharges to the Municipal Storm Drain**

### Section 1. Purpose

1.1 The purpose and intent of this ordinance is to ensure the health, safety and general welfare of the citizens of the Town of West Springfield and to protect and enhance the water quality of watercourses and water bodies within the Town of West Springfield, in a manner consistent with the Federal Clean Water Act (33 U.S.C. Section 1251, et seq), by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system.

- 1.2 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
- 1.3 Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

1.4 The objectives of this ordinance 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; and

- (5) to establish the legal authority to ensure compliance with the provisions of this ordinance through inspection, monitoring, and enforcement.

## 2. DEFINITIONS-DISCHARGES TO THE MUNICIPAL STORM DRAIN SYSTEM

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

- 2.1 **AUTHORIZED ENFORCER AGENCY:** The Department of Public Works of the Town of West Springfield (hereinafter the “Department”), its employees or agents designated to enforce this ordinance.
- 2.2 **CLEAN WATER ACT:** The Federal Clean Water Act (33 U.S.C. s 1251 et seq.) as herein after amended.
- 2.3 **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.
- 2.4 **EXPENSES OF ENFORCEMENT OR CORRECTION (EEC):** Expenses of Enforcement or Correction shall mean all costs and expenses, including all penalties imposed by the ordinance, incurred or imposed by the Town, in enforcing this ordinance, or for, violations thereof, including but not limited to attorney fees, consultant and expert witness fees.
- 2.5 **GROUNDWATER: Water beneath the surface of the ground.**
- 2.6 **ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this ordinance.
- 2.7 **ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 8. 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 fire fighting activities exempted pursuant to Section 8, subsection 4, of this ordinance.
- 2.8 **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, and rooftops.
- 2.9 **MUNICIPAL SEPARATE FORM SEWER SYSTEM or MUNICIPAL STORM DRAIN SYSTEM (MS4):** 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 West Springfield.

- 2.10 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.
- 2.11 NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
- 2.12 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.
- 2.13 POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, effluent, or other matter whether originating at a point or nonpoint source, that is or may reasonable be expected to be introduced into the MS4 or 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;
  - (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; and
  - (11) noxious or offensive matter of any kind.
- 2.14 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.
- 2.15 RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
- 2.16 STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.
- 2.17 SURFACE WATER DISCHARGE PERMIT.** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
- 2.18 TOXIC OR HAZARDQUS 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 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.

2.19 **VIOLATOR:** A person, as defined in Section 2.12, who is in violation of the ordinance.

2.20 **WATERCOURSE:** A natural or man-made channel through flows.

2.21 **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.

2.22 **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.

### **3. APPLICABILITY**

3.1 This ordinance shall apply to flows entering the MS4.

### **4. AUTHORITY**

4.1 This ordinance 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 in effect at the time of the adoption of this ordinance, a copy of which is on file in the West Springfield Town Council Office.

### **5. RESPONSIBILITY FOR ADMINISTRATION**

5.1 The Department shall administer, implement and enforce this ordinance. Any powers granted to or duties imposed upon the Department may be delegated in writing by the Department to its employees or agents.

### **SECTION 6. REGULATIONS**

6.1 The Department may promulgate rules and regulations to effectuate the purposes of this ordinance and establish the procedures for inspecting and monitoring property in town for compliance. Failure by the Department to promulgate such rules and regulations shall not have the effect of suspending or invalidating this ordinance.

### **SECTION 7. PROHIBITED ACTIVITIES**

7.1 **Illicit Discharges.** No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the MS4, into a watercourse, or into the waters of the Commonwealth.

7.2 **Illicit Connections.** No person, shall construct, use, allow, maintain or continue any illicit connection to the MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection provided, any person who has an Illicit Connection validly permitted prior to the effective date of this ordinance shall have 60 days to remove said connection or obtain a permit for said connection.

7.3 **Obstruction of MS4.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the MS4 without prior written approval from the Department.

## **SECTION 8. EXEMPTIONS**

8.1 Discharge or flow resulting from fire fighting activities

8.2 The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwater provided that the source is not a significant contributor of a pollutant to the MS4: (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, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation; (9) Discharge from landscape irrigation or lawn watering; (10) Water from individual residential car washing or, water from car washing conducted by a non-profit or charitable organization as part of a fund-raising activity on behalf of said organization;

(11) Discharge from dechlorinated 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 Department 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 Department.

## **SECTION 9. SUSPENSION OF MS4 ACCESS:**

**9.1** The Department may suspend or terminate MS4 access to any person or property without prior written notice when such action is determined to be reasonably necessary to stop an actual or threatened illegal discharge that presents, or may present, imminent risk of harm to the public health, safety, welfare or to the environment. The person or property owner who has had MS4 access suspended or terminated may, within 30 days of notice of the action to suspend or terminate, request a hearing before the Director of the Department of Public Works appealing the action. Written notice of the suspension or termination shall be served on the person or the property owner as soon as practical, but no later than seven (7) days after the suspension or termination. In the event any person fails to comply with an emergency suspension or termination order, the Authorized Enforcement



Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or to the environment.

9.2 Any person discharging to the MS4 system in violation of this ordinance may have their access to the MS4 suspended or terminated, after a hearing, if such suspension or termination would abate or reduce a violation of this ordinance. The department shall notify the alleged violator of the hearing regarding the proposed termination or suspension of MS4 access by written notice, mailed to the violator not less than 10 calendar days prior to the scheduled hearing date. Said notice shall contain a summary of the reason(s) for the proposed suspension or termination and the effective date of said suspension or termination.

## **SECTION 10. NOTIFICATION OF SPILLS**

10.1 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 MS4 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 and police departments and the 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 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. Any unpaid EEC, after 30 days, shall be a lien on all property in Town owned by the violator and shall be subject to the Municipal Charges Lien provisions of the General Ordinances.

## **SECTION 11. ENFORCEMENT**

11.1 The Department, or an authorized agent of the Department, shall enforce this ordinance, as well as regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

11.2 Civil Relief. If a person violates the provisions of this ordinance, or any regulation, permit, notice, or order issued thereunder, the Department 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. Any unpaid EEC, after 30 days, shall be a lien on all property in Town owned by the

Violator, and shall be subject to collection pursuant to the Municipal Charges Lien provisions of the General Ordinances.

11.3 Orders. The Department, or an authorized agent, may issue a written order to enforce the provisions of this ordinance, or the regulations thereunder, 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.

11.4 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 fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and EEC shall be charged to the violator,

11.5. 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 EEC incurred by the town, including administrative costs. The violator may file a written protest, objecting to the amount or basis of costs with the Department 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 Department affirming or reducing the costs, the EEC 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, Section 57 after the thirty-first day at which the costs first become due.

11.6 Criminal Penalty. Any person who violates any provision of this ordinance, regulation, order or permit issued thereunder, shall be punished by a fine of not more than \$1,000.00. Each day or part hereof that such violation occurs or continues shall constitute a separate offense.

11.7 Non-Criminal Disposition. As an alternative to criminal prosecution, the town may elect, in addition to civil relief, to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, Section 2iD and as outlined in Section 1-105 of the General Ordinances of the Town of West Springfield to enforce this ordinance and, any EEC shall be a lien under the Municipal Charges Lien provisions of the General Ordinances. The use of the noncriminal procedure shall not limit the ability or authority to seek criminal penalties in addition to any other enforcement method authorized in the ordinance.

11.8 Entry to Perform Duties Under this Ordinance. To the extent permitted by state law and by this ordinance, or if authorized by the owner or other party in control of the property, the Department, or, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this ordinance and regulations and may

make or cause to be made such examinations, surveys or sampling as the Department deems reasonably necessary.

11.9 Appeals. The decisions or orders of the Department shall be final.

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

## **SECTION 12. SEVERABILITY**

12.1 The provisions of this ordinance are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this ordinance, 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 ordinance.

## **SECTION 13. TRANSITIONAL PROVISIONS**

13.1 Property owners shall have 60 days from the effective date of the ordinance to comply with its provisions provided good cause is shown for the failure to comply with the ordinance during that period.

Town Council approved Section 7-1600 by vote of Town Council on April 19, 2005 (Ordinance #121)

### **Section 7-1700 Public Consumption of Marijuana or Tetrahydrocannabinol Prohibited**

SECTION 1. Purposes: The purpose of this Ordinance is to prohibit the use of Marijuana or tetrahydrocannabinol in public places and areas open to the public.

SECTION 2. Application: No person shall smoke, ingest, or otherwise use or consume Marijuana or tetrahydrocannabinol (as defined in G.L.c.94C, § 1, as amended) while in or Upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, public lands and grounds, school houses, school lands and grounds, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any retail establishment or other place accessible to the general public.

Any person using or having in his possession marijuana or trahydrocannabinol shall, upon request of a police officer, provide to said officer his legal name and current residential address.

SECTION 3. Enforcement: This Ordinance shall be enforced by police officers of theTown of West Springfield either by criminal disposition or non-criminal disposition. The use of one method of disposition shall not prevent or restrict the use of the other for subsequent violations.

