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**[HISTORY: Adopted by the electors of the Town of Winchester 4-23-1960. Amendments noted where applicable.]**

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ARTICLE I  
INCORPORATION

**Section 101. INCORPORATION.**

All the inhabitants dwelling within the territorial limits of the Town of Winchester as the same now are or may hereafter be established by law shall constitute forever hereafter to be a body politic and corporate under the name of the "Town of Winchester", hereinafter called the Town, and as such shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by said Town and not inconsistent with the provisions of this Charter, the additional powers and privileges herein conferred and all powers and privileges conferred upon towns under the general laws of the State of Connecticut.



**Section 102. FORM OF GOVERNMENT.**

- A. **Legislative Body.** The legislative body of the Town shall be a combination of a Town Meeting and a Board of Selectmen, comprised of seven electors of the Town. Each body shall have such powers as the Charter herein prescribes.
- B. **Chief Executive Office.** The Chief Executive Officer of the Town shall be a Town Manager, referred to herein as "Manager", appointed by the Selectmen, who shall have such powers and duties as the Charter herein prescribes.
- C. **Mayor.** The First Selectman of the Town shall also bear the title of "Mayor" and shall have such duties and powers as the Charter herein prescribes.
- D. **Exercise of Power.** All powers of the town shall be exercised in the manner prescribed by the Constitution of the State of Connecticut, by the General Statutes, or by this Charter; or, if the manner is not so prescribed, then in such manner as may be prescribed by resolution or ordinance.
- E. **Alternate Designation as Winsted.** Any board, commission or agency of the Town may, with consent of the Board of Selectmen, use the appellation "Winsted" which, when so used, shall be considered as synonymous with "Town of Winchester".

**Section 103. RIGHTS AND OBLIGATIONS.**

By virtue of this Charter said Town shall be absolutely vested with, possess and enjoy all lands, tenements, hereditaments, property and rights, chooses in action and estates, which at the effective date of this Charter were vested in said Town. The said Town shall continue to be liable for all debts and obligations of every kind for which said Town shall have been liable on said date, whether accrued or not. Nothing herein shall be construed to affect the right of said Town to collect any assessment, charge, debt or lien for the construction, alteration or repair of any sewer, pavement, sidewalk curb or gutter, or for any other public improvement or service. If any contract has been entered into by said Town prior to the effective date of this Charter or any bond or undertaking has been given by or in favor of said Town which contains provision that the same may be enforced by any officer, board, commission, bureau or department therein named, which is hereby abolished, such contract, bond or undertaking shall be in no manner impaired but shall continue in full force and effect and the powers conferred and the duties imposed with reference to the same upon any such officer, board, commission, bureau or department shall, except as otherwise provided in this Charter, thereafter be exercised and discharged by the Board of Selectmen.

**Section 104. POWERS OF THE TOWN.**

In addition to all powers granted to towns under the Constitution and the Connecticut General Statutes, the Town shall have all powers specifically granted by this Charter and Sections 7-148 and 7-194, of the Connecticut General Statutes as may be from time to time amended, and all powers fairly implied in or incident to the powers expressly granted, and all other powers incident to the management of the property, government and affairs of the Town, including the power to enter contracts with the United States, State of Connecticut, or any political subdivision thereof for services, funds, and the use of facilities, the exercise of which is not expressly forbidden by the Constitution and general law of the State of

Connecticut. Further, the Town shall have the power to manage, regulate, and control the finances and property, real and personal, of the Town and to regulate and provide for the sale, conveyance, transfer and release of town property, and to provide for the execution of contracts and evidences of indebtedness issued by the Town. The enumeration of particular powers in this and any other section of this Charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

#### **Section 105. EXECUTION OF INSTRUMENTS.**

All contracts, deeds, bonds and other instruments requiring assent of the Town shall be signed by the First Selectman or Town Manager as designated by resolution of the Board of Selectmen.

#### **Section 106. EXISTING ORDINANCES.**

All by-laws, ordinances, rules and regulations of the Town of Winchester in force on the date of the adoption of this Charter, which are not inconsistent with the provision of this Charter, shall be and remain in full force and effect as the by-laws, ordinances, rules, and regulations of the Town of Winchester. They shall be in force until they are altered, amended, or repealed as provided by this Charter. All powers, rights and duties vested in and imposed upon the officers, boards, commissions, departments and agencies of the Town of Winchester, by said by-laws, ordinances, rules, and regulations are hereby vested in and imposed upon the corresponding officers, boards, commissions, departments and agencies of the Town of Winchester provided for by this Charter.

## **ARTICLE II ELECTIONS**

#### **Section 201. ELECTION DAY.**

All elections for town officers shall be held on the Tuesday after the first Monday in November of each odd numbered year.

#### **Section 202. ELECTIVE OFFICERS.**

At each state election, there shall be elected two (2) Registrars of Voters.

At each town election, there shall be elected the following:

- A. **Board of Selectmen.** Seven (7) Selectmen, each for a term of two (2) years.
- B. **Town Clerk.** A Town Clerk for a term of two (2) years or such period as may be specified by the General Statutes.
- C. **Constables.** Four (4) constables, each for a term of two (2) years.
- D. **Board of Education.** There shall be a Board of Education consisting of nine (9) members to be elected as follows:

- i. At the biennial election to be held in 1987, there shall be elected four (4) members for a term of four (4) years.
- ii. At the biennial election to be held in 1989, there shall be elected five (5) members, each for a term of four (4) years.
- iii. Thereafter, there shall be elected for terms of four (4) years at each biennial election that number of members necessary to replace the members whose terms expire, each for the term of four (4) years from the date of election.

### **Section 203. TERMS OF ELECTED OFFICERS.**

The terms of elected office shall be from the date elected until the successor shall be elected and qualified, except that the Town Clerk shall hold office for two (2) years from the first Monday of January succeeding the election until his successor shall be elected and qualified, and the Registrars of Voters shall hold office for the term of two (2) years from the Wednesday following the first Monday of the January next succeeding their election until the Wednesday following the first Monday of the third January succeeding their election.

### **Section 204. POWERS OF ELECTED OFFICERS.**

All elected officers shall have the powers as vested in them by the Connecticut General Statutes unless specifically provided otherwise by this Charter.

### **Section 205. MINORITY REPRESENTATION.**

Minority representation on any elective or appointive board, council, commission, committee or similar body of the Town shall be determined in accordance with the provisions of Section 9-167a of the General Statutes, Revision of 1958, as amended. As provided in said Section, the maximum number on any such board, commission, committee or similar body who may be members of the same political party shall be as specified in the following table:

| <b>TOTAL MEMBERSHIP</b> | <b>MAXIMUM FROM ONE PARTY</b>  |
|-------------------------|--------------------------------|
| 3                       | 2                              |
| 4                       | 3                              |
| 5                       | 4                              |
| 6                       | 4                              |
| 7                       | 5                              |
| 8                       | 5                              |
| 9                       | 6                              |
| More than 9             | Two-thirds of total membership |

**Section 206. QUALIFICATIONS.**

All elective officers shall be residents and electors of the Town, and if any such officer at any time shall cease to be a resident of the Town, his office shall be vacated.

**Section 207. VOTES NECESSARY FOR ELECTION.**

For each elective office, the officer or officers who shall receive the greatest number of votes shall, subject to Section 205 above, and subject to the provisions of the Connecticut General Statutes, be declared elected.

**Section 208. TIE VOTES.**

Whenever there shall be a tie vote for any office, a new election for such office shall be held on the ensuing third Tuesday of November and only those candidates whose votes were tied shall then be voted for.

**Section 209. VACANCIES IN ELECTIVE OFFICES.**

Vacancies in municipal offices, from whatever cause arising, shall be filled according to the provisions of Connecticut General Statutes Section 9-220 and 10-219 as may from time to time be amended.

**Section 210. NOMINATION OF CANDIDATES.**

The mode of nomination of candidates for all elective offices of the town shall be in accordance with the General Statutes.

**Section 211. WITHDRAWAL OF NOMINATION.**

Any person whose name has been presented pursuant to the provisions of this Article as a nominee for any office, may, not later than fifteen (15) days before the election for which he is nominated, cause his name to be withdrawn from nomination, in accordance with the General Statutes.

