

**Village of Westhampton Beach  
Board of Trustees Meeting  
Thursday, September 3, 2015 at 7 p.m.**

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING:**

Amend Chapter 140 of the Village Code Entitled "Sales, Outdoor"

**RESOLUTIONS:**

1. Appoint Police Officers – Swearing In
2. Appoint Additional Members to the Business Districts Planning Taskforce
3. Accept minutes of Board of Trustees Meetings
4. Accept Departmental Monthly Reports
5. Approve 2014–15 Fiscal Year Budget Transfers
6. Authorize Payment of 2014/15 Assessment Roll Small Claims Property Tax Reductions
7. Approve Use of Village Property-St. Mark's Church
8. Approve Use of Village Property – Westhampton Beach Fire Department
9. Approve Use of Village Property – Kiwanis of Greater Westhampton
10. Approve Use of Village Property-The Buoy Owners Corp.
11. Approve Use of Village Property-Westhampton Library
12. Approve Use of Village Property-Beach United Methodist Church
13. Approve Use of Village Property-FBI National Academy Associates
14. Approve Use of Village Property-Greater Westhampton Chamber of Commerce
15. Authorize Police Officer to attend FBI Special Weapons & Tactics School
16. Authorize Notice to Bidders-Consulting Engineering Services-Sewer District
17. Approve warrant for September 2015
18. Approve Memorandum of Agreement with Department of Public Works Association of Municipal Employees, Inc.

**ATTORNEY UPDATE – ERUV LITIGATION**

**PUBLIC COMMENT**

**ADJOURN**

**Village of Westhampton Beach  
Board of Trustees Meeting  
Thursday, September 3, 2015 at 7 p.m.**

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING:**

Amend Chapter 140 of the Village Code Entitled "Sales, Outdoor"

**RESOLUTIONS:**

**1. Appoint Police Officers**

RESOLVED, that Marc W. DeMartino and Christopher J. Kelly are hereby appointed to the positions of Police Officer at a semi-monthly salary of \$2,248.22, effective September 3, 2015 in accordance with Suffolk County Department of Civil Service rules and procedures from Certified Eligibles List # 15SR154.

**2. Appoint Additional Members to the Business Districts Planning Taskforce**

RESOLVED, that Victor Levy, Laurette Lizak, Frank Bickley and Trustee Rob Rubio are hereby appointed to the Business Districts Planning Taskforce to provide input to Nelson, Pope and Voorhis in connection with the preparation of the Business Districts Study.

**3. Accept minutes of Board of Trustees Meeting**

RESOLVED, that the minutes of the Board of Trustees Meeting of August 6, 2015 are hereby accepted.

**4. Accept Departmental reports**

RESOLVED, that the Police Department's, Building Inspector's and Justice Court reports for August 2015, and Treasurer's Reports for May, June and July 2015 are hereby accepted.

**5. Approve 2014–15 Fiscal Year Budget Transfers**

RESOLVED, that 2014–15 fiscal year budget transfers in the amount of \$201,671.41 are hereby approved.

**6. Authorize Payment of 2014/15 Assessment Roll Small Claims Property Tax Reductions**

RESOLVED, that the Board of Trustees hereby authorize the payment of 2015/16 tax year property tax reductions in the amount of \$19,548.19 to the property owners

specified on the attached list as a settlement of Small Claims as ordered by the NYS Supreme Court.

**7. Approve Use of Great Lawn-St. Mark's Church Art Show**

RESOLVED, that St. Mark's Church is hereby authorized to use the Great Lawn on Saturday, September 5, 2015 and Sunday, September 6, 2015 from 9 a.m. to 6 p.m. for the Annual Art Show and Sale.

**8. Authorize Use of Village Property- Westhampton Beach Fire Department**

RESOLVED, that the Westhampton Beach Fire Department is hereby authorized to use Rogers Beach on Saturday, September 12, 2015 from 12:00 a.m. to 6:00 p.m. for the Annual Fire Department BBQ.

**9. Approve Use of Village Property- Kiwanis of Greater Westhampton**

RESOLVED, that the Kiwanis of Greater Westhampton are hereby authorized to use the Yacht Basin property for the 4th Annual Oyster Festival on Saturday, October 10, 2015 from 10 a.m. to 6 p.m. with a rain date of Sunday October 11, 2015.

**10. Approve Use of Village Property-The Buoy Owners Corp.**

RESOLVED, that the Buoy Owners Corp. is hereby authorized to use the Village Board meeting room on Saturday September 12, 2015 from 10:00 a.m. to 12:00 p.m. to hold the annual shareholders meeting.

**11. Approve Use of Village Property-Westhampton Library**

RESOLVED, that the Westhampton Library is hereby authorized to hold a community pet parade on Sunday October 4, 2015 from 12:00 p.m. to 4:00 p.m. which includes set-up and break down on the Village green. All animals are required to have a leash and owners must clean-up after their animals.

**12. Approve Use of Village Property-Beach United Methodist Church**

RESOLVED, that the Beach United Methodist Church is hereby authorized to use the Village parking lot on Mill Road on Saturday, September 26, 2015 from 8 a.m. to 11:00 a.m. for registration and waiting area to start the Beach Pedal Family 5K.