SECTION 4. Penalty: a) The penalty for a criminal disposition of this Ordinance shall be Three Hundred and 00/100 (\$300.00) Dollars for each violation.

b) The penalty for a non-criminal disposition of this Ordinance shall be One Hundred Fifty and 00/100 (\$150.00) Dollars for the first offense and Three Hundred and 00/100 (\$300.00) Dollars for the second and subsequent offenses.

c) The penalties imposed in this section shall be in addition to any penalty imposed under Massachusetts General Laws, c. 94C, § 32L.

*(Per order of the West Springfield Town Council vote on August 17, 2009)*

## **Section 7-1800      Stretch Energy Code**

### **1. Definitions.**

a. 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 Massachusetts Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

b. Stretch Energy Code: The Stretch Energy Code is a 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. The Stretch Energy Code was codified by the Board of Building Regulations and Standards as an appendix, 780 CMR Appendix 115.AA, to the 8th edition Massachusetts Building Code. For the purposes of this definition, the Stretch Energy Code shall include any future editions of, amendments to or modifications of said appendix.

2. **Purpose.** The purpose of the Stretch Energy Code is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

3. **Applicability.** The Stretch Energy Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

### **4. Stretch Energy Code.**

a. The Stretch Energy Code is incorporated, by reference, into the Ordinances of the Town of West Springfield.

- b. The Stretch Energy Code shall be enforceable by the inspector of buildings.

**Section 7-1900            Disorderly Residence.**

1. **Purpose and Intent.** In order to protect the health, safety and welfare of the inhabitants of the Town of West Springfield, this Section shall permit the Town to impose liability on owners, rental property managers and other responsible persons for the nuisances and harm caused by properties where unlawful or disorderly behavior occurs on a regular basis. Specifically, it is the declared public policy of the Town of West Springfield to utilize this Section to discourage and control unlawful or disorderly behavior as discussed herein and to limit the undesirable impact of such behavior upon members of the general public and to appropriately assign financial liability for enforcement action to the owners of the property where such activities occur in a repeated fashion.
2. **Definitions.** As used in this Section, the following terms shall have the meanings indicated:
  - a. Disorderly Incidents – include but are not limited to loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise; disorderly conduct; fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law; other similar activities in the building or outside the building itself; or repeated violations of applicable, federal, state or local laws, including but not limited to the ordinances of the Town of West Springfield.
  - b. Disorderly Residence – any building, or part thereof, which the Town has identified as a disorderly residence after having responded to multiple calls for service to the property in response to disorderly incidents, as defined by this Section, which are created by the owner, tenants, or owner’s or tenants’ co-habitants, guests or invitees and which would have a tendency to unreasonably disturb the community, the neighborhood, or any ordinary individual in the vicinity of said building.
  - c. Residence – a single unit providing complete living facilities for one or more persons or any dwelling unit, multifamily dwelling unit, family apartment, boardinghouse, condominium, rooming house, rooming unit, or leased units in a manufactured housing park (hereinafter jointly and severally “residence”).
3. **Procedures.**

- a. Upon being dispatched or caused to respond to a disorderly incident at a residence, the Police Department personnel shall investigate the validity of the complaint. Upon finding a valid complaint of any disorderly incident, the Police Department shall make a record of the disorderly incident.
- b. After three valid complaints in any twelve-month period relating to a residence, the Police Chief, Mayor, or their designee(s) (hereinafter referred to as the “Town”) shall notify the property owner(s) and the involved tenant(s), if any, of the ongoing issues at the property in writing pursuant to subsection 4. The Town shall require the owner(s) or their duly authorized representative, to meet with representatives of the Town, including the Police Department and the Mayor or their designee(s) within ten (10) business days from the date of the written notification (or such other time as is agreed upon by all parties) to identify ways in which the identified issues will be eliminated. At the time of said meeting, the Town may request documentation including but not limited to: a copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy; and/or management contracts with any building supervisor or other person responsible for the orderly operation of the building. At the meeting, the owner(s) or their duly authorized representative shall agree to take effective measures to address the identified issues, said measures shall be memorialized in a written agreement at the conclusion of the meeting with the Town. The measures memorialized in the agreement shall be implemented within one week of said meeting unless another date is agreed upon by the Mayor or his or her designee in writing.
- c. If the owner(s) fails or refuses to meet with Town officials pursuant to subsection 3(b); fails or refuses to agree to take effective measures to address the disorderly residence; takes ineffective measures to address the disorderly residence as determined by the Town; fails or refuses to implement the agreement reached with the Town to address the disorderly residence; or if the Police Department is called to the residence within a six-month period after building owner meets with the Town, the Town shall send notice in writing pursuant to subsection 4 to the property owner and the involved tenant(s), if any, that the property has been recommended for a classification as a “disorderly residence”. The notice shall include a date, time and place for a hearing to be held within ten (10) business days from the date of the written notification (or such other time as is agreed upon by all parties)
- d. After a hearing, the Town at its discretion may make the decision to designate the property as a disorderly residence. Factors that may be considered in deciding whether to designate the residence as a disorderly residence include but are not limited to the following: the nature, scope, and seriousness of the disorderly

incident(s); whether the disorderly incident(s) resulted in an arrest; history of criminal activity taking place at the residence; property owners' and tenants'/occupants' willingness to cooperate with police. The Town shall notify, in writing, the property owner and the involved tenant(s), if any, of the Town's decision to designate the property as a "disorderly residence".

- e. After the hearing pursuant to subsection 4(c), the residence may be officially identified as a disorderly residence, and the property owner shall be subject to the penalties addressed in subsection 5.

#### 4. **Notice Requirements.**

- a. Notice content. Notice required by this Section shall be in writing, include a description of the real estate sufficient for identification, and include a statement of the reason or reasons why the notice is being issued. Such notice shall be deemed sufficient for all legal purposes.
- b. Method of service. Notice required by this Section shall be deemed to be properly served if a copy thereof is delivered to the owner personally; or sent by certified or registered mail addressed to the owner at the last known address with return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

- 5. **Penalties.** Each valid complaint of a disorderly incident occurring after designation of the property as a "disorderly residence" shall constitute a violation. Violations shall be enforceable under the non-criminal disposition procedures established by M.G.L. c. 40 § 21D, and adopted set forth in Chapter 1, Article II, of these ordinances. The non-criminal disposition penalties for any person violating this ordinance shall be \$150.00 for the first violation; \$200.00 for the second violation and \$300.00 for each subsequent violation and shall be issued to the assessed owner of the property where the violation occurred. The non-criminal disposition penalty provision of this chapter shall take precedence over the penalty provisions of Section 6-101 of these ordinances, and shall inure to the Town. The enforcement duties of this ordinance shall be performed by the Town's Police Department.

Any fines not paid when due shall be collected as a “municipal charge lien” pursuant to the provisions of M.G.L. c. 40, § 58 and this ordinance.

6. **Non-Exclusivity.** Nothing in this Section shall prevent the Police Department from filing an application for criminal complaint against a party for keeping a noisy or disorderly house pursuant to Massachusetts General Law C. 272, § 53(b). In addition, the Town may file a legal action against the owner seeking court costs, response charges, and all damages and remedies to which it is entitled pursuant to state and local laws.
7. **Eviction.** In the event the property owner has commenced the process of eviction against the tenant(s) responsible for the incidents at the property, and demonstrates that s/he has proceeded diligently and in good faith, then the application of this Section shall be stayed until the eviction process is concluded.

## Chapter 8 Regulations Affecting Motor Vehicles

### **Section 8-100            Reserved**

### **Section 8-200            Vehicles Interfering with Snow Removal Operations**

1. The Director of the Department of Public Works, for the purpose of plowing snow or removing ice from any way, may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. The Director shall keep or cause to be kept records of the registration number of each such vehicle so removed and the place to which it is removed and shall, within forty-eight (48) hours after such removal, send notice thereof by mail to the owner of such vehicle at his last known address and, to the Chief of Police.
2. Before the owner or their duly authorized agent shall be permitted to obtain possession of a vehicle which has been removed as aforesaid to a public garage or other convenient place, he shall:
  - (a) Furnish satisfactory evidence to the Director or to the owner or person in charge of said public garage of his identity and ownership or right to possession of said vehicle.
  - (b) Pay all charges for towing or removing said vehicle, all storage charges and the cost of publishing or sending any and all notices hereunder.
  - (c) Sign a written receipt acknowledging delivery of said vehicle.

### **Section 8-201            Emergency Parking Ban; Fine for Violation**

1. It shall be unlawful for an operator or owner of any vehicle to park such vehicle on any public or private street during an emergency declared by the Mayor or his/her designee.



Public notice of the imposition of such emergency ban shall be given prior to its imposition. The ban shall remain in effect until terminated by the Mayor or his/her designee.