**Section 212. MODERATORS.**

At meetings for the election of officers, the moderators shall be chosen by the Registrar of Voters in the manner prescribed by the General Statutes.

ARTICLE III  
**BOARD OF SELECTMEN**

**Section 301. POWERS OF SELECTMEN.**

Unless limited by this Charter or by the Connecticut General Statutes, the Board of Selectmen shall by resolution or ordinance exercise all powers conferred by Section 7-194 of the Connecticut General Statutes (as may be amended from time to time) upon towns and shall by ordinance or resolution, specifically have the power:

- A. To regulate the manner of warning meetings of said Board of Selectmen, and the times and places of holding its meetings, not otherwise provided in this Charter, or required by the Connecticut General Statutes, and to prescribe the order of business of such meeting;
- B. To provide the mode of keeping the accounts of said Town, and auditing the same;
- C. To adjust claims against said Town;
- D. To defend actions against said Town;
- E. To prosecute in the name of said town any proper action upon any contract or liability in which said town may be interested; and for all fines, penalties, costs and expenses imposed by this Charter, or by any ordinance or by-law of the town, and to enforce the collection thereof;
- F. To define the duties of all officers and employees of said Town, when not expressly fixed and defined by the provisions of this Charter;
- G. To prescribe the amount of bonds to be given by the several Town Officers;
- H. To confer upon the several Town Officers all proper authority to enable them to execute and discharge their powers and duties;
- I. To organize and regulate a volunteer fire department and to provide for the enlistment of fire companies and for the equipment, regulation, and control of fire companies;
- J. To procure and maintain suitable and proper fire apparatus;
- K. To provide hydrants at such points as they may deem expedient;
- L. To provide a suitable supply of water for fire purposes;
- M. To lay out, alter, establish, and make highways, streets, parks, public grounds, walks, gutters, and to repair and keep the same open and safe for public use and travel and free from encroachment and obstruction;
- N. To provide for and regulate public lights, lamps, and lamp posts and the location thereof;
- O. To prosecute all condemnation proceedings concerning the acquisition of property or property rights on behalf of the Town in accordance with the provisions of the Connecticut General Statutes; and

- P. To regulate and control abandoned and unregistered boats and motor vehicles.

### Section 302. ORDINANCES.

In addition to the powers set forth in Section 301, the Board of Selectmen shall have the power to enact, amend, or repeal ordinances for the preservation of good order, peace, health and safety of the town and its habitants, so long as such ordinances are not inconsistent with this Charter or the General Statutes of the State; and, not limiting the powers of the foregoing, the Board of Selectmen shall specifically have the power to ordain the following:

- A. **Boards and Commissions.** The Board may create or abolish boards, commissions, departments and offices, other than those established by this Charter.
- B. **Penalties.** The Board may prescribe in such by-laws and ordinances, penalties and fines for breach of the same as they may deem proper, not exceeding \$100.00 for any one offense, imprisonment not to exceed thirty days, or both.
- C. **Governmental Contracts.** The Board of Selectmen may, upon recommendation of the Manager, contract for services and the use of facilities of the United States or the State of Connecticut for any political subdivision thereof, or may, by agreement, join with any such political subdivisions to provide services and facilities, in which case, departments and offices created by this Charter, the functions of which are transferred into the terms of said contract, or agreement may, by ordinance, be abolished.
- D. **Regulation of Boards.** The Board of Selectmen may regulate the internal operation of boards, commissions and officers which it fills by appointment, the Registrars of Voters, the Town Clerk, and the offices and employees appointed by it.
- E. **Charges and Fees.** The Board of Selectmen may set charges or fees to be made for services by the town, or for the execution of powers vested in the Town as provided in this Charter.

### Section 303. ENACTMENT OF ORDINANCES.

Before the enactment, amendment or repeal of any by-law or ordinance, the Board of Selectmen shall cause to be published twice in a newspaper having a substantial circulation in the Town of Winchester a notice setting forth the subject matter of the proposed ordinance. Said notice shall be published once a week for two (2) consecutive weeks not later than two (2) days before the enactment, amendment, or repeal of the ordinance. After the board has enacted, amended, or repealed any ordinance, said ordinance shall become operative fifteen (15) days after the entire text of the same shall have been published once in a newspaper having a substantial circulation in said Town. Any ordinance made by the Board of Selectmen may be amended, or repealed by them in the manner in which by-laws or ordinances are enacted. The form of all by-laws and ordinances shall be as follows: "Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut".

**Section 304. ENFORCEMENT OF ORDINANCES.**

In enforcing ordinances passed by the Board of Selectmen in any complaint or information instituted pursuant to the provisions of this Charter, it shall not be necessary to recite at length the by-law or ordinance for the breach of which such complaint or information is instituted, but it shall be a sufficient description of the offense for such complaint or information to set forth the act complained of and to allege the same to have been done contrary to the ordinances of the Town of Winchester in such case provided.

**Section 305. TOWN MEETING ON REFERENDUMS, ORDINANCES AND RESOLUTIONS.**

- A. At any time prior to the effective date of any ordinance or resolution adopted by the Board of Selectmen, the electors of the Town shall have the power to approve or reject such ordinance or resolution as herein provided.
- B. A petition seeking the approval or rejection of such ordinance or resolution may be filed by an elector of the Town with the Town Clerk, and, except as provided herein, such petition shall conform to the requirements of Connecticut General Statutes Section 7-9, as amended. Said petition shall contain the full text of the ordinance or resolution, shall request the reference of such ordinance or resolution to the electors of the Town, and shall be signed in ink or indelible pencil by qualified electors of the Town in a number equal to five (5) percent or more of the total number of the qualified electors of the Town appearing on the latest effective official list of the Registrar of Voters. Said petition shall be accompanied by affidavits signed and sworn to by each circulator as provided for under Connecticut General Statute Section 7-9, as amended.

The petition shall be filed with the Town Clerk, who shall within fifteen (15) days or within such time period as may be set by the Connecticut General Statutes determine whether the petition and the affidavits to be sufficient by comparing the names of the electors appearing thereon with the latest effective official list of the Registrar of Voters. Upon the filing of such petition with the Town Clerk, the effective date of such ordinance or resolution shall be postponed to the certification by said Town Clerk that the petition is not sufficient or to the certification of the results of such referendum. If the Town Clerk determines the petition and the affidavits to be sufficient, said Town Clerk shall so certify said petition to the Board of Selectmen at its next regular meeting. After receipt of such certification, the Board of Selectmen shall submit such petition to the electors at a Special Town Meeting, which said Board must call, to be held not less than thirty (30) days nor more than forty-five (45) days after receipt of such certified petition by said board. A majority vote of the electors to repeal any such ordinance or resolution shall not become effective unless a total of at least five (5) percent of the electors entitled to vote on the questions shall have voted.

- C. When it is proposed to undertake any public work or improvement, purchase any implement or machinery, construct any building or buildings or appurtenances thereof, or additions thereto, or any ordinance or resolution proposing a special appropriation, which action involves the expenditures of any amount exceeding nine one hundredths of one percent (0.09%) of "Total Expenditures" in the latest approved town budget in any fiscal year and which exceeds the amount provided for in the budget or for which an appropriation has not been included in the budget, such expenditure shall not be

made or undertaken until the same has been submitted to the electors of the Town at Special Town Meeting for purposes of calling a referendum. Said referendum shall be held on a date within one (1) week of said Special Town Meeting. Such expenditure shall not be made or undertaken until the same shall have been approved by the electors of the Town by vote at said referendum.

- D. The following ordinances and resolutions are specifically exempted from electoral challenge as set forth in this Section: a resolution fixing the tax rate; a resolution making an appointment or removal; an ordinance making a special appropriation of less than nine one hundredths of one percent (0.09%) of "Total Expenditures" in the latest approved town budget in any fiscal year; any emergency ordinances as defined in this Charter.
- E. **Form of Petition for Referendum.** The form of petition for referendum shall be as follows:

Warning: All signatures shall be in ink or indelible pencil.

We, the undersigned electors of the Town of Winchester, hereby present this petition under the provisions of the Charter of the Town of Winchester [here insert the words "requesting the repeal of", or "requesting the approval of"] the following resolution [here insert the text of the resolution], and we certify that we are electors of the Town of Winchester residing at the addresses set opposite our names and that we have not signed this petition more than once. (Here follow the signatures and addresses.)

