

**TOWN OF LITCHFIELD  
SPECIAL TOWN MEETING MINUTES  
APRIL 8, 2022**

Upon receipt of Petition, signed by a significant number of electors and certified to the Selectman's office on March 18, 2022, a Special Meeting was convened on Friday, April 8, 2022 at the Litchfield Firehouse. There were 110 eligible voters in attendance. First Selectman Denise Raap called the meeting to order at 7:19 p.m. Lisa A. Losee, Town Clerk, served as Clerk.

Motion was made by Jonathan Tarrant and seconded by Burke Gibney that Cleve Fuessenich preside as Moderator. Motion was made and seconded to close nominations. It was then voted unanimously that C. Fuessenich serve as Moderator. Motion carried.

The Moderator stated that those eligible to vote at Town Meetings are (i) any person who is an elector of the Town of Litchfield and (ii) any citizen eighteen years of age or more who, jointly or severally, is liable to the Town of Litchfield for taxes assessed against him or her on an assessment of not less than One Thousand dollars on the last completed grand list of the Town, or who would be so liable if not entitled to an exemption under subdivision (17), (19), (22), (23), (25) or (26) of Section 12-81 of the General Statutes.

Motion was made by John Baker to waive the reading of the Call, seconded by Polly (Marana) Brooks. A copy was made available to all those in attendance and is attached as Exhibit A. The majority voted in favor, with one opposition, and the motion carried.

The Moderator read Item I.

Item I. To approve a sum of \$195,000.00 to Account 27-3104-52302 (Trees), the source of funds for such appropriation to be by way of transfer from Account 01-9501-58107 (Transfers Out), as recommended by the Board of Finance in Budget Transfer #1 for FY 2022/2023. A copy of the request was made available to all in attendance and is attached as Exhibit B.

J. Tarrant motioned to approve said transfer as recommended by the Board of Finance, seconded by Jeffrey Zullo. Jason Smith asked what account this was from and what it was for. D. Raap explained the transfer will be from the General Fund balance to clear dead Ash trees. There are approximately 1500 trees that must be taken down. \$85,000 is usually budgeted per year for hiring outside companies to do tree removal. Last year \$105,000 was added and this transfer of \$195,000 will meet \$300,000 needed to expedite the process of the removal of dead Ash trees for public safety on our roads. J. Zullo added that operating funds are typically not taken out of the Fund balance, however this is a temporary initiative that must be acted on as quickly as possible. J. Baker asked if wood could be sold to help with expense. J. Zullo replied that wood will be available for pick up by residents before the Town takes it away. Donna Pace commented that Ash makes great firewood and asked if announcements could be made on the Town website to notify residents of this option. D. Raap said she would. Dave Reynolds asked if there were liabilities to the Town if people were to use chainsaws. It wasn't known however J. Zullo explained that property owners would have the first right to trees on their property and others would need to show respect for that. Nancy Southard questioned why this transfer was not made from contingency and why this is being voted on now if it is for next year? D. Raap replied that it was being done early due to this town meeting being called. B. Gibney asked if this transfer had been approved by the Board of Finance. D. Raap answered yes, by both the Board of Selectmen and the Board of Finance. J. Zullo moved the

question, seconded by J. Baker. All voted in favor. It was then so voted unanimously in favor of approving said transfer as recommended.

The Moderator read Item II and stated that a petition to call this Special Town Meeting was received which contained 68 verified names of eligible electors and was certified March 18, 2022.

Item II: Shall the Town of Litchfield adopt the Right to Farm Ordinance? (Item requested by petition on file with Town Clerk.)

J. Zullo motioned to adopt said Right to Farm Ordinance as written, seconded by J. Baker. A copy of the ordinance was made available to all in attendance and is attached as Exhibit C. There was lengthy discussion.

Stephen Simonin stated that he was in favor of protecting local farms but was not in favor of this ordinance which had nothing to do with farming. He did not agree with the definition of 'farming'; questioned 'agri-tourism', bringing visitors to farms for enjoyment, and he believes proper permits do need to be required.

Yvonne Gaillyard questioned the open term of 'enjoyment; what would be allowed and not allowed under this definition of 'agri-tourism'.