2. The fine for violation of this ban shall be not less than ten dollars (\$15.) for each offense.

Town Council approved Section 8-201 by vote of Town Council on May 8, 2002 (Ordinance #109)

### **Section 8-203 Fire Lanes: Vehicles in Private Ways**

1. Obstruction of Private Way – It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any schools and places of public assembly.
2. Obstruction of fire lanes – It shall be unlawful to obstruct or park a vehicle in any clearly marked fire lane, such fire lanes to be designated by the Chief of the Fire Department or his/her designee and posted as such.
3. Removal of objects obstructing access – Any object or vehicle obstructing or blocking any fire lane or private way may be removed or towed by the town under the direction of a police officer at the expense of the owner and without liability to the town of West Springfield.
4. Installation of signs, road markings – The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in Subsection 2 of this section. Said signs shall be no less than twelve by eighteen (12 x 18) inches and shall read “Fire Lane – No Parking – Tow Zone.”

### **Section 8-204 Handicapped Parking**

1. Parking restricted; special plates required. No person shall permit any vehicle registered in his or her name to stand or park in the spaces designated as reserved for handicapped persons or to obstruct any curb ramp designed for use by handicapped persons unless the vehicle is owned by a disabled veteran or handicapped person and bears a distinctive plate authorized by MGL C. 90, § 2.
2. Violations and penalties. The registered owner of any vehicle standing or parked in a space reserved for handicapped persons in violation of this chapter shall be subject to a fine and the procedures established pursuant to MGL C. 90, § 20A 1/2.

### **Section 8-205 Obstruction of Streets by Vehicles**

No person shall stand with or permit any vehicle under his or her care or control to stand across any public highway or street in such a manner as to obstruct the travel over the same, and no person shall stop with any vehicle in any public street at the side of or so near to another vehicle as to obstruct public travel, and no person shall stop with any vehicle upon or across any crosswalk in any street or highway in the town.

### **Section 8-206 Vehicles on Sidewalks Restricted**

No person shall ride, drive, wheel or push any vehicle or other device which achieves locomotion through the use of wheels upon any sidewalk in town except as follows:

1. Wheelchairs or similar vehicles which are used as medically necessary assistance, including but not limited to personal mobility scooter-type vehicles shall be allowed;
2. Personal transportation parallel-wheeled devices such as Segways shall be allowed;
3. Strollers and/or carriages used to transport infants or toddlers shall be allowed;
4. Bicycles shall be allowed on sidewalks outside of business districts pursuant to Massachusetts General Laws Chapter 85, §11B;
5. Four-wheel and “in-line” roller skates shall be allowed;
6. Children’s wagons shall be allowed as long as they are under the control of and being pulled by an individual exercising due care.

For purposes of this ordinance, the term “bicycles” shall include two-wheel, non-motorized cycles, tricycles, and children’s two-or three-wheeled cycles.

No motorized vehicle shall be used upon any sidewalk in town unless such vehicle is included in category 1. or 2. above. Any vehicle used upon a sidewalk in town must be in fully operable condition at the time of use and must be operated in a safe manner at all times, at no time exceeding a speed of eight (8) miles per hour. Racing of such vehicles is prohibited. Pedestrians walking on or crossing onto the sidewalk must be granted the right of way at all times.

No person shall drive, wheel, draw or push any cart, go-cart or other vehicle of burden or of pleasure upon or along any sidewalk in the town except for the purpose of crossing such sidewalk to go to or out of some adjoining enclosure, provided that this section shall not apply to baby carriages or to any of the small carts, kiddy cars, tricycles, scooters, roller skates or other similar means of amusement or exercise operated by hand or foot, provided that the safe use and passage for pedestrian purposes upon said sidewalks shall not be interfered with, and provided further that none of said things shall be used for the purpose of coasting down inclined sidewalks in thickly populated parts of the town.

*Deleted and replaced by vote of Town Council Nov. 19, 2012 (Ordinance #144)*

**Section 8-207                    Parking on Tree Belts**

In any public way wherein the portion of the way used for vehicular travel is paved to a width of eighteen (18) feet or more, no person shall park or allow to stand any motor vehicle or trailer in such manner that a wheel, wheels, standard or support thereof rests upon that portion of the way between the curbing and the property line, or between the equivalent edge of the pavement and the property line where no curbing exists, unless written permission for such parking or standing shall have been granted by the Town prior to November 1, 1976.

**Section 8-208                    Solicitation of Rides Prohibited; Exception**

No person shall solicit or procure, either verbally, by sign or signal or in any other manner, transportation for themselves or for other persons in any motor vehicle operated upon any way in the town, except a motor vehicle operated for the carriage of passengers for hire and has been licensed as such by the License Commission.

**Section 8-209                    Towing and Storage of Motor Vehicles**

1. Rules and Regulations. Unless inconsistent with the terms and conditions set forth in the Massachusetts General Laws, the duly adopted regulations of an agency of the commonwealth, or of this article, the rules and regulations adopted by the town council shall govern towing and storage of motor vehicles lawfully seized and held by or by order of, the police department.

2. Charges for Towing and Storage.

- (a) The charges for towing and storage of motor vehicles when such towing is ordered by the police shall be the rate as set by the Massachusetts Department of Telecommunications and Energy as set forth in G. L. c. 159B, § 6B.
- (b) For each motor vehicle towed by order of the police, there shall be assessed a one-time administrative fee in accordance with the following schedule:
  - (1) *Commercial motor vehicle with one or more than one of the following:* (A) three or more axles; (B) a gross weight of 26,001 pounds or greater; (C) an unusually heavy, bulky or dangerous load which requires extensive handling – Fee of \$50.00;
  - (2) *Noncommercial motor vehicle or commercial motor vehicle not subject to the above stated criteria* – Fee of \$25.00
- (c) The administrative fee added to the tow charge as set forth in G. L. c. 159B, § 6B shall be collected by the tow company, and payment shall be made by check from the tow company monthly to the Accounting Department of West Springfield. In the event of a discrepancy in the amount owed at the end of each month, the records held at the police department of the number of vehicles towed shall be the determining factor to settle the discrepancy.

3. Reserved Receipt Fund, Deposit and Expenditure.

- (a) All charges collected by the town in accordance with the charges imposed by section 8-209(2)(b) shall be separately accounted for in a fund maintained separately from the town's general fund, in accordance with G. L. c. 44, § 53E½, and reserved for the appropriation by the Mayor as approved by the Town Council consistent with the restrictions on expenditures as set forth herein.
- (b) The following activities, and no others, are eligible to be funded with monies appropriated from the fund:
  - a. Purchase of cruisers and other police vehicles including, but not limited to, all-terrain vehicles, as authorized by the Police Chief and approved by the Mayor, for policing the roads; and conservation restricted areas and parks.
  - b. Purchase of parts, equipment and services necessary for the operation and maintenance of said police vehicles used for policing the roads.

Chapter 9 Public Works

**Section 9-100            Reserved**

**Section 9-200            Erection of Barriers Around Excavations Required**

The owner or owners of land which has been excavated shall erect barriers or take other suitable measures to protect persons from injuries or damages incident thereto after such owner or owners have been notified in writing by the director of public works that such excavation constitutes a hazard to public safety.

**Section 9-201                    Excavations and Obstructions; License Required; Statement of Proposed Work Requiring Street Opening**

- 1 No person, except as directed by the Director of Public Works in the performance of his duties, shall break or dig up or cause to be broken or dug up the pavement or ground in any public street, or any sidewalk or ground in any public street, or any sidewalk or common in the town, or erect or cause to be erected any staging for building thereon, or place or cause to be placed any materials or rubbish thereon, without first obtaining from the Town Council a written license stating the space in the street or other public place that may be occupied and the time allowed for such occupancy and such other provisions as said Council may deem best, and filing with the Director of Public Works a written agreement under seal, approved by said Town Council, to comply strictly with the terms of the license and to indemnify the town for all loss, cost or expense that it may suffer by reason of such occupancy.
2. All department heads, persons or corporations owning or maintaining structures, poles, wires, conduits, pipes, etc., within the limits of the public ways within the town shall, on or before the 15th day of March of each year, file a statement with the Director of Public Works showing the work proposed to be done by them requiring the opening of streets during the ensuing year.

**Section 9-202                    Pavement Cut and Restoration**

1. Title: Procedure to obtain a permit to cut way.
2. Authority: The ordinance is adopted pursuant to the authority of Article 89 of the Amendments to the Construction of the Commonwealth, the West Springfield. Home Rule Charter, and any other relevant statutes. G.L. Ch. 44, § 53k.
3. Purpose: The purpose is to provide a uniform method for the issuance of permits to cut ways by the Director of the Department of Public Works; to insure the useful life of newly surfaced ways are not unduly reduced by cuts and compensate the Town for the cost to repair and administer the work performed.
4. Definitions:
  1. In construing this ordinance the following words shall mean: (A) **Contractor:** Any person or legal entity seeking authority to perform work in the layout of a public or town way. (B) **Cut:** Any manmade breaking of the paved surface of a way. (C) **Director:** Director of the West Springfield Department of Public Works. (D) **Designee:** A person authorized by the director, in writing, to act in place of the Director under this ordinance.(E) **Way:** A public or town way. (F) **Local, Collector and Arterial Roadways:** The definitions of local, collector and arterial roadways as set forth in the most recent edition of the Massachusetts Highway Design Manual are incorporated herein by reference.

