

## SECTION XI GENERAL REGULATIONS

### A. Town Meeting

#### 1. Quorum

- a. A minimum of 100 registered voters shall be required to conduct an Annual Town Meeting.
- b. Minimum of 50 registered voters shall be required to conduct a Special Town Meeting.
- c.

#### 2. Lack of a Quorum

- a. In the event that a quorum cannot be established, the moderator shall call for a recess until a quorum is established, but in no case shall the recess exceed one hour.
- b. In the event that a quorum cannot be established after recessing for one hour, the Moderator (at his/her discretion) shall adjourn the meeting to a later hour, day or may dissolve the meeting. All articles not acted upon shall dissolve and shall not be acted upon except by a new warrant duly issued by the Selectmen.

#### 3. Orders of Consideration of Articles

- a. All articles in the warrant shall be taken up by the Moderator in the order in which they appear on the warrant. A two-thirds vote shall be required to take any article up for consideration out of order.

#### 4. Withdrawal of an Article

- a. Articles cannot be withdrawn even by sponsors, action must be taken on article or postponed indefinitely.

#### 5. Withdrawal of a Motion

- a. A motion may be withdrawn (by the mover) at any time before final action is reached, provided no one objects.
  1. Required no second
  2. Not debatable
- b. Objection to withdrawal is made, leave to withdraw may be granted by a motion to that effected moved by another.
  1. Not debatable
  2. Majority vote

#### 6. Limit on Debate

- a. Requires a second

- b. Requires a two-thirds vote
- c. Pertains to the time allowed an individual speaker only

**7. Previous Question**

- a. The motion to stop debate and vote shall not interrupt a speaker
- b. Requires a second
- c. Not debatable
- d. Requires two-thirds vote

**8. Amendments to Motions**

- a. Requires a second
- b. Debatable
- c. Majority vote
- d. Amendments to the third degree not allowed

**9. Reconsideration**

- a. Requires a second
- b. Debatable
- c. Requires two-thirds vote

*(Amended: Article XI, May 19, 1997 Special Town Meeting)*

**10. Lay on the Table**

- a. To postpone, pass over action until some later time
- b. Requires a second
- c. Not debatable
- d. Majority vote

**11. Take from the Table**

- a. To take up action previously voted to lay on the table
- b. Requires a second
- c. Not debatable
- d. Majority vote

**12. Point of Order**

- a. A question not a motion
- b. Does not require a second
- c. Not-debatable
- d. Decision by Moderator
  - 1. Appealable – no second, not debatable. Assembly makes final decision

**13. Counting Votes**

- a. Two-thirds vote shall mean two-thirds of all votes

- b. Majority vote shall mean more than half of all votes.
- c. The Moderator may vote to make or break a tie at his discretion.
  - 1. A tie defeats motions
- d. The Moderator may dispense with a count on matters requiring two-thirds vote when vote is unanimous or clearly overwhelming. Seven or more members of Town Meeting shall force a count on such vote.

*(13d. Adopted: Article X, May 19, 1997 Special Town Meeting)*

**14. Non-Voters Addressing Meeting**

- a. Requires a motion to do so
- b. Requires a second
- c. Debatable
- d. Majority vote

(Note: Chapter 234 M.G.L. permits a Superintendent of Schools to address a Town Meeting with-standing his or her place of residence)

**15. Broadcasting or Recording of Meetings**

*(Rescinded: Article 1, June 5, 2006 Special Town Meeting)*

- a. No broadcasting or electromechanical recordings of meetings except for official purposes only. Must be done under supervision of Town Clerk and Moderator.
  - 1. Non-official recordings require a vote
  - 2. Requires a second
  - 3. Debatable
  - 4. Required two-thirds vote

**B. Posting Bulletin Notices**

Rochester Post Office  
 Outside Town Hall  
 The Plumb Library  
 Council on Aging

The Town Meeting Warrant shall be posted on the Rochester website

*(Amended: Article XII, June 2, 2008 Annual Town Meeting)*

**C. Legal Counsel and Law Suits**

The Selectmen are hereby authorized to employ a legal counsel to advise with respect to and to prosecute, defend and compromise any and all lawsuits, claims, actions and proceedings in behalf of or against the Town, or in which the interests of the Town are or may be involved,

and to represent the Town at any hearing in which it is or may become interested before a committee or committees of the General Court, and to pay compensation for such services from an appropriation made for such purposes.