Barbara Putnam, farm owner and co-sponsor of this ordinance, explained the need to help farms survive financially, and that 'enjoyment' did not mean events such as concerts, but agricultural activities such as hayrides, corn mazes etc. She stated that in 1981 CT adopted a Right to Farm statute that gives the Commissioner of Agriculture the right to decide what appropriate farm activities are and to set policy for local boards to follow. This is a policy statement with no enforcement. She referred to POCAD, the Plan of Conservation and Development adopted by the Town. Conversion of farmland into rural development would be detrimental. POCAD supports promoting farms as a destination for tourism. P & Z still decides what will be allowed.

Atty. Perley Grimes, has lived here since 1969. He lives on a farm and supports farming, however, he presented a letter and a 4-page memorandum that he previously sent to the Board of Selectmen stating his objections to this petition. They are attached as Exhibit D. He did not believe the issue is farming. In order for something 'to stand the test of the law, it has to be consistent with the rule of law'. He does not believe this was a proper purpose for a special town meeting to be called by petition under Gen. Statute No. 7-1 and asked if this was approved by town counsel. He felt the Board of Selectmen had no duty to accept said petition and strongly urged there should be no vote taken on this issue. He objected to the use of the word "shall", agrees with the P & Z Commission's opinion that this is policy and stated that this will create confusion. An ordinance cannot authorize a board or commission to do something, the authorization comes from State Statutes. All boards and commissions have authority written in state statutes. He believes this petition is invalid and asks for no vote until there is a written opinion from the Town Attorney. D. Raap stated that Town Counsel had reviewed the petition.

Atty. James Stedronsky represents the Farmers' Alliance. He stated that the petition was given in advance to Town Atty. Michael Rybak who reviewed it. The same was presented to Planning & Zoning and was reviewed by the Commission's attorney. Some changes, as recommended, were agreed upon. He argued that the issue was not about legalities but rather who we are as a Town-an issue of identity. He stated Litchfield is an agricultural town. He commented that POCAD was enacted by P & Z, that P & Z has the right to determine activities, and that this ordinance cannot tell P & Z what to do. "Agri-tourism" is not defined in statute but, as read in ordinance, is defined by the Legislative Research Counsel. This is not about 'events'.

J. Zullo added that POCAD was adopted in 2017 and is amended every 10 years.

Atty. Christine Horrigan referred to responses as emotional and did not see how few at town meeting could speak to the identity of this town of 8,000+. She stated that this ordinance actual undermines local

farming by the definition of 'local farm products.' This is not about local farms. She presented a printout of a map showing a 100 mile radius from the Town Hall location. It is attached as Exhibit E. This radius includes parts of Rhode Island, Massachusetts, New Hampshire, New York and Pennsylvania. Statutes define "local" and there is no need to duplicate that. She read the following from CT Gen. Sec. 22-38 (b) "Only farm products grown or produced in Connecticut shall be advertised or sold in Connecticut as "Connecticut-Grown" or "CT-Grown". Farm products grown or produced in Connecticut may be advertised or sold in Connecticut as "Native", "Native-Grown", "Local" or "Locally-Grown". Products produced 100 miles away cannot be called "local products."

Dean Birdsall stated his opinion that the nature of this ordinance is community; that it doesn't force changes but allows the agricultural community more support and options to be imaginative and to sustain. Saying 'yes' we support agriculture won't change anything, it just shows support.

Jodi Lambert stated she is very pro-farm but is concerned about the broad definition of 'agri-tourism' opening up doors.

Boris Sawula expressed opposition, believing it is an attempt to go against the P & Z mission statement. Elected P & Z Commissioners are authorized to protect our land including agricultural land. He sees this as a way for special interest groups such as the Farmers' Alliance to go around P & Z regulations. He asked what's to stop new self-interest alliances from forming, such as a restaurant alliance, which would create chaos. The law should be left up to P & Z.

James Keithan also feels this would be a way to go around decisions made by P & Z. He feels state statutes protect farms well and that 'agri-tourism' will allow for events to be held. He trusts the elected P & Z Board, the Commission has spoken.