5. Procedure:

- A. A contractor seeking authorization to cut a way must file an application for a permit for the work to be performed with the Director.
- B. The application shall be obtained from the Department of Public Works.
- C. Any permit issued to cut a way that has been paved or resurfaced within five (5) years of the date of filing of the application for the permit shall be subject to the following requirements:
  - 1. The contractor must repair the cut with a permanent patch in accordance with the written requirements established by the Department of Public Works Director.
  - 2. The contractor shall be responsible for any settlement or other problems with the cut for one (1) year from the date of the completion of the work authorized in the permit. The contractor shall correct any settlement or other problems as directed by the Department of Public Works during the one (1) year time period.
  - 3. Permanent repair of the cut shall be performed by a paving contractor employed by the Town the following calendar year at the expense of the contractor.
  - 4. The contractor shall be provided with a statement of the cost of the estimated permanent repairs including pavement markings (plus a 10% administrative fee) upon approval of the permit. A permit shall be issued only after full payment of cost of permanent repairs and the administrative fee has been paid to the Department of Public Works.
  - 5. All payments received by the Department of Public Works shall be placed in a revolving fund which is hereby established for the Department of Public Works pursuant to the requirements of G.L. c. 44, § 53%. Said funds shall be used by the Department of Public Works for the resurfacing and remarking of ways or portion thereof that one cut by contractors. The total amount that the department may expend in any fiscal year from said account shall not exceed One Hundred Thousand and 00/100 (\$100,000.00) dollars. The Director shall, not less than annually, transfer the administrative expenses of the fund to the general revenue account to pay for the Town's costs in administering this ordinance.
  - 6. The contractor shall replace or have replaced all pavement markings affected by the permitted work with temporary markings. The permanent pavement markings will be installed by the Town or its designee.
  - 7. Contractor shall maintain insurance coverage as determined by the Director and shall provide evidence of the same to the Director prior to the issuance of a

permit under this ordinance. The contractor shall have the Town added as addition insured on said insurance policy and shall execute an agreement to indemnify and defend the Town from all claims, costs and expenses, including attorney fees in connection with all claims made relating to the work performed under the permit.

8. A contractor who violates any provision of this ordinance shall be prohibited for five years, from the date said violation is discovered, from performing any work within a way in the Town.

D. Any permit issued to cut a way paved or resurfaced more than five(5) years from the filing of application for the permit shall be subject to the following requirements:

1. All pavement edges of the trench shall be saw cut with straight vertical edges 6 inches from the edge of excavation. The edges shall be kept clear of any foreign materials and tack coated before completion of the permanent patch.

2. Backfill material shall be of a good quality as determined by the Town's inspector. Excavatable flowable fill may be required if determined necessary by the West Springfield Department of Public Works. No frozen material shall be used as backfill.

3. Backfill material must be placed in lifts of 8 and 10 inches and thoroughly compacted by mechanical compactors to a minimum density of 95% for the full depth of the trench. Density tests may be required by the Town. These tests will be done at the contractor's expense.

4. Some roadways may have an original surface under the bituminous concrete such as portland cement concrete or cobble stones. The Town may require this portion of the roadway structure to be replaced with portland cement concrete, excavatable flowable fill, bituminous concrete and/or another material suitable for the repair. This will be dealt with on a case by case basis.

5. The depth of gravel base shall be equal to the depth of gravel excavated, but not less than 12 inches.

6. Local roadway:

A. A temporary patch may be warranted before a permanent patch is laid. This will be determined by the Department of Public Works. The top surface shall be covered with 2 inches of Type I — 1 top course and shall be maintained by the permittee until a permanent patch is placed. The patch shall be such that all vehicular, bicycle and pedestrian traffic can pass over it safely. Vehicles must be able to safely travel over the patch at a speed equaling the posted speed limit plus 5 miles per hour, or if there is no posted speed in the area of the roadway cut then a speed of 35 miles per hour shall be used.

B. The depth of the permanent patch shall be equal to the depth of the existing pavement plus one inch. The permanent patch shall consist of at least a 2 inch base course of bituminous concrete

and an 2 inch top course of Type 1—1 bituminous concrete at a minimum. Work shall be done in accordance with the current Massachusetts Highway Department “Standard Specification for Highways and Bridges”.

7. Collector and Arterial Roadways:

A. A temporary patch may be warranted before a permanent patch is laid. This will be determined by the Department of Public Works. The top surface shall be covered with 3 inches of Type I—1 top course and shall maintained by the permittee until a permanent patch is placed. The patch shall be such that all vehicular, bicycle and pedestrian traffic can pass over it safely. Vehicles must be able to safely travel over the patch at a speed equaling the posted speed limit plus 5 miles per hour, or if there is no posted speed in the area of the road way cut then a speed of 45 miles per hour shall be used.

B. The depth of the permanent patch shall be equal to the depth of the existing pavement plus one inch. The permanent patch shall consist of a 4 inch base course of bituminous concrete and a 3 inch top course of Type I—1 bituminous concrete at a minimum. Work shall be done in accordance with the current Massachusetts Highway Department “Standard Specification for Highways and Bridges”.

8. Police officers for traffic control will be required whenever traffic must be diverted into the lane or lanes of opposing traffic on the street or highway, to control access and/or egress for any existing driveway being worked on or as deemed necessary by the West Springfield Police Department or the Department of Public Works. This must be coordinated with the West Springfield Police Department in advance of the proposed work.

9. A representative from the Department of Public Works must inspect the trench prior to backfilling and during the repair process.

10. The permittee is required to correct trench settlement and faulty pavement repairs for a period of two years after the permanent patch is placed. Any repairs will be done under the direction of the Department of Public Works at the expense of the permittee.

11. Contractor shall maintain insurance coverage as determined by the Director and shall provide evidence of the same to the Director prior to the issuance of a permit under this ordinance. The contractor shall have the Town added as addition insured on said insurance policy and shall execute an agreement to indemnify and defend the Town from all claims, costs and expenses, including attorney fees in connection with all claims made relating to the work performed under the permit.

12. A contractor who violates any provision of this ordinance shall be prohibited for five years, from the date said violation is discovered, from performing any work within a way in the Town.

13. The contractor shall replace or have replaced all pavement markings affected by the permitted work.

5. **Invalidation:** The invalidation of any section or portion of any section of this ordinance shall not affect the legality or enforceability of the remaining portions.

Approved by a vote of the Town Council on September 2, 2003 (Ordinance #114)

**Section 9-300            Trees**

1. Attachments to trees restricted. No electric wires, cables, guys, poles, crossarms, brackets, insulators or other wires or fixtures nor any signs, cards or other advertising matter shall be attached to or come in contact with any tree standing for use or ornament in any public street, lane, court, park or other public place in the town without the written consent of the Department of Public Works.
2. Removal of existing attachments; cost of removal. All wires, cables, guys and wire fixtures now attached to or in contact with such trees shall be removed when so ordered by the Director of Public Works, and it shall be the duty of said Director to cause the removal of such wires, cables, guys and fixtures, signs, cards and other advertising matter when it shall be necessary so to do, the cost of such removal to be charged to the company owning such wires, cable or fixtures.

**Section 9-301            Permission Required to Pave Tree Belt**

With the exception of that portion of any public way necessary to provide reasonable access, no person or legal entity, public or private, shall pave or surface with asphalt, concrete, crushed stones or similar substance that part of the public way commonly known as the “tree belt” without obtaining written permission from the Town Council. Such permission shall not be granted until written recommendations from the Planning Board regarding the desirability of such paving or surfacing have been received by the Town Council. Failure of the Planning Board to respond within seven (7) days of a written request from the Town Council shall be construed as a favorable recommendation and shall not impede the granting of permission by the Town Council.

**Section 9-400            Recycling**

1. Purpose: In order to ensure that waste materials are disposed in an environmentally responsible manner and to assist in compliance with state established waste bans; and to assist in the reduction of municipal waste disposal costs; and to insure that all occupied structures in the community are subject to the duty and obligation to recycle.
2. Applicability: All property owners or occupants (hereinafter owners) shall dispose of waste and recyclables in an acceptable manner.



3. Separation of Materials: Every owner shall separate trash and recyclables for collection and delivery to the appropriate recycling facility.
4. Rules and Regulations: The Department of Public Works may make such rules and regulations, subject to the approval of the Mayor, as it deems necessary to properly administer and enforce the recycling program.

Penalties for violation of said rules and regulations shall be recoverable by means of the Municipal Charges Lien in Section 6-105. No penalty shall be imposed for the first three months following the adoption of the regulations with respect to violations of the recycling requirement.