Signature

Number

Street

- F. **Form of Affidavits of Circulators to Accompany All Petitions.** The affidavit of the circulators of any petition which shall accompany such petition shall be in the following form:

\_\_\_\_\_ County, State of Connecticut [here insert name and residence of the circulator of the petition], being duly sworn, depose and say that he is an elector of the Town of Winchester, and that he is the circulator of the foregoing petition containing [here insert the number of signatures on such petition] signatures, that each person whose signature appears on this page signed the same in person in my presence, that I either know each such signer or that such signer satisfactorily identified himself or herself to me, that they are the signatures of the persons whose names they purport to be, and that all the signatures on said page(s) were obtained not earlier than six (6) months prior to the filing of said petition.

Signed \_\_\_\_\_

*Circulator*

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Notary Public*

### Section 306. INITIATIVE.

- A. The electors of the Town, acting at a Special Town Meeting, shall have the power to propose to the Board of Selectmen any ordinance, except for the following: Any



ordinance appointing or removing officials or employees of the Town; specifying the compensation or hours of work of officials or employees of the Town; adopting the annual budget; authorizing the levy of taxes; fixing the tax rate.

Any such petition may be filed by an elector of the Town with the Town Clerk, and, except as provided herein, such petition shall conform to the requirements of Connecticut General Statute Section 7-9, as amended. Said petition shall contain the full text of the ordinance proposed and shall be signed in ink or indelible pencil by qualified electors of the Town in a number equal to two (2) percent or more of the total number of the qualified electors of the Town appearing on the latest effective official list of the Registrar of Voters. Said petition shall be accompanied by affidavits signed and sworn to by each circulator as provided for under Connecticut General Statute Section 7-9.

The petition shall be filed with the Town Clerk, who shall, within fifteen (15) days or within such time period as may be set by the Connecticut General Statutes, determine whether the petition and the affidavits are sufficient by comparing the names of the electors appearing thereon with the latest effective official list of the Registrar of Voters, and if they shall be sufficient he shall so certify said petition to the Board of Selectmen at its next regular meeting. The Board of Selectmen shall within sixty (60) days after receipt of such certified petition either adopt the proposed ordinance after a public hearing, or submit the same to the electors at a Special Town Meeting to be held within ninety (90) days from the date of the Town Clerk's certification, provided that if a General Election or Town Election is to occur within four (4) months of such certification, the ordinance may be submitted at such election. The ordinances shall be adopted if a majority of those vote in favor of the ordinance and such majority consists of four (4) percent or more of the total number of qualified electors of the Town, as determined by the latest effective official list of the Registrar of Voters.

**B. Form of Petition for Initiative.** The form of petition for initiative shall be as follows:

Warning: All signatures shall be in ink or indelible pencil.

We, the undersigned electors of the Town of Winchester, hereby present this petition under the provisions of the Charter of the Town of Winchester initiating the following ordinance, [here insert the text of the ordinance], and we certify that we are electors of the Town of Winchester residing at the addresses set opposite our names and that we have not signed this petition more than once. (Here follows the signatures and addresses.)

Signature

Number

Street

**C. Form of Affidavits of Circulators to Accompany All Petitions.** The affidavit of the circulators of any petition which shall accompany such petition shall be in the following form:

\_\_\_\_\_ County, State of Connecticut [here insert name and residence of the circulator of the petition], being duly sworn, depose and say that he is an elector of the Town of Winchester, and that he is the circulator of the foregoing petition containing [here insert the # of signatures on such petition] signatures, that each person whose signature appears on this page signed the same in person in my presence, that I either know each such signer or that such signer satisfactorily identified himself or herself to me, that they are the signatures of the persons whose names they purport to be, and that all the signatures on said page(s) were obtained not earlier than six (6) months prior to the filing of said petition.

Signed \_\_\_\_\_

Circulator

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

### **Section 307. EMERGENCY ORDINANCE.**

An emergency ordinance shall be only for the immediate preservation of the public peace, health and safety, shall contain an explicit statement of the nature of the emergency, and shall be adopted by not less than five (5) affirmative votes of the Board, and in no event shall the annual budget or any appropriation, except as hereinafter provided, constitute an emergency ordinance. For the purpose of meeting an emergency as herein defined, or to prevent the breakdown of any essential service rendered by a department, board, commission, or agency of the Town, the Board of Selectmen by an affirmative vote of not less than five of its members may appropriate, notwithstanding any other provision of this Charter, a sum not to exceed Five Hundred Thousand Dollars (\$500,000.00) in any one fiscal year. Every such emergency ordinance including any amendments thereto, shall automatically stand repealed at the termination of the sixty-first day following passage of said ordinance.

### **Section 308. ROBERT'S RULES OF ORDER.**

Subject to the provisions of this Charter, the Board of Selectmen shall follow Robert's Rules of Order and shall designate a parliamentarian.

### **Section 309. MEETINGS.**

- A. **First Meeting.** The first meeting of the Board of Selectmen shall be held at 10:00 a.m. the morning next following their election.
- B. **Regular Meetings.** Regular meetings shall be held twice in each month on dates to be fixed by ordinance, at which meetings any elector, property owner, or resident of said Town may appear and be heard as to any business of said Town.
- C. **Special Meetings.** The First Selectman shall have the power to call a special meeting of the Board of Selectmen at any time and he shall call such special meeting whenever requested to do so by two members of said Board. The call for such special meeting shall be served upon or mailed to each member of said Board at least twenty-four (24)

hours before the hour of the meeting; but the lack of a call or the insufficiency of the server shall not invalidate any meeting of the Board when all members shall be present and none of them objects to such lack of service.

- D. **Voting at Meetings.** At any meeting of said Board, any member may demand an "aye" and "nay" vote on any question to be voted upon and such vote shall be recorded in the minutes of the Clerk.
- E. **Quorum.** Four (4) members of said Board shall constitute a quorum for the transaction of any business.
- F. **Adjournment.** All meetings of said Board may be adjourned from time to time as said Board may determine.
- G. **Clerk.** The Town Clerk, in addition to powers and duties provided in the Connecticut General Statutes, shall be the Clerk of the Board of Selectmen. Within ten (10) days after each meeting of the Board of Selectmen he shall prepare and have available in his office for public inspection the minutes of any such proceedings, including the vote of each member upon any issue before the Board of Selectmen as required by the Connecticut General Statutes. Said minutes shall be presented to the Board of Selectmen for approval at the next meeting of the Board of Selectmen. Within twenty-four (24) hours following approval of the minutes by the Board of Selectmen, the Clerk shall record said minutes in a record book and shall certify said minutes to be a true and accurate record. Such record book shall be available for public inspection in the office of the Town Clerk at all reasonable times. The Board of Selectmen may furnish the Town Clerk the necessary secretarial assistance to perform the duties prescribed by this section and fix the compensation therefor.

#### **Section 310. ANNUAL SALARY.**

The annual salary of each selectman and the mayor shall be One Thousand Dollars (\$1,000.00) and One Thousand Five Hundred Dollars (\$1,500.00) respectively.

#### **Section 311. CONFLICT OF INTEREST.**

No member of the Board of Selectmen during the term of office for which he is elected and for two (2) years thereafter, shall be appointed to any office of profit under the government of the Town of Winchester.

#### **Section 312. AUTOMATIC VACANCY.**

The office of any Selectman failing to attend three (3) consecutive regular meetings shall be declared vacant unless such failure is due to reasons of health, or for any other legitimate reasons, or unless he shall be excused by a majority of the Board.

#### **Section 313. SPECIAL TOWN MEETING.**

The Board of Selectmen may call a Special Town Meeting for purposes of a referendum or initiative or for any purpose not inconsistent with the provisions of this Charter.

At any town meeting, the Mayor shall preside unless a moderator is designated by a majority vote of the Board.

At any Special Town meeting where a resolution is introduced to authorize the issuance of any bonds or notes, the meeting shall be adjourned after an opportunity for discussion of such resolution to a referendum to be held on a date within one (1) week thereafter. The referendum shall be conducted according to the provisions of Chapter 90 of the General Statutes.