Carol Bramley, P & Z Chairman, has issue with this ordinance. She stated that she researched a number of towns that have adopted right to farm ordinances and they all reinforce what statute says. This ordinance says more and looks like a way to go around zoning. The definitions pertaining to farming in current P & Z regulations are consistent with state statutes. P & Z Atty. Steve Byrnes is not in agreement with this ordinance. Right to Farm statutes support local farms. Agri-tourism activities are not pertinent to farming and local ordinance cannot tell the P & Z Commission what to do. She does not like the use of the word 'shall'. P & Z regulations address commercial farming as well as vineyard/farm use. We can support farms without this ordinance. This can't override local land use.

Polly Brooks grew up on farms, feels we are losing farms, and supports the Farmers' Alliance. She does not like the word 'shall', meaning no one can argue, or the word 'enjoyment', which means different things to different people. She believes in the need to bring issues before P & Z and also to talk and work with neighbors. Those who live by farms value the quiet and truly care about working lands. This sidesteps the P & Z process.

B. Gibney does not understand the concern with 'shall' & said it would not conflict with P & Z, the language makes that clear.

J. Zullo confirmed with Atty. Rybak via telephone that this was proper petition for town vote and stated that amendments could be made from the floor.

Kelly Devon clarified confusion over definition of 'farming and stated that it shall not include animals raised for fur harvesting such as mink and that cows, sheep and horses are not fur-bearing animals.

J. Smith motioned to close the debate and move the question, seconded by J. Baker. Vote was taken by hand with two counters appointed by the Moderator. 70 voted in the affirmative and 40 were opposed. Debate was closed and the question was moved. Motion carried.

The call was made for vote by paper ballot. B. Putnam, Democratic Registrar of Voters, and N. Southard, Republican Registrar of Voters, passed out ballots, provided ballot box for return, and counted ballots while the Clerk and Moderator observed the process. Results were as follows: YES: 60 and NO: 50 Motion carried and the Moderator declared to ordinance adopted.

J. Zullo motioned to close the meeting, seconded by D. Birdsall. The meeting adjourned at 8:57 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lisa A. Losee', written in a cursive style.

Lisa A. Losee, Town Clerk  
Town of Litchfield


**NOTICE OF SPECIAL TOWN MEETING  
TOWN OF LITCHFIELD  
TO BE HELD APRIL 8, 2022**

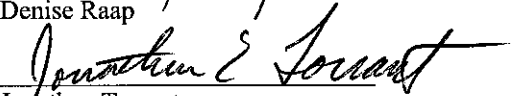
Notice is hereby given to the electors of the town of Litchfield and those qualified taxpayers lawfully entitled to vote in Litchfield Town Meetings pursuant to Section 7-6 of the Connecticut General Statutes that a Special Town Meeting will be convened on April 8, 2022, at 7:00 p.m. at the Litchfield Firehouse, 258 West Street, Litchfield, CT for the following purposes:

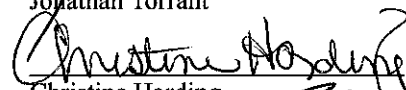
- I. To approve a sum of \$195,000.00 to Account 27-3104-52302 (Trees), the source of funds for such appropriation to be by way of transfer from Account 01-9501-58107 (Transfers Out), as recommended by the Board of Finance in Budget Transfer #1 for FY 2022/2023.
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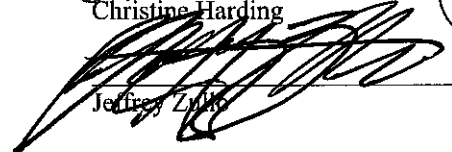
Copies of the above documents are available for public inspection in the First Selectmen's Office or on the town's website at: <https://www.townoflitchfield.org/>

Dated at Litchfield, Connecticut this first day of April, 2022.