The Selectmen may institute, defend or compromise suits at law.

**D. Disposal of Property Taken by the Town**

The Selectmen may sell at a public auction, notice to be given of the time and place in Town, fourteen days, at least, before the sale, also, three insertions of the notice to be published in the Standard Times, property taken by the Town under tax title procedure provided the Selectmen or whomsoever they may authorize to hold such auction may reject any bid which they deem inadequate.

**E. Unregistered Vehicle**

The parking of no more than three (3) unregistered vehicles (as defined by M.G.L., Chapter 90, Section 1), or parts thereof or accessory thereto is permitted in the rear yard area or within a building, under no circumstances will an unregistered car, truck, or motor vehicle or parts thereof or accessory thereto be stored in any front yard or vacant lot. Excluded from the terms of this provision is anyone who conducts an agribusiness or other business in which the use of an unregistered vehicle is required.

Violation of any provision of this section shall be subject to a criminal penalty not to exceed three hundred dollars (\$300.00), or when enforced by non-criminal disposition pursuant to G.L. c. 40, §21D, as follows:

|                               |          |
|-------------------------------|----------|
| First Offense                 | \$100.00 |
| Second Offense                | \$200.00 |
| Third and Subsequent Offenses | \$300.00 |

In any case, each day of violation shall constitute a separate offense.

*(Amended: Article XIX, June 4, 2001 Annual Town Meeting)*

This by-law shall be enforced by the Zoning Enforcement Officer. In the event the Zoning Enforcement Officer enforces the terms of this by-law through the procedures of Massachusetts General Laws, Chapter 40, Section 21D, he shall give to the offender a written notice to appear before the Clerk of the Wareham District Court not later than twenty-one days after the date of such notice. Such notice shall be signed by the Zoning Enforcement Officer, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

The Zoning Enforcement Officer shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered to the offender's last known address, within fifteen days after said violation.

Any person notified to appear may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the Rochester Town Clerk together with the notice, such amount as may be due for each offense as provided in this by-law. Such payment shall, if mailed, be only made by postal note, money order or check. Upon receipt of such notice, the Town Clerk shall forthwith notify the District Court Clerk of such payment.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to G.L. c. 40, § 21D, he may, within twenty-one (21) days after the date of the notice, request a hearing in writing to the Clerk of the Wareham District Court.

*(Amended: Article XV, February 25, 2002 Special Town Meeting)*

**F. Parking, Fines and Fees**

The Town of Rochester voted to accept the provisions of General Laws, Chapter 90, Section 20C and 20D, which have to do with violation of parking regulations within the Town, and fines and fees pertaining thereto.

**G. Junk, Scrap, Debris**

The open display or open storage of junk is prohibited on any premises not in possession of a license therefore issued by the Board of Selectmen. For purposes of this by-law, the term "junk" includes old, second-hand or previously used, discarded or scrapped articles or materials of any type, including, but not limited to rubble, debris, building salvage, auto parts, tires, and discarded machinery whether collected, held or stored for salvage, sale, exchange, recycling, processing conversion or any other purpose.

Violation of any provision of this section shall be subject to a criminal penalty not to exceed three hundred dollars (\$300.00), or when enforced by non-criminal disposition pursuant to G.L. c.40, §21D, as follows:

|               |          |
|---------------|----------|
| First Offense | \$100.00 |
|---------------|----------|

|                               |          |
|-------------------------------|----------|
| Second Offense                | \$200.00 |
| Third and Subsequent Offenses | \$300.00 |

In any case, each day of violation shall constitute a separate offense.