#### **Section 314. PRESERVATION OF PEACE.**

The Board of Selectmen shall have the power to preserve the peace in said town, and may suppress all tumults and riots by force if necessary; and may at all times require, in the performance of said duty, the aid of any sheriff, constable, or policeman, or all of them together, or of any of the legal voters of said town, and may call upon the Governor for the assistance of the State Militia.

#### **Section 315. APPOINTMENTS BY THE BOARD OF SELECTMEN.**

In addition to the appointment of Town Manager pursuant to Section 501, the Board of Selectmen shall also appoint by an affirmative vote of a majority of the total membership of the Board of Selectmen.

- A. **A Town Attorney**, to be appointed within ninety (90) days of each biennial election who shall hold office at the pleasure of said Board. The Board of Selectmen may further appoint at any time, one or more Special Attorneys, each to serve at the pleasure of said Board.
- B. **A Park and Recreation Board** consisting of nine (9) to thirteen (13) members each to serve for a term of not more than six (6) years. Terms shall expire in the month of April.
- C. **A Board of Tax Review** consisting of three (3) members each for a term of not more than three (3) years. Terms shall expire in the month of October.
- D. **An Economic Development Commission** consisting of seven (7) regular members and four (4) alternate members each for a term of not more than five (5) years. Terms shall expire in the month of April.
- E. **A Zoning Board of Appeals** consisting of five (5) members and three (3) alternate members each for a term of not more than five (5) years. Terms shall expire in the month of December.
- F. **Water Pollution Control Authority** consisting of five (5) members each to serve for a term of not more than five (5) years. Terms shall expire in the month of June.
- G. **Inland Wetlands Commission** consisting of nine (9) members each to serve for a term of not more than three (3) years. Terms shall expire in the month of April.
- H. **Winchester Housing Authority** consisting of five (5) members to serve as set forth in the Connecticut General Statutes. Terms shall expire in the month of April.

- I. **Planning and Zoning Commission** consisting of five (5) members and three (3) alternate members each to serve for a term of not more than five (5) years. Terms shall expire in the month of October.
- J. **A Fire Chief** solely upon the recommendation of the Fire Department, to serve a term of not more than five (5) years. Terms shall expire in the month of September.
- K. **An Ethics Commission** consisting of five (5) members each to serve a term of not more than three (3) years. Terms shall expire in January.

The Board of Selectmen shall fill any vacancy in any such office for the unexpired portion of their term, except that the Town Manager shall fill vacancies on the Economic Development Commission. Members of either the Planning and Zoning Commission or the Zoning Board of Appeals must also be an elector of the Town of Winchester. Other than members of the Planning and Zoning Commission, the Zoning Board of Appeals, and the Town Attorney, all appointments to offices and Commissions under this section shall be residents of the Town.

#### **Section 316. REPORTS OF BOARDS AND COMMISSIONS.**

The Board of Selectmen shall require and receive annually, plans of action from various town boards and commissions; and shall have general supervisory control over the coordination of action by various commissions. The Board of Selectmen shall authorize and provide for the training of individual members of the various town boards and commissions in order to permit them to effectively carry out the stated purposes of each such board or commission. The Board of Selectmen shall appropriate sufficient funds for such training as it deems necessary.

### **ARTICLE IV FIRST SELECTMAN**

#### **Section 401. ELECTION.**

The Board of Selectmen shall, at its first meeting as herein provided, choose by ballot one of its members who shall be the First Selectman of said town for the two years next ensuing and shall also bear the title of Mayor.

#### **Section 402. POWERS AND DUTIES.**

The First Selectman shall perform such duties as are imposed upon him by the General Statutes, except as otherwise provided by this Charter, and by the ordinances or by-laws of the Town of Winchester as provided in this Charter. Notwithstanding Robert's Rules of Order, at all meetings of the Board of Selectmen where the First Selectman shall so preside he shall be entitled to vote upon all matters and things.

**Section 403. SECOND SELECTMAN.**

The Board of Selectmen shall, at its first meeting as herein provided, designate one of its members to be Second Selectman, who shall have the powers and discharge the duties of the First Selectman during the absence of the latter from Town or during his inability to perform the duties.

## ARTICLE V TOWN MANAGER

**Section 501. APPOINTMENT.**

The Board of Selectmen shall appoint a Town Manager who shall be the Chief Executive Officer of the Town to serve at the pleasure of the Board of Selectmen and who shall be chosen exclusively on the basis of his executive and administrative qualifications, character, education, training and experience. At the time of his appointment, said Manager need not be a resident of the Town of Winchester or of the State of Connecticut.

**Section 502. COMPENSATION.**

The compensation of the Town Manager shall be fixed by the Board of Selectmen and shall not be decreased except at the beginning of a fiscal year of the Town by a vote of the Board taken at least one (1) month prior to that date.

**Section 503. RESIDENCE.**

Repealed November 2, 2010.

**Section 504. NO OTHER EMPLOYMENT.**

The Town Manager shall devote his full time to the duties of his office and shall hold no other employment, without consent of the Board of Selectmen.

**Section 505. VOLUNTARY TERMINATION.**

The Town Manager shall give the Board of Selectmen thirty (30) days advance notice upon the voluntary termination of his employment.

**Section 506. REMOVAL.**

The Town Manager shall be removed, as herein provided, by at least five Selectmen each voting in the affirmative. The Board of Selectmen shall adopt a resolution stating its intention to remove the Town Manager at least thirty (30) days before the proposed removal. A copy of the resolution shall be served forthwith on the Town manager who may, within ten (10) days, demand a public hearing, in which event the Manager shall not be removed until such public hearing has been held. Upon the passage of such a resolution, the Board may suspend the Manager from duty, provided the salary of the Town Manager shall continue until the

removal from office; and in the event of such removal the Town Manager shall be given termination pay equivalent to one (1) month's salary.

#### **Section 507. ACTING TOWN MANAGER.**

- A. During the period of vacancy, suspension, or disability in excess of two (2) weeks, in the office of Town Manager, the Board shall appoint by resolution a person, other than a Selectman, as Acting Manager to have all the powers and duties of the Town Manager provided for herein, and to serve for a period not to exceed six (6) months.
- B. The Town Manager may designate a department head as Acting Town Manager to serve as Town Manager, except in matters of appointments and removals, for a period not to exceed two (2) weeks, during the period of the Town Manager's temporary absence or disability. Appointments and removals shall be made by a majority of the Board of Selectmen acting in accordance with the provisions of this Charter.
- C. In the event the Town Manager fails to make such designation the Board may by resolution appoint an Acting Town Manager to perform all the duties of Town Manager, except in matters of appointments or removal, for a period not to exceed six (6) months, during the period of the Town Manager's temporary absence or disability.

#### **Section 508. TIME FOR FILLING VACANCY.**

Whenever there shall be a vacancy in the office of Town Manager for any reason the Board of Selectmen shall appoint a Town Manager as successor within one hundred eighty (180) days after such vacancy occurs.

#### **Section 509. DUTIES.**

The Town Manager shall have the following duties, which the Board of Selectmen shall not diminish by ordinance, vote or otherwise, except those powers and duties imposed on him by the Board under the following provisions of this section:

- A. Be directly responsible to the Board of Selectmen for the administration of all departments, agencies, offices and boards appointed by the Town Manager and shall supervise and direct the same;
- B. See that all laws and ordinances governing the town are faithfully executed; make periodic reports to the Board and shall attend its meeting with full right of participation in its discussion, but without a right of vote;
- C. Prepare and cause to be printed, as soon as possible after the close of the fiscal year, an annual town report;
- D. Recommend to the Board such measures as he may deem necessary or expedient;
- E. Keep the Board fully advised as to the financial condition of the Town;
- F. Prepare and submit to the Board an annual budget; and

- G. Exercise such other powers and perform such other duties as may be required of him by ordinance or resolution of the Board not inconsistent with this Charter.

#### **Section 510. APPOINTMENTS.**

The Town Manager shall appoint all department heads and other officers and employees of the Town except as otherwise specifically provided by this Charter and except employees in the offices of elected officials and Boards, and officers and Boards appointed by the Board of Selectmen. In lieu of any appointment by the Town Manager or any of his appointees to any office under his jurisdiction, the Town Manager may, subject to the approval of the Board, perform the duties of any office under his jurisdiction except those of the Town Treasurer and Finance Director, provided, in case the Town Treasurer is absent or unable to act, the Town Manager may countersign checks.