  
Denise Raap

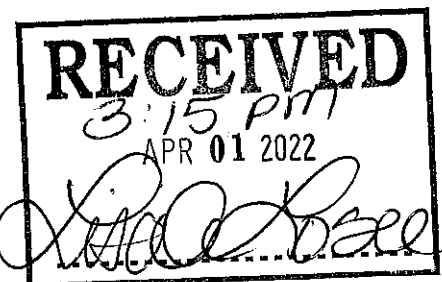
  
Jonathan Torrant

  
Christine Harding

  
Jeffrey Zylke

**A MAJORITY OF  
THE BOARD OF SELECTMEN  
TOWN OF LITCHFIELD**

Any persons requiring special assistance should contact First Selectman Denise Raap between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday at 860-567-7550.



# Memorandum

**Date:** March 15, 2022

**To:** Board of Selectman  
Board of Finance  
Town Meeting

**From:** Amaechi Obi, Finance Director

**Re:** Fiscal Year 2022/2023 Budget Transfer #1 for \$195,000.00

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The Finance Department is requesting the following transfer to be done. This transfer is per The Boards of Finance and Selectman to cover the cost of the Trees that will not be funded in the Operating budget. This is a 3 year project per the First Selectman of \$195,000 each year.

**FY 22/23 Budget Transfer Requested:**

	<b>Fund</b>	<b>Dept.</b>	<b>Object</b>	<b>(Decrease) Debit</b>	<b>(Increase) Credit</b>
FROM	01	9501	58107 Transfers Out(FB)	\$195,000.00	
TO	27	3104	52302 Trees		\$195,000.00

## **Right to Farm Ordinance**

### **Section 1. Declaration of policy**

Agriculture is a significant part of the Town of Litchfield's heritage and a vital part of the Town's future. Because Litchfield is now at risk of losing local farms and agricultural resources, it is necessary that the Town of Litchfield both protects and promotes farming and agricultural activities.

It is therefore the declared policy of the Town of Litchfield that the boards and commissions of the Town shall consistently work towards protecting agricultural land and promoting farming, agricultural operations, the sale of local farm products within the Town and Agri-Tourism, including activities on the farm to promote agriculture, provided that no activity shall conflict with any provisions of the Town's land use regulations.

Nothing herein shall be deemed to conflict with the Right to Farm provisions of Connecticut General Statutes § 19a-341 and the establishment of generally accepted farming practices by the State's Commissioner of Agriculture or his/her designee.

### **Section 2. Definitions.**

"Agriculture" and "Farming" are herein defined as set forth in Connecticut General Statutes, Section 1-1(q) as may from time to time be amended; but for purposes of this ordinance, "farming" shall not include the raising or harvesting of furbearing animals and wildlife. Nothing herein shall restrict the power of a local zoning authority under chapter 124."

"Agri-Tourism" shall mean an agriculturally based operation or activity that brings visitors to a farm for enjoyment, education, or active involvement in the activities or operations of the farm, whether or not a visitor pays to participate in such operation or activity.

"Local farm products" shall mean farm products grown or raised within a 100 mile radius of Litchfield.



CRAMER & ANDERSON LLP

Attorneys at Law

46 West Street  
P.O. Box 278  
Litchfield, CT 06759-0278

(860) 567-8718  
Fax (860) 567-4531

Perley H. Grimes, Jr.  
[pgrimes@cramer-anderson.com](mailto:pgrimes@cramer-anderson.com)

April 8, 2022

**Via Hand Delivery 4-8-22**

Board of Selectmen  
Town of Litchfield  
West Street  
Litchfield, CT 06759

Re: Objections to Right to Farm Petition Declaration

Dear Selectmen:

I write to you this evening as a resident of Litchfield. I have had over 40 years of experience as an attorney dealing with municipal law and land use issues.

In my opinion, there are two primary objections to the proposed ordinance regarding farming. I would like to read the reasons with respect to these two objections, which are attached.

Thank you for the opportunity to address you.

Very truly yours,

Perley H. Grimes, Jr.  
PHG:mcl  
Attachment

30 Main Street  
Danbury, CT 06810

14 Old Barn Road  
Kent, CT 06757

51 Main Street  
New Milford, CT 06776

38C Grove Street, 1st Floor  
Ridgefield, CT 06877

6 Bee Brook Road  
Washington Depot, CT 06794



## MEMORANDUM

TO: LITCHFIELD BOARD OF SELECTMEN

April 8, 2022

FM: Perley H. Grimes, Jr.