**Note:** Previous section 9-400 deleted and the above text inserted by vote of Town Council on May 7, 2007, Ordinance Number 138 of Town Clerk's Records

### **Section 9-500            Snow and Ice**

1. Removal of snow after snowfall. The owner of any property abutting upon any street, lane, court or square within the town where there is a sidewalk which is or may hereafter be established or set apart by the town as such, shall, after the ceasing to fall of any snow thereon, within twenty-four (24) hours cause the same to be removed therefrom.
2. Removal of snow fallen from buildings and from plowing or shoveling and drifting snow. Whenever any snow shall be collected or deposited upon any sidewalk mentioned in the preceding section either by falling from an adjoining building or by being plowed or shoveled on to said sidewalk by any snow activity or by drifting upon said sidewalk, the owner of the property abutting upon said sidewalk shall, within twenty-four (24) hours after its being so collected or deposited, cause the same to be removed therefrom.
3. Throwing snow or ice into streets. No person shall throw or put or plow or cause to be thrown or put or plowed any snow or ice into any portion of street, lane or alley in the town used for travel.
4. Depositing snow or ice. The owner of any property who removes snow or ice therefrom or hires another to do so, and said owner or other person violates the provisions of section 3, the owner and said other, or either of them, shall be subject to the penalties and enforcement provisions set forth in section 7.
5. Obstructions to fire hydrants and catch basins. No person shall throw or put or cause to be thrown or put any snow or ice or any other substance upon or against any fire hydrant or catch basin in any street, lane, alley or park in the town.
6. Removal of ice. Whenever any sidewalk mentioned in section 1 shall be encumbered with ice, it shall be the duty of the owner to cause such sidewalk to be made safe and convenient for travel by removing the ice therefrom or by treating the surface with sand or salt within twenty-four (24) hours after such sidewalk shall have become so encumbered.

7. Violations and penalties.
- (a) The criminal penalty for each violation of this Article shall be \$300.00
  - (b) A non-criminal enforcement procedure may be utilized pursuant to the provisions of G.L. c. 40, §21D and §1-10 of these ordinances as an alternative to criminal enforcement.
  - (c) The fine for a non-criminal violation shall be \$50.00 for each offense. Each day shall constitute a separate violation.
  - (d) The enforcing authority shall be the Police Department.
  - (e) Any penalties imposed under this article that are not paid when due shall become a municipal charge and shall be recorded as such against the property in question pursuant to the provisions of the Municipal Charges Lien Ordinance.
  - (f) The owner may delegate, by agreement or contract, the duty imposed by this ordinance, however, the owner shall remain liable for any violations by such designee.
  - (g) The first ticket given to any owner of real estate for a violation of the provisions of sections 1 to 7, in any fiscal year shall be a warning.

Town Council approved Section 9-500 by vote of Town Council on July 14, 2003 (Ordinance #113)

## **Section 9-600                      Streets and Sidewalks**

1. Fencing of unsafe conditions; repair required. Whenever any street, lane, alley or sidewalk or other public place in the town shall, under any license granted by these ordinances, be dug up, obstructed, encumbered or otherwise thereby rendered unsafe or inconvenient for travel, the person so licensed shall put, and at all times keep up, a suitable railing or fence around the section of the street, lane, alley or other public place so obstructed, so long as the same shall be or remain unsafe or inconvenient as aforesaid, and shall be illuminated in some other proper manner every night from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, so long as such railing or fence shall be kept standing or obstruction remain. The Director of Public Works shall also, within such reasonable time as the Mayor shall direct, repair such street, lane or alley, sidewalk or public place to the acceptance of the Director of Public Works.
2. Obstructions prohibited. No person shall place or cause to be placed in or on any public way or street or on any sidewalk, footwalk or crosswalk in the town any article or substance whatever so as to interfere with the convenient use of the same by any person traveling thereon.
3. Nails, glass and other such obstructions to vehicles prohibited. No person shall put, place or throw, or cause to be put, placed or thrown, in any street, lane or alley or other public place in the town, any nails, tacks, broken glass or other articles or substances which may in any way be liable to puncture the tire of any vehicle or which may in any way impede or obstruct the passage of any vehicle over said street, lane, alley or place.



limited to discarded appliances and/or furniture, hazardous materials, or any other matter as described by Massachusetts' Department of Environmental Protection as having the potential to injure or pollute watershed property; drawing or causing to be removed any water from any source; possession of any alcoholic beverage or controlled substance; and fires of any type.

4. Allowed Activities in Reservoir by Permit. The following activities are allowed on Watershed Property with a permit from the Department of Public Works Director, the Mayor, or their respective designees:
  - Use of automobiles, trucks and construction equipment; commercial signs, advertising displays; cutting, logging or removing timber. Provided, however, vehicles and equipment used or contracted by the Town of West Springfield to maintain the Watershed Property and enforce these ordinances may be operated without the need for a permit, as are town, state or Federal public safety vehicles and equipment.
5. Allowed Activities. The following passive, recreational, and educational activities will be allowed on the Watershed Property without a permit:
  - a. Hiking, walking, running, non-motorized biking, snowshoeing, cross country skiing, bird watching, nature study, and historical and educational themed activities (that do not require use of non-permitted or prohibited activities).
  - b. The walking and exercising of dogs kept as household pets as well as service animals are allowed under the following conditions:
    - i. All such animals must be licensed in compliance with all applicable laws and regulations;
    - ii. All such animals shall be kept on a leash or lead at all times;
    - iii. No such animal shall chase, harm or otherwise interfere with any flora or wildlife inhabiting the Watershed Property; and
    - iv. The party in control of the animal shall clean up after the animal.
  - c. Any other non-prohibited activity as identified by posting on any Watershed Property.
6. Curfew and Parking. There will be no trespassing on Watershed Property by vehicle or on foot from dusk to dawn. Parking of vehicles is limited to officially-designated areas and the shoulder of public ways through the Watershed Property. Parking of vehicles anywhere else is restricted. The Town of West Springfield reserves the right to alter the areas so designated with no advance notice. Parking areas shall be designated by signs placed in conspicuous locations by the Town of West Springfield. Such signs may restrict parking to certain times and/or days. No private party may regulate parking on any Watershed Property.
7. Park Rangers. The Town of West Springfield may employ Park Rangers to patrol various town recreational areas including Watershed Property. Anyone using the Watershed Property for allowed or permitted uses as set forth in these regulations shall be subject to the authority of the Park Rangers and shall heed all reasonable directions and requests presented by the Park Rangers.

8. Fines and Penalties for Violation of Watershed Property. Any person and, if applicable, the employer of illegal vehicles, and all other persons concerned therein, violating the provisions of this ordinance shall be fined for each offense listed in the attached “Watershed Fines and Penalties Table” as promulgated by the Director of the Department of Public Works. All fines provided for herein shall inure to the use of, and be paid to, the Town of West Springfield. Violations of this ordinance shall be enforced by the Town of West Springfield’s Park Rangers and Police Department.
9. Severability. Each term and provision of this ordinance shall be valid and enforceable to the fullest extent permitted by law and any invalid, illegal or unenforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid, illegal or unenforceable term or provision.

### **Section 9-800 Littering Prevention**

**13. Title.** This section shall be known as the Littering Ordinance.

**14. Purpose.** The purpose of this section is to set standards and regulations for the control of litter in the Town of West Springfield. The prevention and control of litter will have a positive and lasting effect upon the Town’s environment and appearance. The goal of this section is the general upkeep of the community for the health, safety, and welfare of its citizens. Transporting loose materials, illegal dumping, unlawful disposal, and nuisances shall not be allowed on any public or private property within the boundaries of the municipality by any person or persons.

**15. Applicability.** This section shall apply to and be enforced within the corporate limits of the City known as the Town of West Springfield.

**16. Definitions.** For the purposes of this section the following definitions shall apply:

- a. **Litter.** All waste materials that are not secured in a receptacle, including, but not limited to, cigarettes and cigarette filters, trash, garbage, refuse, disposal packages or container, construction and demolition materials, tires, batteries, appliances, furniture, liquid or granular substances, hazardous materials, machinery, abandoned vehicles, and abandoned mobile homes. Unsolicited newspapers and/or advertisements shall be considered litter for purposes of this Ordinance if a person upon whose property an unsolicited newspaper and/or advertisement is placed has notified the publisher and/or distributor of said newspaper or advertisement in writing of owner’s desire not to receive said newspaper or advertisement.
- b. **Litter Receptacle.** Those containers which are suitable and safe for the disposing of litter.

- c. **Owner.** The term “owner” includes any person owning or having title, possession or control over real property, including but not limited to, landholders, landlords, tenants, proprietor, and business operators.
- d. **Person.** An individual, partnership, company, contractor, subcontractor, developer, cooperatives, corporation, firm, landlord, tenant, proprietor, owner, political subdivision, sub-development, state or county agency, trust, estate, joint venture or any other legal entity or its legal representative, agent or assigns.