#### **Section 511. NON-INTERFERENCE.**

Neither the Board of Selectmen nor any of its committees or members shall dictate the appointment of any person to office or employment by the Manager, or in any manner interfere with the Manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of investigation the Board of Selectmen and its members shall deal with the administrative service only through the Manager and neither the Board nor any members thereof shall give orders to any subordinate of the Manager, either publicly or privately.

### **ARTICLE VI**

#### **OFFICERS AND BOARDS DIRECTLY RESPONSIBLE TO THE BOARD OF SELECTMEN**

#### **Section 601. BOARD OF TAX REVIEW.**

There shall be a Board of Tax Review which shall consist of three (3) members. The Board of Selectmen shall, each October, appoint one (1) member to the Board of Tax Review for a term of three (3) years. Said Board of Tax Review shall have the same powers and duties and shall, in equalizing and adjusting valuations assessment lists, proceed in all respects as though elected by ballot for and on behalf of the Town of Winchester. Any member of the Board of Tax Review may be removed from office by the Board of Selectmen for cause after hearing but, in case of such removal, the Selectmen shall cause to be recorded in the records of said Board a statement of the reasons therefor.

#### **Section 602. ECONOMIC DEVELOPMENT COMMISSION.**

There shall be an Economic Development Commission which shall consist of seven (7) regular members and four (4) alternate members who shall be appointed by the Board of Selectmen. Both the regular members and alternate members shall serve for terms of five (5) years and shall be appointed so that no more than three (3) regular terms or one (1) alternate term shall expire in any one year. The first alternate members' terms shall be appointed respectively for one (1), two (2), three (3) and four (4) years. Any vacancy in the



membership of the Commission shall be filled for the unexpired portion of the term by the Town Manager. The members of the Commission shall receive no compensation for their services as such but shall be reimbursed for their necessary expenses incurred in the performance of their official duties. The Commission may appoint employees necessary for the discharge of its duties. The Economic Development Commission shall exercise all powers set forth in Chapter 97 of the Connecticut General Statutes. The Economic Development Commission is further designated as the Development Agency of the Town of Winchester and shall exercise all the powers granted to such agencies as set forth in Chapter 132 of the Connecticut General Statutes. All actions taken by the Economic Development Commission prior to the effective date of this Charter are hereby ratified.

### **Section 603. PARK AND RECREATION BOARDS.**

- A. **Membership.** There shall be a Park and Recreation Board, hereinafter the "Recreation Board", which shall consist of not fewer than nine (9) members nor more than thirteen (13) members appointed by the Board of Selectmen. A member of the Board of Selectmen, the superintendent of the town schools, the principal of the parochial school, and the principal of the Gilbert School shall be ex-officio members.

Members shall serve for terms of six (6) years or until their successors are appointed except that the members of such Recreation Board first appointed shall be appointed for such terms that the terms of one-third of the members shall expire every two (2) years thereafter. Any vacancy occurring otherwise than by expiration of term shall be filled by the Selectmen for the unexpired portion of the term. The members shall serve without compensation.

- B. **Rules and Regulations.** Members of the Recreation Board shall elect their own chairman and secretary and all other necessary officers, each to serve for a period of one year. The Recreation Board shall have power to adopt rules and regulations for the conduct of all business within its jurisdiction. A majority of the members shall constitute a quorum for the transaction of business.
- C. **Powers.** The Recreation Board shall have power and authority to establish, maintain and conduct playgrounds, swimming pools, baths, bathing beaches, gymnasiums, recreation places, and public gardens and provide for entertainments, concerts and celebrations. It may use for these purposes any ground or building which the Board of Selectmen or Board of Education may from time to time, provide, acquire, authorize, offer, designate or set apart for such use by the Recreation Board. Said Recreation Board shall have the power, with the consent of the Board of Education and the trustees of Gilbert School likewise to use the school grounds, buildings or other facilities which may be offered either temporarily or permanently for playground and recreational purposes; and may receive donations and gifts from individuals, corporations or others for equipment, improvement, maintenance or supervision. Nothing contained in this paragraph shall be construed as taking away any powers of the Selectmen to establish, maintain, and conduct public parks, playgrounds, bathing beaches and other recreation places.
- D. **Expenditures.** All expenses incurred by the Recreation Board for the aforesaid purposes shall be payable from Town appropriations and from any private gifts that may be received. The Funds appropriated shall be credited to the Recreation Board

account and may thereafter be expended by the Recreation Board with the approval of the Selectmen for the purposes enumerated above. Said Recreation Board, however, shall not expend or enter into any contract by which the Town shall become liable for any sum which shall exceed the total appropriation and credit.

#### **Section 604. ZONING BOARD OF APPEALS.**

There shall be a Zoning Board of Appeals of the Town of Winchester, which shall consist of five (5) regular members and three (3) alternate members, also referred to as "the panel of alternates". All members of this board shall be electors of the Town of Winchester and shall not be members of the Planning and Zoning Commission and shall hold no salaried municipal office. Such Board shall be appointed by the Board of Selectmen, terms of members shall be for five (5) years. Terms of office shall be staggered so that no more than one (1) regular term and one (1) alternate term shall expire in any one year. Members serving as of the effective date of this Charter shall continue to serve the remainder of their existing term. Said Board shall have those powers and duties conferred and imposed upon such Board by the Connecticut General Statutes. Members shall serve without compensation.

#### **Section 605. WATER AND SEWER COMMISSION.**

- A. **Membership.** The Commission shall consist of five (5) electors of the Town of Winchester who shall be appointed by the Board of Selectmen and serve without compensation. The Term of each member shall be five (5) years. Members shall be appointed so that one (1) term expires at the end of each year. Whenever a vacancy occurs, the Selectmen shall appoint a successor to hold office for the unexpired portion of the term. A Commissioner shall continue in office until his successor is appointed. The Commission shall elect a chairman from among its own members at the first meeting and annually thereafter at the first meeting held after the first day of July in each year. The Commission shall appoint a clerk who need not be a member of the Commission, and may appoint an attorney and other such employees as it may deem necessary and shall prescribe and define their duties. The clerk shall keep a complete record of the proceedings of the Commission and shall file the same with the Town Clerk. All such records shall be open for public inspection at reasonable hours. Meetings of the Commission may be called by the Chairman or any two (2) members upon twenty-four (24) hours notice thereof.
- B. **Designation of the Water Pollution Control Authority.** The Commission is designated as the Water Pollution Control Authority for the Town of Winchester. It shall exercise all powers accorded to Water Pollution Control Authorities by the Connecticut General Statutes, including the establishment of sewer rates.
- C. **Designation of Water Commission.** The Commission is designated as the water commission to the Town of Winchester and shall exercise all powers as set forth in Article XIV of the Charter, including the establishment of water rates.
- D. **Finances.** The accounts for the Winchester Water District and the Water Pollution Control Authority shall be maintained separately. The Commission shall maintain proper accounting and financial records and shall make an annual report to the

Selectmen. The Commission shall prepare annually a budget of the estimated revenues and expenditures for the ensuing fiscal year.

#### **Section 606. WINCHESTER HOUSING AUTHORITY.**

The Commissioners of the Housing Authority of the Town of Winchester shall be appointed by the Board of Selectmen according to the provisions of the Connecticut General Statutes.

#### **Section 607. PLANNING AND ZONING COMMISSION.**

- A. There shall be established a Planning and Zoning Commission of the Town of Winchester. The Commission shall consist of five (5) regular members and three (3) alternate members, who shall be electors of the Town of Winchester and who shall hold no salaried municipal office and who shall not be a member of the Town of Winchester Zoning Board of Appeals. The First Selectman and the Superintendent of Public Works shall be ex-officio members of the Commission. Both regular and alternate members of the Commission shall be appointed by the Board of Selectmen. All members shall each serve for terms of five (5) years, the regular and alternate members shall be appointed so that no more than one (1) regular term and one (1) alternate term shall expire in any one year. Members serving as of the effective date of this Charter shall continue to serve the remainder of their existing term.
- B. **Officers and Powers of Planning and Zoning Commission.** Said Commission shall annually elect a chairman and a secretary, shall adopt rules for the transaction of business, and shall keep a public record of its activities. Said Commission shall have all powers accorded to Planning Commissions and Zoning Commissions by the Connecticut General Statutes. Members shall serve without compensation. All zoning ordinances in effect on the effective date of this Charter not inconsistent with the provisions of this Charter shall continue in full force and effect until modified, repealed or superseded by said Commission.