### OBJECTION TO RIGHT TO FARM PETITION DECLARATION

#### Issue One: Is the "policy" ordinance authorized?

C.G.S. § 7-1 requires a "Proper Purpose" for a Special Town Meeting by petition for any business to come before a Town Meeting.

Is a Declaration of Policy a proper purpose? I do not believe this is for a "Proper Purpose" in the legal sense of C.G.S. § 7-1 and cases interpreting the same.

Do you have a written opinion of Town Counsel that this proposal is for a "Proper Purpose?"

Municipal Law 101 provides that towns like Litchfield only have authority to take action on matters that are "expressly authorized by statute or necessarily implied from the grant thereof." Where is the grant of authority in the statutes to do this; to wit, adopt a Declaration of Policy Ordinance?

C.G.S. § 19a-341 protects farms from nuisance claims (see Exhibit A) and does not authorize this "Declaration of Policy."

Absent statutory authorization, the Board of Selectmen has no duty to warn a Special Town Meeting. A Declaration of Policy Ordinance would be an invalid ordinance. Ordinances that are valid usually state within the ordinance itself the statute that authorizes the ordinance.

#### Issue Two: The PZC Regulates Uses of land.

Does the proposed ordinance conflict with the authority given to the PZC to regulate land use? The answer is "yes." The proposal declares a policy that Boards & Commissions "shall consistently work towards...protecting farmland...and "agri-tourism."

It defines agri-tourism as "operation or activity that brings visitors to a farm for enjoyment, education, or active involvement in the activities or operations of the farm, whether or not a visitor pays to participate in such operation or activity."

An "activity" is a use. A use of land can only be regulated by zoning under Chapter 124 of the statutes.

I agree with the PZC's position that this "Declared Policy" conflicts with the PCZ's authority to regulate uses on a farm.

An ordinance not authorized by Chapter 124 cannot direct PZC in any way to regulate land uses.

This proposal would promote confusion because it purports to tell the PZC what it must "(shall)" do; to wit, "work consistently towards" promoting "agri-tourism" (see definition). This policy purports to direct the PZC as to what it must do. That direction is not authorized by any statute and is invalid.

Would it be a valid ordinance to declare a policy that real estate taxes be abated if the property owner retires? No, because no CT statute on taxation authorizes such.

Would it be a valid ordinance to declare a policy that Public Works Departments must plow streets after 1 inch of snow, or chip seal town roads every 3 years? No, because no CT statute authorizes such.

Ordinances in Litchfield must be adopted by a Town Meeting vote. I am unaware that there is any express statutory authorization for a Town Meeting vote to adopt an ordinance directing a Town Board, Commission or Department what to do.

"Policies" by definition are internal guidelines or procedures established by various Boards, Commissions or Departments. Absent express statutory authorization, those Boards, Commissions or Departments cannot be told by an ordinance what they "shall" do.

Respectfully submitted,

*Perley H. Grimes, Jr.*

## EXHIBIT A

Sec. 19a-341. Agricultural or farming operation not deemed a nuisance; exceptions. Spring or well water collection operation not deemed a nuisance. (a) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Energy and Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Energy and Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

(b) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances, no operation to collect spring water or well water, as defined in section 21a-150, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable noise from equipment used in such operation provided the operation (1) conforms to generally accepted practices for the collection of spring water or well water, (2) has received all approvals or permits required by law, and (3) complies with the local zoning authority's time, place and manner restrictions on operations to collect spring water or well water.