**17. Littering Prohibited.**

- a. No person shall dump, throw, drop, deposit, discard, place or in any way dispose of litter, hazardous material or other liquid, granular or solid waste upon any public or private property in the municipality or in the waters of the municipality whether from a vehicle or otherwise, including but not limited to, any road, path, park, beach, campground, forest land, recreational area, trailer park, road, street or alley except:
  - i. When such property is designated by the Town of West Springfield and/or the Commonwealth of Massachusetts for the disposal of litter and other solid waste and such person is authorized to use such property for that such purpose; or
  - ii. When placing material into an approved litter receptacle in such a manner that the litter will be prevented from being carried away, scattered or deposited by the elements upon any part of such private or public property or waters.
- b. The responsibility for the removal of litter from property shall be upon the person responsible for littering the property. However, if the person responsible for littering the property is unknown or has not been charged with littering, then the owner of the property shall be responsible for the removal of litter from such property; and in such cases, the City may consider the financial or physical ability of the property owner to remove said litter, but the burden is on the property owner to prove same.
- c. Where litter has traveled through forces of nature onto property of another, the owner of the property of origin of the litter is responsible for the removal of litter from the property wherever the forces of nature carry or spread the litter.
- d. The driver of any vehicle shall be held in violation of this section in the event it cannot be determined which occupant of the vehicle committed any of the above prohibited acts.
- e. It shall be unlawful for any person, firm, corporation, institution, organization, contractor or subcontractor to transport any loose materials by truck, trailer or other motor vehicles within the corporate limits of the City unless said material is covered



“All Users” includes users of all ages and abilities.

- b. The Town of West Springfield recognizes that all projects, new, maintenance, or reconstruction, are potential opportunities to apply Complete Streets design principles.
- c. The Town will, to the maximum extent practical, design, construct, maintain, and operate all streets to provide for a comprehensive and integrated street network of facilities for people of all ages and abilities.
- d. Complete Streets design recommendations shall be incorporated into all publicly and privately funded projects, as appropriate. All transportation infrastructure and street design projects requiring funding or approval by the Town of West Springfield, as well as projects funded by the state and federal government, such as the Chapter 90 funds, Town improvement grants, Transportation Improvement Program (TIP), the MassWorks Infrastructure Program, Community Development Block Grants (CDBG), Capital Funding and other state and federal funds for street and infrastructure design shall adhere to (comply with) the Town of West Springfield Complete Streets Ordinance. Private developments and related street design components or corresponding street-related components shall adhere to (comply with) the Complete Streets principles. New subdivisions, shall be required to comply with this ordinance. In addition, to the extent practical, state-owned roadways will comply with the Complete Streets resolution, including the design, construction, and maintenance of such roadways within Town boundaries.
- e. The Mayor shall designate a staff person from one of the Town’s municipal Departments that will be responsible for oversight of the ordinance.

## **5. Exceptions**

Exceptions to the ordinance are only allowed upon approval by the Mayor based upon recommendation from his/her designee overseeing the ordinance, with documentation and data that indicate:

- a. Facilities where specific users are prohibited by law, such as interstate freeways or pedestrian malls. An effort will be made, in these cases for accommodations elsewhere.
- b. Where cost or impacts of accommodation is excessively disproportionate to the need or probable use or probable future use.
- c. The existing right-of-way or adjacent land is constrained in a manner that inhibits addition of transit, bicycle, or pedestrian improvements. In this case, the Town shall consider alternatives such as lane reduction, lane narrowing, on-street parking relocation, shoulders, signage, traffic calming, or enforcement.
- d. Where such facilities would constitute a threat to public safety or health.
- e. Where construction and future maintenance will create significant adverse environmental impacts to streams, flood plains, wetlands, historical resources.



## 6. Best Practices

- a. The Town of West Springfield Complete Streets ordinance will focus on developing and maintaining a connected, integrated network that serves all road users. Complete Streets will be integrated into policies, planning, and design of all types of public and private projects, including new construction, reconstruction, rehabilitation, repair, and maintenance of transportation facilities on streets and redevelopment projects.
- b. Implementation of the Town of West Springfield Complete Streets Ordinance will be carried out cooperatively within all departments in the Town of West Springfield with multi-jurisdictional cooperation, to the greatest extent possible, among private developers, and state, regional, and federal agencies.
- c. Complete Streets principles include the development and implementation of projects in a context sensitive manner in which project implementation is sensitive to the community's physical, economic, and social setting. The overall goal of this approach is to preserve and enhance scenic, aesthetic, historical, and environmental resources while improving or maintaining safety, mobility, and infrastructure conditions. The context-sensitive approach to process, decisions making and design includes a range of goals by considering stakeholder and community values on a level plane with the project need. It includes goals related to livability with greater participation of those affected in order to gain project consensus.
- d. The Town of West Springfield recognizes that "Complete Streets" may be achieved through single elements incorporated into a particular project or incrementally through a series of smaller improvements or maintenance activities over time.

## 7. Design Criteria

In the fulfillment of the goals of this Complete Streets Ordinance, the Town will follow the latest design manuals, standards and guidelines. This includes documents that are listed below but should not be precluded from considering innovative and non-traditional design options where a comparable level of safety for users in present or provided:

- The Massachusetts of Department of Transportation *Project Design and Development Guidebook*
- Massachusetts Department of Transportation Engineering Directives
- Massachusetts Department of Transportation Separated Bike Lane Planning & Design Guide
- The latest edition of American Association of State Highway Transportation Officials (AASHTO) *A Policy on Geometric Design of Highway and Streets*
- ITE Designing Walkable Urban Thoroughfares: A Context Sensitive Approach
- National Association of City Transportation Officials Urban Bikeway Design Guide

- The United States Department of Transportation Federal Highway Administration’s Manual on Uniform Traffic Design Controls (2009).
- The Architectural Access Board (AAB) 521CMR Rules and Regulations
- Documents and plans created for the Town of West Springfield, such as bicycle and pedestrian network plans.

## **8. Performance Standards**

Complete Streets implementation and effectiveness should be constantly evaluated for success and opportunities for improvement. The Town will develop performance measures to gauge implementation and effectiveness of the policies. These performance measures may include but are limited to:

- Total miles of marked bike lanes
- Total miles of roadway with shoulder 4 feet wide or greater
- Linear feet of sidewalk including new and reconstructed
- Closure of network gaps and removal of impediments in the transportation infrastructure
- Number of new curb ramps constructed and existing ramps reconstructed
- Number of existing curb ramps in need of reconstruction
- Crosswalk and intersection improvements
- Crash and Personal Injury Data
- Citations for Traffic Violations
- Number of new street trees planted
- Transit Ridership
- Public Participation
- Annual estimate of yearly Town investments in Complete Streets design and construction activities

## **9. Implementation**

- a. The Town shall make Complete Streets practices a routine part of everyday operations, shall approach every transportation project and program as an opportunity to improve streets and the transportation network for all users, and shall work in coordination with other departments,

agencies, and jurisdictions to achieve Complete Streets.

- b. The Town shall review and either revise or develop proposed revisions to all appropriate planning documents (master plans, open space and recreation plan, etc.), zoning and subdivision codes, laws, procedures, rules, regulations, guidelines, programs, and templates to integrate Complete Streets principles in all Street Projects. A committee of relevant stakeholders designated by the Mayor will be created as an advisory body to assist in overseeing the implementation of this initiative.
- c. The Town shall maintain a comprehensive inventory of pedestrian and bicycle facility infrastructure that will be used in identifying and prioritizing projects to eliminate gaps in the sidewalk and bikeway network.
- d. The Town shall promote inter-department project coordination among city departments with an interest in the public right-of-way in order to better use of fiscal resources.
- e. The Town shall seek methods to educate all transportation users to better understand and utilize complete streets. This shall include but not be limited to Town website updates, social media posts, community access cable channel, public outreach meetings and informational pamphlets for the general public and students.
- f. The Town will reevaluate Capital Improvement Projects prioritization to encourage implementation of Complete Streets implementation.
- g. The Town will train pertinent Town staff and decision-makers on the content of Complete Streets principles and best practices for implementing the ordinance through dissemination of current information/concepts, attendance at workshops, project meetings and other appropriate means.
- h. The Town will utilize inter-department coordination to promote the most responsible and efficient use of resources for activities within the public way.
- i. The Town will seek out appropriate sources of funding and grants for implementation of Complete Streets policies.
- j. The Town will investigate new and continue with existing programs such as Mass in Motion and Safe Routes to Schools which compliment Complete Streets initiatives.
- k. Complete Streets infrastructure shall be maintained by the jurisdiction that owns the right-of-way it resides on unless binding agreements are made with other maintaining enteritis.
- l. The Town will seek input from residents, developers and businesses as well as work with neighboring municipalities and the Department of Transportation to coordinate and optimize connectivity of improvements on both local and regional level.