**13. Approve Use of Village Property-FBI National Academy Associates**

RESOLVED, that the FBI National Academy Associates are hereby authorized to use the Rogers Beach Pavilion on Friday, September 18, 2015 from 11:30 a.m. to 3:00 p.m. for a BBQ lunch for members.

**14. Approve Use of Village Property-Greater Westhampton Chamber of Commerce**

RESOLVED, that the Greater Westhampton Chamber of Commerce is hereby authorized to use Main Street between Library Avenue and Moniebogue Lane on Saturday October 10, 2015 from 10:00 a.m. to 6:00 p.m. with a rain date of Sunday October 11, 2015 for the 1<sup>st</sup> Annual Greater Westhampton Beach Harvest Festival.

**15. Authorize Police Officer to attend FBI Special Weapons & Tactics School**

RESOLVED, that Police Officer Ryan Lucas is hereby authorized to attend the FBI, NY Division Basic Special Weapons and Tactics School #15-1 from September 14 to September 25, 2015 at a cost of \$720.00 for lodging and incidental travel expenses.

**16. Authorize Notice to Bidders-Consulting Engineering Firm**

RESOLVED, that the Village Clerk-Treasurer is hereby authorized to post a Notice to Bidders for a Consulting Engineering Firm to prepare and submit a "Map & Plan" for the creation of a Sewer District to service primarily the Village's Main Street Business District and surrounding areas.

**17. Approve Warrant for September 2015**

RESOLVED, that the warrant for September 2015 in the amount of \$294,356.36 for the General Fund is hereby approved.

**18. Approve Memorandum of Agreement with AME**

RESOLVED, that the Board of Trustees hereby approves Memorandum of Agreement with the Department of Public Works Association of Municipal Employees, Inc.

**ATTORNEY UPDATE – ERUV LITIGATION**

**PUBLIC COMMENT**

**ADJOURN**

**DATED: September 3, 2015**

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**Elizabeth Lindtvit**  
**Village Clerk-Treasurer**

**Local Law to Amend Chapter 140 of the Village Code Entitled "Sales, Outdoor"**

WHEREAS, The Board of Trustees of the Village of Westhampton Beach has considered the proposal to amend Chapter Amending Chapter 140 of the Village Code Entitled "Sales, Outdoor" and

WHEREAS, on September 3, 2015, a public hearing was held to consider any testimony related to the proposed changes, at which time all persons either for or against the enactment were heard; and

WHEREAS, the project meets the criteria for classification as a Type II Action pursuant to 6 NYCRR Part 617.5 of the State Environmental Quality Review Act and therefore no further environmental review is required; now therefore be it

RESOLVED, that after due deliberation the Board of Trustees of the Village of Westhampton Beach finds that it is in the best interest of the Village to adopt the Local law as advertised and attached.

**DATED: September 3, 2015**

## Local Law to Amend Chapter 140 of the Village Code Entitled "Sales, Outdoor"

Be it enacted by the Board of Trustees of the Village of Westhampton Beach as follows:

### SECTION I. PURPOSE

The Board of Trustees has reviewed the provisions of Chapter 140 of the Village Code and finds that it does not set forth adequate criteria or procedures for having outdoor displays of merchandise or holding outdoor sales. As set forth below, the entire Chapter 140 will be deleted from the Code and replaced with a new Chapter 140, entitled "Sales and Displays, Outdoors."

### SECTION II. AMENDMENT TO CHAPTER 140

- (a) The existing Chapter 140 shall be deleted:
- (b) The underlined material shall constitute the new Chapter 140 as follows:

#### § 140-1. Outdoor sales and displays of retail merchandise.

With the exception of displays of merchandise permitted pursuant to other provisions of the Code, outdoor sales and displays of retail merchandise shall be prohibited unless there is a valid permit in effect issued pursuant to the provisions of this chapter.

#### § 140-2. Retail Outdoor Sales Permit.

A. Conditions. Applicants may apply for a retail outdoor sales permit to allow the display of merchandise provided they can meet the following conditions:

- (1) The permitted activity shall be conducted only by businesses having a Certificate of Occupancy for retail sales, or businesses with a Certificate of Occupancy for accessory retail sales, which is lawfully operating on the first floor of premises in the B-1, B-2, B-3 and HC Zoning Districts, directly in front of such business establishment, and by the entity which operates such establishment.
- (2) All sales shall be conducted inside the business establishment. No cash register or other facility for the exchange of currency or otherwise receiving payment for goods or services shall be permitted outdoors.
- (3) The outdoor display area must be shown on a plan that is submitted with the application.
- (4) Outdoor displays must be located thirty (30) inches or more from the public right-of-way line. In no event shall merchandise be displayed in the required sidewalk area, in the space between the required sidewalk area and the curb, in the area of the street used for parking or vehicular traffic, in front of the entrance or exit of any building, or within thirty (30) inches of any alley, walkway, or other pathway.
- (5) Only nonpermanent movable racks and shelves may be permitted in the outdoor display area.

(6) The permit holder shall be responsible for any damage caused by the display to any sidewalk or public property.