*(Amended: Article XVIII, June 4, 2001 Annual Town Meeting)*

This by-law shall be enforced by the Zoning Enforcement Officer. In the event the Zoning Enforcement Officer enforces the terms of this by-law through the procedures of Massachusetts General Laws, Chapter 40, Section 21D, he shall give to the offender a written notice to appear before the Clerk of the Wareham District Court not later than twenty-one days after the date of such notice. Such notice shall be signed by the Zoning Enforcement Officer, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

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If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to B.L. c. 40, § 21D, he may, within twenty-one days after the date of the notice, request a hearing in

writing to the Clerk of the Wareham District Court.

*(Amended: Article XIV, February 25, 2002 Special Town Meeting)*

## **H. Boats**

Whosoever operates in or upon the waters within the territorial limits of the Town of Rochester, a boat propelled in whole or in part by an internal combustion engine (this includes outboard motors) recklessly or with negligence, so as the lives or safety of the public might be

endangered shall be punished by a fine of not less than \$10.00 nor more than \$50.00 for any violation of the Motor Boat Regulation.

The use of internal combustion engines is prohibited on Mary's Pond and Snow's Pond in the Town of Rochester.

*(Amended: Article 16, May 21, 2012 Annual Town Meeting)*

There shall be a fine of not less than \$10.00 and not more than \$450.00 for any violation of the motor boat regulations adopted under Article 14 and 15 of the April 8, 1974 Annual Town Meeting pertaining to Snow's Pond and Mary's Pond in the Town of Rochester.

*(Amended: Article XXVII, May 23, 1988 Annual Town Meeting)*

**I. Use of Alcoholic Beverages**

No persons shall consume any alcoholic beverage as defined in Chapter 138, Section 1, of the Massachusetts General Laws or shall have in his possession any open container or containers whose seal has been broken and recapped of such beverage, while on, in or about any public way, or upon any way to which the public has a right of access, or any park or playground or public beach in the Town of Rochester, with the exception that the Selectmen may grant special liquor licenses for one day functions.

All alcoholic beverages being used in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summonsed before the court. Any person convicted of violating this by-law shall be punished by a fine of not more than fifty (\$50.00) dollars for each offense.

**J. Soliciting**

No person, firm or organization, or his or its agent, shall without invitation of appointment visit any dwelling in the Town of Rochester for the purpose of selling goods or services or in connection with such activities, or for the purpose of soliciting contributions or money or other property, except after authorization by the Chief of Police or his designated assistant. Any person intending to make such solicitations or sales shall first present themselves to the Chief of Police, or in the absence of the Chief, to his designated assistant in charge of the Police Department, and give their full name, age, permanent and local address, if any, employer's name and address, and list all the products or commodities being offered for sale and/or organization for which the contributions are to be solicited.

The Chief or his designated assistant, upon receipt of the above information and statement, under the pains and penalties of perjury, shall verify the above information and then shall grant the person, or persons written authorization to solicit. Such persons shall at all times while soliciting in the Town carry said written permission upon his person. The provisions of the by-law shall not apply to any person engaged in the exercise of his right of freedom of speech and of religion.

**K. Disorderly Conduct**

No person shall behave in a disorderly manner or use indecent or insulting language, or shout, scream and/or utter loud outcries without reasonable cause in any public place, or on any sidewalk, street, or other public way of the Town, or near any dwelling house, to the annoyance or disturbance of any person there being or passing. Any person violating any of the provisions of this by-law may be arrested without a warrant, and shall be punished by a fine of not more than two hundred dollars for each offence.

**L. Temporary Signs**

The Selectmen may grant permission for the location on public property of temporary one-day signs pertaining to events such as flea markets, fairs, yard sales, suppers, and other activities of like nature.

**M. Cemetery Trust**

All sums now held by the Town, and all sums received by the Town Treasurer in trust for the perpetual care of cemeteries or cemetery sites, may be deposited in one or more interest bearing savings or checking accounts, in one or more savings banks in this Commonwealth, or may be otherwise lawfully invested according to the laws of the Commonwealth. The Town Treasurer shall keep all books in which he/she shall enter full details of such investments. The Town Treasurer shall collect the same on such books. The Town Treasurer shall apply the income of said investments for the preservation and care of the lots for which said deposits are made, and manage all sums held by the Town which are otherwise applicable to the care of particular lots in both public and private cemeteries.