#### **Section 608. FIRE DEPARTMENT.**

The Board of Selectmen shall organize and regulate a volunteer fire department and provide for the enlistment of fire companies, and for the equipment, regulation and control of fire companies. Regulations may include provisions concerning all personnel matters and may provide that the authority for administering such matters be delegated by the Board of Selectmen to a person or persons within the Fire Department. The Board of Selectmen shall, solely on the recommendation of the members of the Fire Department, appoint a Chief of the Fire Department, who shall have charge of all engine houses, engines, hoses, tools and implements of every kind and character used for the purpose of extinguishing fires. Subordinate officers shall be chosen in accordance with fire department bylaws.

#### **Section 609. INLAND WETLANDS AND WATER COURSES AGENCY.**

There shall be an Inland Wetlands and Water Courses Agency composed of nine (9) members who shall be drawn from electors at large, and who shall be appointed by the Board

of Selectmen. Terms of office shall be of three (3) years and members shall be appointed so that the terms for three (3) members shall expire at the end of each year.

In addition, the First Selectman, the Superintendent of Public Works, the Health Officer, and the Town Manager shall be ex-officio members of the Agency. The Agency shall have all the power and responsibilities as set forth in Section 22A-42 of the Connecticut General Statutes, as may be amended from time to time. Members shall serve without compensation.

## ARTICLE VII

### OFFICERS AND ADMINISTRATIVE DEPARTMENTS UNDER THE TOWN MANAGER

#### Section 701. JURISDICTION AND DUTIES.

The Board of Selectmen may, by ordinance, prescribe, alter or amend the jurisdiction and duties of any department provided for by this Article.

#### Section 702. EXECUTIVES OF DEPARTMENTS.

Each department, set forth in this Article, shall be administered by an executive head under the direction and control of the Town Manager, and subject to the rules and ordinances of said Town. Such heads of departments shall be appointed by and shall hold office at the pleasure of the Town Manager, except as otherwise provided by this Charter.

#### Section 703. DEPARTMENT OF PUBLIC WORKS.

- A. **Jurisdiction.** The Department of Public Works shall have supervision and control of the maintenance of all Town-owned land and structures, and of the planning, surveying, constructing and reconstructing, altering, paving, repairing, maintaining, cleaning, lighting, and inspection of highways, sidewalks, curbs, sewers, sewage disposal, public and private drains, waste treatment facilities, other public improvements and Town buildings; and the preservation, care and removal of trees within highway or public places and all engineering work of the Town. It shall also have supervision and control of all parks and grounds used for park purposes belonging to the Town, cemeteries, and of buildings, structures, apparatus and equipment use in connection therewith; shall have all powers and perform all the duties imposed on tree wardens by the General Statutes; and shall have such other powers and duties as the Selectmen may prescribe. Any provisions of this section to the contrary notwithstanding, the Department of Public Works may maintain and care for school buildings and grounds, but only if and to the extent and for the period requested by the Board of Education and approved by the Board of Selectmen, provided the costs are charged against the Board of Education's appropriations.

The Department of Public Works may maintain and care for such land and structures designated by the Board of Selectmen to be under the control of the Recreation Board or the Fire Department, only and to the extent and for the period requested by the Recreation Board and/or the Fire Department and approved by the Board of Selectmen.

- B. **Director, Powers and Duties.** The Town Manager shall appoint and may remove a Director of Public Works who shall be responsible for the efficiency, discipline, and good conduct of the Department and who, in accordance with such rules and regulations as may be adopted pursuant to the merit system provisions contained in Article XII of this Charter, shall appoint and may remove such deputies, assistance and employees as he may deem necessary and shall prescribe their duties. He shall exercise his powers and discharge his duties under the supervision of the Town Manager. He shall organize the work of the Department in such manner as he shall deem most economical and efficient.

#### **Section 704. DEPARTMENT OF SOCIAL SERVICES.**

- A. **Jurisdiction.** The Department of Social Services shall have all the powers and duties vested by law in the Board of Selectmen, relating to poor, handicapped and dependent persons.
- B. **Director, Powers and Duties.** The Town Manager shall appoint and may remove a Director of Social Services who shall be responsible for the efficiency, discipline, and good conduct of the Department and who shall appoint and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter, all other officers and employees of the Department.

#### **Section 705. POLICE DEPARTMENT.**

- A. **Jurisdiction.** The Police Department shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, regulation of traffic, protection of rights of persons and property and enforcement of the laws of the State, and the ordinances of the town and all rules and regulations made in accordance therewith. All members of the Department shall have the same powers and duties with respect to the service of criminal process and enforcement of criminal laws as are vested in police officers by the General Statutes. All powers and duties imposed by law on constables are vested in the Police Department. The duties of the Canine Control officer, as provided in the General Statutes, shall be assumed by the Police Department.
- B. **Chief, Powers and Duties.** The Town Manager shall appoint and may remove a Chief of Police who shall appoint and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter, all other officers and employees of the Police Department. The Chief of Police shall assign all members of the Department to their respective posts, shifts, details, and duties. He shall make rules and regulations concerning the operation of the Department and the conduct of all officers and employees, thereof. He shall be responsible for the efficiency, discipline and good conduct of the Department and for the care and custody of all property used by the Department. Disobedience to the lawful orders, rules and regulations of the Chief shall be grounds for dismissal or other appropriate disciplinary action.

**Section 706. HEALTH DEPARTMENT.**

All powers concerning municipal health authorities may be exercised as set forth in the Connecticut General Statutes. This provision shall not restrict the Board of Selectmen from contracting with any government agency for the provision of municipal health services, as so allowed under the provisions of chapter 368e of the General Statutes.

**Section 707. BUILDING OFFICIAL.**

The Town Manager shall appoint and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter, and the State Statutes, a Building Official who may be the Enforcement and Zoning Officer for the Planning and Zoning Commission, and perform such other duties as may be prescribed by the Board of Selectmen, State Statutes, or the Town Manager.

**Section 708. FIRE MARSHAL.**

The Town Manager shall appoint and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter, and the State Statutes, a Fire Marshal who shall perform such duties as may be prescribed by the State Statutes, the Board of Selectmen, or the Town Manager.

The Town Manager may also, with approval of the Board, appoint one or more deputy fire marshals who shall have all the powers and duties accorded them by the Connecticut General Statutes.

**Section 709. RECREATION DIRECTOR.**

The Town Manager shall appoint with the advice and consent of the Recreation Board and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter and the State Statutes, a Recreation Director who shall plan, develop and supervise town recreation programs, including athletic fields, playgrounds, swimming facilities and town-wide recreational events. The director shall work under administrative direction of the Town Manager and policy direction of the Recreation Board.

**Section 710. SENIOR CITIZEN DIRECTOR.**

The Town Manager shall appoint and may remove, subject to such rules and regulations as may be adopted pursuant to the merit system provisions of Article XII of this Charter, and the State Statutes, a Senior Citizen Director who shall also be the Town's agent for and be responsible for all phases of management of the Senior Center and senior citizen activities in a comprehensive program to promote the social, economic and emotional well-being of older persons. General policy direction may also be supplied by the Senior Citizens Commission.

**ARTICLE VIII  
SALARIES**

**Section 801. SALARIES.**

Salaries of all Directors and other employees of the classified service of the Town shall be determined by the Board of Selectmen, in conformity with a systematic pay plan for the positions involved, upon recommendation of the Town Manager, providing nothing herein shall be construed to limit the power of the Board of Education to fix the compensation of employees of the school system. The Town Clerk shall receive a salary in lieu of all fees, and such salary shall be determined by the Board of Selectmen.