(7) Only items actually sold in the abutting business may be displayed.

(8) No signs or advertisements are permitted in outdoor display areas.

(9) Outdoor displays will not interfere with or prevent the orderly and reasonable use of adjacent properties.

(10) Outdoor displays will not impair the peace and comfort of adjacent properties.

(11) Outdoor displays shall be permitted during the period of April 15 to November 15 of each year.

(12) The holder of the outdoor display permit shall ensure that the display area is supervised to ensure compliance with all conditions.

(13) Outdoor displays of merchandise must be neat and orderly and must be arranged to ensure adequate space between any racks or shelves, no less than three feet in width.

(14) No outdoor lighting or live or mechanical music shall be permitted in connection with the outdoor display.

(15) Outdoor displays are only permitted between the daylight business hours of 9:00 a.m. and 8:00 p.m., and only during the times when the business with which they are associated is open to the public.

(16) Within the B1 district, outdoor sales and displays are presumptively incompatible. Any applicant within the B1 district will be required to overcome the presumption by demonstrating, in addition to the foregoing conditions, that (a) there is a minimum of five (5) feet of space between the front of the retail building and the public right of way and (b) there is no reasonable possibility of interference with the public's right of passage due to the outdoor display.

B. Procedures for Issuance of Permit: The Board of Trustees may issue a retail outdoor sales permit subject to the following procedures:

(1) An application for a permit shall be filed yearly with the Board of Trustees. The deadline for application is February 1. Application submission after this date cannot guarantee permit issuance by start of the season.

(2) A permit shall only be issued to the landlord or tenant of the property.

(3) A permit for an outdoor display shall be effective for the period of April 15 to November 15 of each year.



(4) A public hearing on the initial (special exception) permit application shall be held by the Board of Trustees.

(5) The Board of Trustees may waive the requirement for a public hearing on the renewal of the permit, provided that the renewal application is the same as the original application. If the renewal application contains only minor changes, the Board of Trustees may waive the requirement for a public hearing.

(6) Before acting on any application, including any renewal, the Board of Trustees shall receive and review a report and recommendation submitted by the Planning Board, Police Department and Department of Public Works. The Board of Trustees may also request additional information from the Village Engineer or any other consultant or professional, and if the Board of Trustees requests such additional information, the cost thereof shall be paid by the applicant prior to any determination by the Board of Trustees.

(7) It shall be the obligation of the holder of the permit to insure that the conditions set forth in § 140-2.A are complied with.

(8) The Board of Trustees may, in its sole discretion, deny the renewal of any permit based upon a violation or violations of the permit conditions occurring in the prior year, or if the Board of Trustees determines that the permit is in conflict with another permit or permits issued.

(9) The filing fee for the permit shall be determined from time to time by resolution of the Board of Trustees.

#### § 140-3. Outdoor displays for special events.

Nothing herein shall prohibit the Board of Trustees from issuing special permits that include outdoor displays to organizations sponsoring short-term or special events, provided that the display/event meets the following criteria:

(1) The outdoor display and/or sale shall be part of a program sponsored by a bona fide not-for-profit commercial or mercantile organization, herein referred to as the "sponsoring organization," which has been actively in existence for at least one continuous year prior to an application hereunder.

(2) Any special permit shall be for no greater period of time than two consecutive days, with appropriate provisions for alternate days because of inclement weather, with hours of display and/or sale subject to the approval of the Board of Trustees.

(3) No such permit shall be issued to any sponsoring organization more than twice per calendar year.

(4) The sponsoring organization shall pay a fee fixed and established from time to time by resolution of the Board of Trustees for each permit issued.

(5) The sponsoring organization shall include, with its application, the following information:

- (i) A list of its members.
- (ii) A list of its members who will participate in the sponsored program.
- (iii) A list of the nonmembers who will participate in the sponsored program.
- (iv) A list of the goods and the location where these goods are to be displayed and/or offered for sale.

#### § 140-4. Violations; Penalties for offenses.

A. Revocation: If a violation of this Chapter or any conditions hereof, including any special conditions of a permit issued hereunder, is noted by the Code Enforcement Officer, Police Department or Highway Department, they shall send a report to the Village Clerk indicating the date, time and location of said violation. The Village Clerk shall send notice to the property owner and tenant (if any) informing them of the alleged violation. Notice of a second violation to the property owner and tenant will cause the property owner and/or tenant to be directed to appear before the Board of Trustees and may result in revocation of the outdoor display permit. The property owner and/or tenant may provide testimony as to why a permit shall not be revoked. The permit shall be revoked unless the Board of Trustees finds, in its sole discretion, that adequate measures have been taken and will be taken to ensure that there is no reasonable possibility of further violations. A permit holder's failure to appear before the Board of Trustees shall automatically result in permit revocation.

B. In addition to the foregoing remedy of revocation, each violation of the provisions of this chapter, including the violation of any conditions in § 140-2.A or any special conditions of a permit issued hereunder, shall constitute a separate offense punishable by a fine not to exceed \$500 for the first offense and \$1,000 for each subsequent offense. Each day the violation continues shall constitute a separate offense.

### SECTION III. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.