**N. Town Meeting**

1. The Annual Town Meeting in the Town of Rochester will be held the second Monday in May, beginning in 1998.

*(Amended: Article VIII, May 19, 1997 Special Town Meeting)*

2. The Annual Town election in the Town of Rochester will be held on the second Wednesday of the month of April beginning in the year 2000

*(Amended: Article 1, October 25, 1999 Special Town Meeting)*  
*(Amended: Article VIII, May 19, 1997 Special Town Meeting)*

3. The poll hours for the Annual Town Election shall be from 8:00 a.m. to 8:00 p.m.

*(Amended: Article XIV, June 9, 1997 Annual Town Meeting)*

## **O. Non-Criminal Disposition**

*(Amended: Article XXX, October 24, 2005 Special Town Meeting)*

1. Alternative method of enforcement

Any duly adopted by-law of the Town of Rochester, or rule or regulation of its boards, commissions and committees and officers, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in G.L.c. 40, 21D. When enforced through the non-criminal disposition procedure, the penalty for a violation of any Town By-law or rule or regulation shall be fifty dollars (\$50.00) for the first offense, one-hundred and fifty dollars (\$150.00) for the second offense, and three hundred dollars (\$300.00) for the third offense. Each day on which any violation exists shall be deemed to be a separate offense.

2. Enforcing person

“Enforcing person” as used in this by-law shall mean: the Board of Selectmen, any Town of Rochester Police Officer with respect to any offense; as well as the Building Commissioner/Zoning Enforcement Officer and his designee, the members of the Conservation Commission and its designee, the members of the Board of Health, its Health Agent or other designee, the Sealer of Weights and Measures and his designee, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of by-laws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

3. In the event that a specific by-law already provided for non-criminal disposition, the provisions of that by-law will prevail over Section XI, sub-section”O”.

## **P. RIGHT TO FARM**

### **Section 1 Legislative Purpose and Intent**

The purpose and intent of this By-Law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Rochester restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This By-Law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Rochester by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies, when done in compliance with applicable state laws, Town By-Laws and regulations. This By-Law shall apply to all jurisdictional areas within the Town.

### **Section 2 Definitions**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. "Commercial" shall be defined by the minimum acreage requirement or the gross sales and program payment requirement specified in Massachusetts General Law Chapter 61A, Section 3, as amended. "Farm" shall also include youth related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects , weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenating or maintaining pastures;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3 Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Rochester. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, consideration shall be given to both traditional customs, practices and procedures as well as to new practices and innovations. Moreover, nothing in this Right To Farm By-Law shall be deemed as acquiring any interest in land. The protections contained in this By-Law do not replace any applicable zoning or legal restrictions associated with agricultural operations.

### **Section 4 Disclosure Notification**

Prior to the sale or exchange of real property , or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Rochester,

the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of the Town of Rochester to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances. Purchasing, and henceforth occupying land within Rochester means that one should expect and accept such conditions as a normal and necessary aspect of living in Rochester”

Written notification may occur in one of several ways, including but not limited to, a disclosure form, addendum to a Purchase and Sale Agreement, or otherwise and must include an acknowledgement by the buyer that they have received and understood the notification. A copy of the disclosure notification shall be filed with the Board of Selectmen or its designee within thirty (30) days of the sale, purchase, exchange or occupancy of such real property.

Within 30 days after this by-law becomes effective, the Board of Selectmen will make a written example of a notification available for use by landowners or their agents (and assigns) and shall place a copy of the above disclosure in a prominent place in Town Hall.

Within 60 days after this by-law becomes effective, the Tax Collector shall begin including a copy of the above disclosure and notification requirements with all responses to requests for Municipal Lien Certificates

In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Board of Selectmen or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of M.G.L. c. 40, § 21D.

## **Section 5 Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

### **Section 6 Severability Clause**

If any part of this By-Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-Law. The Town of Rochester hereby declares the provisions of this By-Law to be severable.