(c) The provisions of this section shall not apply whenever a nuisance results from negligence or wilful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

(P.A. 81-226; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; June 18 Sp. Sess. P.A. 97-11, S. 53, 65; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and

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## EXHIBIT E

## Draw a circle

**Address**

74 West Street, Litchfield, CT 06759

### Radius

100.00

Miles

**Circle**

AAAAAA

### Border

000000

☒ Only Show Border

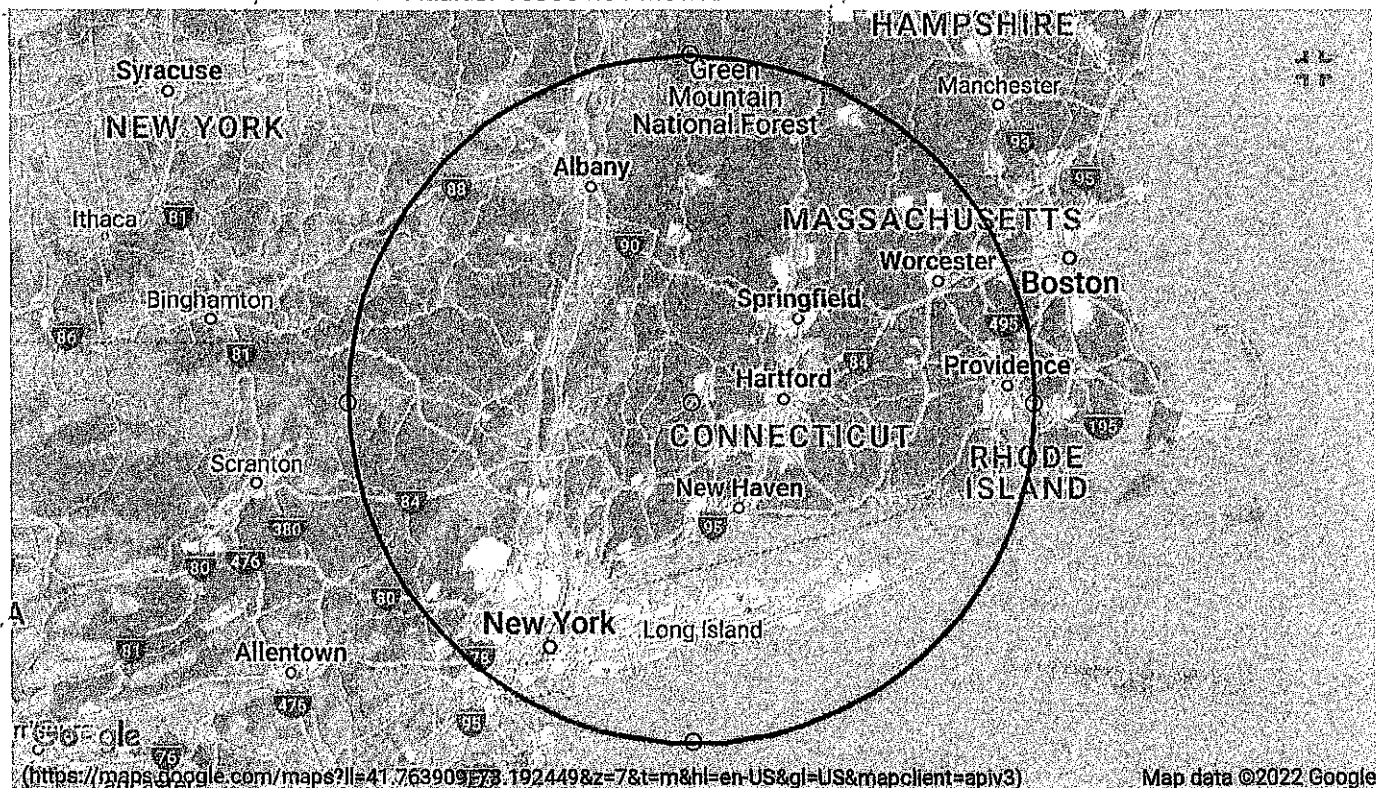
Zoom to Address

**New Circle**

Edit Circle

### Remove Circle

Position: 41.747625,-73.192449 Radius: 160934.00 Meters



Return to this radius map here, just save this link

<https://www.mapdevelopers.com/draw-circle-tool.php?circles=%5B%5B160934%2C47.7859804%2C->

97 5753906%2C%22%23AAAAAA%22%2C%22%23000000%22%2C0%5D%2C

✓ 0934%2C41.7476248%2C-73.1924486%2C%22%23AAAAAA%22%2C%22%23000000%22%2C0

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