**Section 10-100                      Revocation Due to Nonpayment**

1.     Annual list of delinquent payments. The Tax Collector shall annually furnish to each licensing or permit-granting authority a list of any person, corporation or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges or obligations for twelve (12) months or more and that such person has not filed for an abatement of tax or has a pending petition before the appellate tax board. Said list shall include the address of any parcel of land for which taxes are owed by said person, corporation or business entity.
2.     Authority to revoke, deny or suspend. The licensing or permit-granting authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished by the Tax Collector.
3.     Involvement of property address. The licensing or permit-granting authority may deny, revoke or suspend any license or permit, including renewals and transfers involving a property address that appears on said list furnished by the Tax Collector.
4.     Notice; hearing. Provided, however, that written notice is to be given to the party (licensee) and the Tax Collector, and the party (licensee) is given a hearing to be held not earlier than fourteen (14) days after said notice.
5.     Certificate of payment; fee. Any license or permit denied, suspended or revoked shall not be issued or renewed until the license or permit-granting authority receives a certificate issued by the Tax Collector that the party (licensee) or the property, as the case may be, is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the town as the date of issuance of said certificate. The fee for said certificate shall be twenty-five dollars (\$25.).
6.     Payment agreement. 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 conditioned 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 provision of law.
7.     Waiver of revocation, suspension or denial. The Licensing Commission 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 the property owners immediate family, as defined in MGL C. 268, § 1, in the business conducted in or on said property.



No article purchased or received by the keeper of a junk shop shall be sold until at least thirty (30) days from the date of its purchase or receipt has elapsed.

9. Storage of rags and wastepaper. Rags and wastepaper kept or collected by junk dealers or junk collectors shall not be kept or stored within the limits of the fire district except in substantial brick or stone buildings.
10. Revocation of license. Violations of this chapter shall be grounds for revocation of the license hereunder.

## **Section 10-201                      Soil Removal and Deposit**

1. Removal and deposit of soil restricted. No person shall remove soil, loam, sand or gravel from any land in the town not in public use, and no person shall deposit on any land in the town not in public use soil, loam, sand or gravel, except as provided herein.
2. Permit procedure. The Licensing Commission may grant a permit for the removal or deposit of soil, loam, sand or gravel, whether for a commercial purpose or otherwise, from any land in the town not in public use, in the following manner:
  - A. Application.
    - (1) Each petitioner shall file with the License Commission a written application setting forth a description of the land for which such a permit is sought.
    - (2) Said application shall be accompanied by the original mylar tracing of a map or plan drawn by a professional engineer or land surveyor which shall show the existing elevations of the land, the proposed elevations thereof when the removal operations are completed and such other relevant information as may be required by the regulations of the Licensing Commission.
  - B. Hearing.
    - (1) No such permit shall be granted until after the License Commission has held a public hearing thereon.
    - (2) the License Commission shall cause notice of such hearing to be published at least fourteen (14) days prior thereto in a newspaper of general circulation in the town.
    - (3) the License Commission shall also cause notice of such hearing to be sent by mail, postage prepaid, at least fourteen (14) days prior thereto to the petitioners and to the owners of all property abutting said land and deemed by the the License Commission to be affected thereby, as they appear on the most recent tax list.
  - C. Permit conditions.
    - (1) Each permit shall be granted subject to the condition that no such removal shall be authorized below the proposed elevations shown on said map or plan or below any higher elevations shown on any amendment thereof, and one (1) copy of said map or plan or any amendment thereof shall be made a part of said permit. A tolerance of six (6) inches shall be allowed in all cases.
    - (2) The License Commission may grant such a permit subject to any appropriate conditions, which shall be made a part of said permit.

- (3) No such permit shall be granted to authorize any such removal which would result in the lowering of the elevation of any land below the elevation of any street or way within a radius of three hundred (300) feet thereof.
- (4) Each permit shall be granted for a definite period of time to be fixed by the License Commission, but no such permit shall be granted for a period of more than three (3) years from the date thereof.
- 3. Revocation. The License Commission may, after a public hearing, notice of which shall be given in the manner provided herein for the granting of permits, revoke any such permit upon proof of a violation of any of the conditions thereof.
- 4. Exception. The License Commission may grant during any calendar year one (1) permit for the removal or deposit of not more than fifty (50) cubic yards of soil, loam, sand or gravel from any land in the town not in public use without the plan, notice and hearing herein provided and subject to any appropriate conditions, and may revoke any such permit upon proof of a violation of any of the conditions thereof.
- 5. Nonapplicability. This chapter shall not be construed to apply to any such deposit or removal incidental to the construction or alteration of any structure or way concerning which a building permit has been issued and while said permit is in effect, nor to any such deposit in or around any occupied dwelling.
- 6. Statutory authority. This chapter is adopted pursuant to the provisions of MGL C. 40, § 21(17).

**Section 10-202                      Tag Sales**

- 1. Definitions. For the purposes of this chapter, the following words shall have the following meanings.

DAYLIGHT HOURS – From one-half hour after sunrise to one-half hour before sunset.

HOUSEHOLD – All persons lawfully residing in the same dwelling unit.

PERSONAL PROPERTY – That property which is owned, utilized and maintained by members of a household where said sale is being held and which may have been acquired in the normal course of occupying or maintaining a household and shall not include items purchased for resale, obtained on consignment or owned by any person from outside the immediate area where said sale is being held, however, neighbors shall be considered as being from the immediate area.

TAG SALES – All general sales open to the public conducted on a residential premises for the purposes of disposing of personal property and shall include but not be limited to all sales known as “tag, garage, lawn, yard, attic, porch, room, backyard, patio, rummage” or its equivalent.

- 2. Sales of certain property prohibited. No person shall sell or offer for sale, at any tag sale, any property other than personal property.
- 3. Permit required; fee.
  - (a) It shall be unlawful to conduct a tag sale without first having obtained a permit from the office of the Town Clerk. This permit shall contain the dates, time, location of sale, telephone

number, and the person conducting the sale. The applicant shall pay a fee of ten dollars (\$10.) for said permit. Said permit shall be issued in triplicate by the office of the Town Clerk. One copy shall be delivered to the Police Department prior to the sale. One copy must prominently be displayed at the site of the sale by the applicant. The original will be maintained by the office of the Town Clerk.

- (b) In order to obtain a permit: An application must be obtained from the Town Clerk. The completed application must be filed with the Town Clerk at least seventy-two (72) hours before the scheduled sale (excluding Saturdays, Sundays and legal holidays); otherwise, the permit shall be denied.
- (c) The applicant must be a town resident. Proof of residency must be established. The holder of the permit shall have no property right in said permit and it may be revoked without hearing as hereinafter provided.

4. Limitations.

- (a) It shall be unlawful for a person to conduct a tag sale, at any one residence, more than on two separate occasions in any calendar year, for a duration of not more than three (3) consecutive days for each sale. No rain dates will be allowed. Tag sales shall be conducted during daylight hours only.
- (b) In a multi-dwelling unit, each household may conduct a tag sale on no more than on two (2) separate occasions in any calendar year, for a duration of not more than three (3) consecutive days for each sale.

5. Display of property. Personal property offered for sale at any tag sale shall be displayed only on private property. No personal property offered for sale at any tag sale shall be displayed in any public right-of-way.

6. Signs. Signs promoting tag sales shall not be erected more than two (2) days prior to any tag sale, and shall be removed not more than twenty-four (24) hours after the close of any tag sale. No sign promoting any tag sale shall exceed four (4) square feet on each side. (This section does not exclude people from violation of any other state law or town bylaw relating to signs.) No signs shall be posted within the legal layout of a public way.

7. Right of entry; enforcement. The Chief of Police, the Chief of the Fire Department, or persons authorized by either of them, shall have the right to enter onto private property for the purpose of enforcing the provisions of this ordinance.

8. Parking. Where a tag sale is being conducted, the Chief of Police or persons authorized by him/her may enforce temporary parking restrictions necessary to the safe and orderly flow of traffic and the passage of emergency vehicles. Parking shall be allowed only on the side of the road where the sale is located, unless the Chief of Police determines in writing, for Public Safety, parking be on the other side of the road. Vehicles must be parked facing the direction in which that vehicle would be normally traveling.



9. Violations.

- (a) Failure to comply with the provisions of any section of this chapter shall result in the following:
  - (1) First offense: A written warning shall be given by the Chief of Police, the Chief of the Fire Department or their designee.
  - (2) Second offense: The Chief of Police, the Chief of the Fire Department or their designee shall, for a second violation of this ordinance or a failure to correct the violation for which the warning was issued, revoke the permit and order the tag sale closed.
- (b) The permit holder may request a determination of the appropriateness of a revocation by filing a request for a review of the revocation with the Mayor or his or her designee within seventy-two (72) hours of the revocation. The Mayor or his or her designee shall schedule a hearing to determine if the revocation was warranted.
- (c) The failure to comply with the provisions of this chapter shall be punishable by a fine of thirty-five dollars (\$35.) and shall be payable to the Town Clerk. Said fine shall be in addition to any revocation ordered under the section.
- (d) Any person who has had a permit revoked or a fine imposed shall not be issued another permit for a period of two (2) years nor shall a permit be issued for the premises previously licensed for a period of two (2) years from said revocation or fine.