**ARTICLE IX  
DEPARTMENT OF FINANCE APPROPRIATION**

**Section 901. DEPARTMENT OF FINANCE, DIRECTOR.**

There shall be a Department of Finance which shall be responsible for the keeping of accounts and financial records, the head of which shall be the Director of Finance, who shall be appointed by and serve at the pleasure of the Town Manager. The Director of Finance shall have knowledge of municipal accounting and shall have experience in budgeting and financial control. Subject to the approval of the Town Manager, the Director of Finance may perform the duties of any office under his supervision except that of Treasurer and may consolidate one or more such offices under one person, provided the Town Treasurer shall not be the Tax Collector or the Purchasing Agent.

**Section 902. DIRECTOR OF FINANCE, DUTIES.**

The Director of Finance shall have charge of the administration of the financial affairs of the Town and to that end shall –

- A. Compile the current expense estimates for the budget for the Manager;
- B. Compile the capital estimates for the budget for the Manager;
- C. Be an active participant in the planning, preparation and supervision of the budget in conjunction with the Manager;
- D. Supervise the disbursement of all monies and control over all expenditures to insure that budget appropriations are not exceeded;
- E. Maintain a general accounting system for the Town and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the Town Budget; require reports of receipts and disbursements from each receiving and spending agency of the Town to be made at such intervals as he may deem expedient;
- F. Submit to the Board of Selectmen and the Manager, a monthly statement of all receipts and disbursements in sufficient detail to show exact financial condition of the Town;

- G. Have prepared for the Manager, as of the end of each fiscal year, a complete, audited financial statement and report;
- H. Supervise and be responsible for all special assessments for the Town as may be required by State Statute or local ordinance;
- I. Receive all special assessments, license fees and other revenues of the Town, except tax revenue, or for whose collection the Town is responsible and receive all money receivable by the Town from the State or Federal government from any office, department or agency of the Town; and shall prescribe the time at which and the manner in which money received on account of the Town shall be paid to the Town Treasurer;
- J. Supervise all public funds belonging to or under the control of the Town or any office, department or agency of the Town and turn over all funds coming into his hands to the Town Treasurer;
- K. Supervise all investments and invested funds of the Town or in the Town's possession in a fiduciary capacity, and supervise the safekeeping of all bonds and notes, of the Town and the receipt and delivery of Town bonds and notes for transfer, registration or exchange in a manner directed by the Town Treasurer;
- L. Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the Town, except as specifically provided otherwise in this Charter;
- M. Approve all proposed expenditures, and unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made; and
- N. Purchase at the expense of the Town surety bonds for all officers and employees of the Town required by law or by ordinance to furnish bonds to the Town, and insurance of such types against liability, loss or damage on the part of the Town or its property as the Board of Selectmen, upon recommendation of the Manager, may authorize and be responsible for the collection of insurance benefits and other matters relating to the administration of the Town's insurance.
- O. Notwithstanding anything contained herein, upon the affirmative vote of the Board of Selectmen and the Board of Education, the finance director shall perform such duties in connection with the administration of the financial affairs of the Board of Education as may be determined and directed by the Board of Education, in addition to all other Town Finances.

### **Section 903. FINANCIAL OFFICERS.**

The Finance Director shall, with approval of the Town Manager, appoint and remove the following financial officers who shall respectively have all the powers and duties conferred upon them by the Connecticut General Statutes, this Charter, and such other duties as may be assigned by the Board of Selectmen or by the Town Manager: Tax Collector, Assessor, Treasurer, and Purchasing Agent. The above officers shall be appointed in accordance with



such rules and regulations as may be adopted pursuant to the merit system provisions contained in Article XII of this Charter.

#### **Section 904. ACCOUNTING SUPERVISION AND CONTROL.**

Unless otherwise prescribed by law, the Director of Finance shall:

- A. Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the Town;
- B. Examine and approve all contracts, orders and other documents by which the town incurs financial obligations having previously ascertained that monies have been appropriated and will be available when the obligations shall become due and payable;
- C. Audit and approve before payment all bills, invoices, payrolls and other evidence of claims, demands or charges against the Town and, with the advice of the Town Attorney, determine the regularity, legality and correctness of such claims, demands or charges;
- D. Inspect and audit any accounts of record of financial transactions which may be maintained in any office, department or agency of the Town apart from or subsidiary to the accounts kept in his office; and
- E. Draw all checks for the payment of approved claims which shall be valid only when countersigned by the Treasurer, except in the absence or inability to act of either the Director of Finance or Treasurer with respect to the above duty, the Town Manager may be authorized to substitute temporarily for either but not for both of them.

#### **Section 905. WHEN CONTRACTS AND EXPENDITURES PROHIBITED.**

No individual, office, department, board, commission, or agency shall expend or contract any money or incur any liability, or enter into any contract which by its terms involves the expenditures of money, for any purpose, in excess of the amounts appropriated therefore. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the Town who violates this section shall be fined such amount as shall be determined by the Board of Selectmen, by ordinance, and shall cease to hold his office or employment. Nothing contained in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

#### **Section 906. APPROPRIATIONS LAPSE AT END OF YEAR.**

Except for appropriations for capital improvements, or for departmental capital sinking funds, all appropriations whether financed from current revenues or from bond issues, shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Appropriations for capital improvements shall lapse only when the project for which the funds were appropriated has been completed, or "removed" by the Town acting by referendum.

**Section 907. FEES SHALL BE PAID TO THE TOWN.**

All fees received by any officer or employee shall belong to the Town and shall be paid to the Department of Finance at such intervals as shall be determined by the Director of Finance.

**Section 908. PURCHASING AGENT, DUTIES.**

The Purchasing Agent of the Town shall purchase all supplies, materials, equipment and other commodities required by any department, agency, board or commission of the town except the Board of Education, and Probate Court, on requisitions signed by the head of the department, office or agency, chairman of the board or commission, or a responsible representative appointed by him. Nothing herein contained shall be construed to prevent the Town Purchasing Agent from serving to the extent requested as the Purchasing Agent for the Board of Education, or Probate Court upon request of the Chairman of the Board or the Judge of such Court. Purchases shall be made under such rules and regulations as may be established by the Board of Selectmen.

The Purchasing Agent of the Town, pursuant to such rules and regulations as are established by ordinance shall contract for and purchase all supplies, materials, equipment, other commodities, and contractual services required by any department, office, agency, board or commission of the town except that he shall not purchase books, equipment and materials for instructional purposes for the use of the Board of Education unless specifically requested to do so by said Board. He shall have the following powers and duties, in addition to such other powers and duties as may be delegated to him by ordinance:

- A. To establish, with the approval of the Finance Director and after consultation with the heads of the departments concerned, and enforce standard specifications for all supplies, materials and equipment required by the several departments, offices and agencies of the Town, except as to the purchases for the Board of Education exempted above;
- B. To prescribe the time of making requisitions from such supplies, materials and equipment and the future period which said requisitions are to cover;
- C. To inspect all deliveries of such supplies, materials and equipment, and to cause tests to be made when necessary in order to determine their quality, quantity and conformance with specifications;
- D. To supervise and monitor such storerooms as the Board of Selectmen may provide by ordinance to serve the several departments, offices and agencies;
- E. With the approval of the Manager and Finance Director, and as allowed by law, to transfer or sell to or between departments, offices and agencies supplies, materials and equipment, determined after consultation with the head of the department, office or agency concerned, to be surplus, obsolete or unused; and
- F. To maintain an inventory of all moveable equipment belonging to the town.

**Section 909. ACCOUNTING CONTROL OF PURCHASES.**

All purchases made and contracts executed by the Purchasing Agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such office, department, or agency a sufficient unencumbered appropriation for which the contract or order is to be issued.

**Section 910. PAYMENT OF CLAIMS.**

No voucher, claim or charge against the Town shall be paid until the same has been audited by the Director of Finance or his agent, and approved by him for correctness and legality. Checks shall be drawn by the Director of Finance for the payment of approved claims which shall be valid only when countersigned by the Treasurer. In the absence or inability to act of either the Director of Finance or Treasurer with respect to the above duty, the Manager may be authorized to substitute temporarily for either, but not both of them.