**Section 10-203                      Taxicabs**

- 1. Term defined. Every motor vehicle used or to be used for the conveyance of persons for hire shall be deemed to be a taxicab within the meaning of this chapter, except a motor vehicle operated in a manner and for the purposes stated in General Laws, Chapter 159A, and a motor vehicle used for private livery purposes.
- 2. Taxicab business license. No person shall engage in the town in the business of operating a taxicab without first obtaining from the Licensing Commission the license or licenses required by this chapter.
- 3. Taxicab operator's license. The Licensing Commission may license the operation of a taxicab and may license a person to drive such a taxicab, and may revoke such licenses at its discretion.
- 4. Taxicab stand license. No taxicab shall be allowed to stand or to wait for passengers on any public way in the town except on such portions thereof as may be designated therefor by a license granted by the Licensing Commission, which may revoke such a license for a taxicab stand or change the location thereof at any time. No person shall allow any vehicle to remain standing in any taxicab stand except a taxicab licensed therefor.
- 5. Expiration of licenses; transferability; fee. Any license required by this chapter shall expire on the 30th day of April following the date of issuance, and no such license shall be transferred without the consent of the Licensing Commission. The fees for all such licenses

shall be determined from time to time by rules, orders and regulations of the Licensing Commission.

6. Rates; rules and regulations. No owner or driver of a taxicab shall charge any passenger any higher rate for any service than authorized from time to time by rules, orders and regulations of the Licensing Commission. All owners and drivers of taxicabs licensed under the provisions of this chapter shall be subject to such further rules, orders and regulations as may from time to time be promulgated by the Licensing Commission.

#### **Section 10-204      Soft Drink Sales**

1. License required; fee. No person shall keep open a place of business for the retail sale of beverages derived wholly or in part from cereals or substitutes therefor and containing less than one-half of one percent (1/2 of 1%) of alcohol, unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters, carbonated waters or beverages and other so-called soft drinks until a license therefor has been obtained from the Licensing Commission the fee therefor to be one dollar (\$1.).
2. Contents of license; suspension or revocation. Licenses granted as aforesaid shall specify the street or place and number, if there is any, and if there is no number, then the location of the place of business in which the license is to be exercised, and the license shall not be valid in any other place. Licenses so issued shall expire on the 30th day of April of each year. Any such license may be suspended or revoked at any time after a hearing by the Licensing Commission.
3. Nonapplicability. The provisions of the three (3) preceding sections shall not apply to innholders, common victuallers, druggists, nor to dealers whose principal business is the sale of groceries and meats or either of said products, nor to the sale of any or all of such beverages when sold not to be drunk on the premises. This section shall not apply to persons who keep open their places of business on Sunday for the sale of soda water if they are licensed under MGL C. 136, Section 7.

#### **Section 10-205 Procedure and Requirements for Specified Local Licenses.**

1. Any business trade or occupation that is not required to have a state or federal license to operate its business, may be required to obtain an annual local license in order to operate its business in the Town of West Springfield. Licenses shall be subject to renewal annually on January 1.
2. Any business, trade and occupation required to obtain such local license must submit an application for a license to the West Springfield Board of License Commissioners. Said application shall contain a copy of a site plan for said business, trade or occupation sought to be licensed that has been approved by the Planning Board in accordance with its rules and regulations; provided that any business, trade or occupation actively in operation at the time this ordinance becomes applicable to it shall not be required to obtain site plan approval for the then existing business, trade or occupation. This exemption shall not apply to any substantial expansion or alteration of said business nor to any relocation of the same.
3. No license, whether new, renewal or transfer shall be issued if the premises sought to be licensed

is in violation of the zoning ordinance of the town, the general ordinance of the Town and any order or rule and regulation of any municipal department.

4. The Board of License Commission may adopt such rules and regulations for any license issued or renewed by it as it deems appropriate.

5. The violation of any law, ordinance, order or rule and regulation by the holder of any license or its manager shall be sufficient cause for the modification, suspension or revocation of the license. The license holder shall be given at least ten (10) calendar days notice of a hearing to be held to consider such violations. If notice of the hearing is mailed then thirteen (13) calendar days notice shall be required.

6. No license holder shall have any property interest in any license issued under the authority of this ordinance.

7. Any applicant for a new license to be issued or a renewal or transfer of an existing license shall file with the application its deed to the site to be licensed or its lease or rental agreement. No license shall be issued for a period exceeding the lease or rental agreement.

8. The fee for the issuance of a license, renewal or transfer, shall be fifty and 00/100 (\$50.00). No public hearing shall be required for the issuance of any license, renewal or transfer for business, trades or occupations listed in section 9.

9. The following businesses, trades or occupations shall be required to obtain local licenses:

Rental or leasing of motor vehicles and trailers. \* (Including automobiles, trucks, motorcycles, scooters, boats, household trailers, camping trailers.)

10. This ordinance shall become effective upon its adoption for all new business, trades or occupations or transfer of an existing business to a new locations or transfers of the ownership of the business, trades or occupations subject to the ordinance provided, however, that business, trades, or occupations existing on the effective date of this ordinance shall have ninety (90) days to submit an application for its current location.

11. Any rental or leasing business licensed hereunder shall register in West Springfield not less than fifty (50) motor vehicles it has available for lease or rental or all such vehicles owned by it, whichever is less.

12. If any section or portion thereof is declared invalid, that section or portion shall be stricken and the remaining portion and sections shall remain in full force and effect.

\*lease/sale agreement for new vehicles by businesses licensed under G.L. c. 140, §59(a) are exempt from the requirements ordinance

### **Section 10-206 Alcohol Brought onto Commercial Premises for Personal Consumption**

1. **Title.** This Section shall be entitled the "BYOB Ordinance"

2. **Purpose.** The purpose of this section shall be to establish a BYOB permit to be utilized by holders of Common Victualler Licenses as a means of expanding their marketability by allowing alcohol brought in by patrons to be consumed on the licensed premises.

3. **Requirements.** Upon approval of the License Commission following a hearing, a holder of a Common Victualler-Restaurant License may allow customers to consume alcoholic beverages on their premises subject to the following requirements:
  - a. Beverages must be brought in by the customer for consumption while dining.
  - b. The standards and practices for the issuance of a BYOB permit shall mirror those in place for the issuance of an Annual Restaurant Wine & Malt license.
  - c. Permitted beverages shall be limited to those normally covered under a “Wine & Malt” Alcohol License. No other alcoholic beverages (spirits, liqueurs, etc.) shall be permitted for BYOB consumption in any location.
  - d. Patrons who bring alcohol for consumption at an establishment must be seated in a dining area and have ordered food. At least one food order must be placed per table per visit. No alcoholic beverages may be consumed by patrons in a waiting area or unsupervised outdoor dining area (i.e. Picnic Table). The premises covered by the BYOB permit shall be designated during the application process. All outdoor and/or secondary dining areas included in the premises covered under this permit shall be accessible only by first passing through the main lobby of the establishment. If these areas are not directly supervised by a staff member they must be monitored while patrons are present and consuming alcohol.
  - e. It shall be the responsibility of the BYOB permit holder to ensure all Federal, State, and Local laws with regard to overconsumption of alcohol, proper training of staff for identification of over consumption and standards for verification of age are followed.
  - f. No permit holder shall handle, pour, hold, or otherwise aid in the consumption of the alcohol brought onto the premises. Permit holders may provide glassware, bottle openers, corkscrews or similar for patrons to use.
  - g. Unopened or re-secured containers of alcohol must be transported in accordance with Mass. General Law and the Alcoholic Beverages Control Commission’s regulation at 204 CMR 2.18
  - h. The permit holder may charge no fee for the service of facilitating the consumption of alcohol in accordance with this section. Any service fee, glass fee, table fee, or corkage fee, etc. would be considered an indirect sale and is illegal without an alcoholic beverages license.
  - i. No drinking games or contests shall be allowed.
  - j. Any violation of this section may result in restriction, suspension or revocation of the BYOB permit and/or the Common Victualler License.
  - k. The fee for a BYOB permit shall be \$500 annually with permits eligible for renewal in July of each year.
  - l. The holder of the permit shall have no property right in said permit and it may be revoked at the discretion of the License Commission by majority vote.
4. **Liability.** By exercising the privilege of allowing patrons to BYOB, the Licensee is potentially exposed to significant liability for injuries and damages to the persons consuming alcohol or to

others who are injured or damaged by the persons consuming alcohol. Acceptance and exercise of BYOB will be deemed to be acknowledgment of awareness of this potential liability. Licensees are encouraged to discuss the risks associated with exercising the privileges of BYOB and the appropriate precautions to avoid injuries, damage and liability to others with his/her legal advisor. The Town of West Springfield and the License Commission acting as the Local License Authority shall not be liable to the Licensee or to others if injury or damage shall result from the exercise of BYOB practice. By allowing BYOB on the licensed premises, the Licensee acknowledges that he/she understands and will comply with all applicable liquor regulations set forth by the Alcoholic Beverages Control Commission and the Licensing Authority.

*Adopted by vote of Town Council on February 13, 2004(Ordinance #117)*

*Dec. 2016 OJF (includes votes of Council through Dec 2016)*