**Section 911. COMPETITIVE BIDDING.**

If any purchase or contract for purchasing, including a continuing order or contract for the purchase of the same commodity over a period of time, involves the expenditure of three one hundredths of one percent (0.03%) or more of "Total Expenditures" in the latest approved town budget, the Purchasing Agent, unless it shall be determined by the Board of Selectmen to be against the best interest of the town, shall invite sealed bids or proposals giving ten (10) days public notice thereof by publication at least once in a newspaper having substantial circulation in the town. All such sealed bids or proposals shall be opened publicly. The Purchasing Agent may in his sole discretion waive any informalities, divide the award, accept any bonafide bid seemed in the best interest of the town, regardless of cost, or reject all bids.

**Section 912. EMERGENCY APPROPRIATIONS.**

Emergency Appropriations not exceeding Five Hundred Thousand Dollars (\$500,000.00) in any one fiscal year may be made upon the recommendation of the Manager and by a vote of not less than five (5) members of the Board of Selectmen for the purpose of meeting a public emergency threatening the lives, health or property of citizens, provided a public hearing, at which any elector or taxpayer of the Town shall have an opportunity to be heard, shall be held prior to making such appropriation, notice of such hearing shall be given in a newspaper having substantial circulation in the Town not more than ten (10) nor less than three (3) days prior to such hearing. Such hearing and notice of hearing may be waived if the Board of Selectmen, by unanimous vote of its members, shall decide that a delay in making the emergency appropriation would jeopardize the lives, health or property of citizens. In the absence of an available unappropriated and unencumbered general fund cash balance to meet such appropriation, additional means of financing shall be provided in such manner, consistent with the provisions of the General Statutes and of this Charter, as may be determined by the Board of Selectmen.

**Section 913. BORROWING TO MEET EMERGENCY APPROPRIATIONS.**

In the absence of unappropriated available funds to meet emergency appropriations under the provisions of Section 912 of this Charter, the Board of Selectmen may by resolution, upon recommendation of the Town Manager, authorize upon the full faith and credit of the town, the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made, and the town shall levy sufficient taxes to pay the principal and interest thereon.

**Section 914. INTRA-DEPARTMENTAL TRANSFER OR APPROPRIATIONS.**

When any department, commission, board or officer shall desire to secure a transfer of funds in its or his appropriation from funds set apart for one specific purpose to another, before incurring any expenditure therefore, such department, commission, board or officers shall make application to the Town Manager, whose duty it shall be to examine the matter, and upon approval of the Board of Selectmen such transfer may be made. But not otherwise.

Notwithstanding the above, no transfer shall be made from any appropriations for an uncompleted capital improvement or from a departmental capital sinking fund without approval from the Town acting by referendum.

**Section 915. INTER-DEPARTMENTAL TRANSFER OF UNENCUMBERED APPROPRIATIONS.**

Upon the request of the Manager, but only within the last three (3) months of the fiscal year, the Board of Selectmen may, by resolution, transfer any unencumbered appropriation, balance or portion thereof, from one department, commission, board or office to another. No transfer shall be made from any appropriations for debt service and other statutory charges. Notwithstanding the above, no transfer shall be made from any appropriation for an uncompleted capital improvement or from a department capital sinking fund without approval of the Town acting by referendum.

**Section 916. ADDITIONAL APPROPRIATIONS.**

Additional appropriations over and above the total budget may be made from time to time by resolution of the Board of Selectmen, upon recommendation of the Manager and certification from the Director of Finance that there is available an unappropriated and unencumbered general fund cash balance to meet such appropriations. Additional appropriations to be funded by borrowing may be made only by the town acting by referendum upon both such appropriations and the means of funding it in the manner herein provided.

**Section 917. FISCAL YEAR.**

The Board of Selectmen shall have power to adjust the fiscal year of the Town to coincide with the tax year or to adjust either or both to the end that they may coincide.

**Section 918. ANNUAL AUDIT.**

The Board of Selectmen shall annually designate an independent public accountant or firm of independent accountants to audit the books and accounts of the Town as provided in the General Statutes of the State of Connecticut.

**Section 919. CONTRACTING FOR COLLECTION OF TAXES.**

If permitted by Special Act or by the Connecticut General Statutes, the Board of Selectmen may contract to have all powers and duties conferred upon the Tax Collector by the Connecticut General Statutes assigned to a private individual or firm. Such assignment shall be upon terms and conditions as determined by the Board of Selectmen with consent of the Town Manager.

ARTICLE X  
**INDEBTEDNESS**

**Section 1001.**

The Town shall have the power to incur indebtedness by issuing its bonds or notes as provided by the General Statutes of the State of Connecticut subject to the limitations thereof and the provisions of this Section. The issuance of bonds and notes shall be authorized by a resolution of the Board of Selectmen, which resolution shall be approved by a referendum vote or by a majority vote at the Annual Town Budget Meeting, except as provided in Section 913.

ARTICLE XI  
**ANNUAL TOWN BUDGET**

**Section 1101. POWER TO ADOPT BUDGET.**

Electors of the Town, acting at the Annual Town Budget Meeting and referendum, shall have the sole power to amend and adopt the annual budget of the Town of Winchester as set forth in this Article.

**Section 1102. ANNUAL BUDGET MEETING.**

- A. The Annual Town Budget Meeting shall be held on the second Monday in May at 7 p.m., which shall be adjourned from time to time until the annual budget is adopted.
- B. Prior to adjournment to budget referendum, the electors at the Annual Town Budget Meeting shall review the budget as presented by the Board of Selectmen and the electors shall have the power to amend, but not increase, any line item of the budget. Voting on line items shall be by machine or confidential ballot.
- C. The Annual Town Budget Meeting shall be adjourned to an 8 a.m. to 8 p.m. referendum to be held on a date not less than fourteen (14) days and not more than twenty-one (21) days following the Annual Town Budget Meeting.

**Section 1103. GENERAL FORM OF BUDGET PRESENTATION.**

The Manager shall require each department, office or agency of the Town supported wholly or in part by Town funds, or for which a specific Town appropriation is made, to set forth, in narrative or such other form as the Manager may prescribe, a program or programs showing services, activities and work accomplished during the current fiscal year. Said program shall also show the number of positions for each job classification authorized and positions actually filled during the current fiscal year and to be authorized and filled during the new fiscal year.

**Section 1104. DUTIES OF THE BOARD OF EDUCATION.**

The Chairman of the Board of Education shall have the same duties and follow the same form and procedure with respect to the budget of the Board of Education as provided in this Charter for departmental estimates. The Chairman of the Board of Education shall also set forth the pupil enrollment at each school during the current fiscal year and the projected pupil enrollment during the new fiscal year, and he shall itemize his revised estimates of expenditures for the current fiscal year and his proposed expenditures for the new fiscal year for each individual school. Those expenditures which cannot be so allocated shall be set forth separately by category.

**Section 1105. DEPARTMENTAL ESTIMATES.**

The Manager shall compile preliminary estimates for the annual budget. The head of each department, office or agency of the Town, except for the Chairman of the Board of Education shall, on or before the first day of March each year, file with the Manager on forms prescribed and provided by him a detailed estimate of the expenditures to be made by his Department or Agency and the revenue, other than tax revenues, to be collected thereby in the current fiscal year, and such other information as may be required by the Board or the Manager. The Chairman of the Board of Education shall, on or before the fifteenth day of March each year submit its departmental estimate in the manner set forth in this section.

**Section 1106. DUTIES OF THE MANAGER ON THE BUDGET.**

Not later than the fifteenth day of March each year, the Manager shall present to the Board of Selectmen a budget consisting of:

- A. A budget message outlining the financial policy of the town and describing in connection therewith, the important features of the budget plan;
- B. Estimates of revenue, presenting in parallel columns, the itemized receipts collected in the last completed fiscal year, as revealed by the annual audit, and budget estimates of receipts for the current year as budgeted, and proposed estimates of receipts;
- C. Itemized estimates of expenditures, presenting in parallel columns, the actual expenditures for each department, office, agency, or activity, including the Board of Education, for the last completed fiscal year, as shown by the annual report, the adopted budget figures for the current fiscal year, the Manager's revised estimates for the current fiscal year, and the Manager's recommendations of the amount to be

appropriated for the new fiscal year, for all items, and such other information as may be required by the Board of Selectmen. The estimates, as presented to the Board of Selectmen, shall be supported by such information relative to programs as described in Sections 1104 and 1105 of this Article. The Manager shall present reasons for all his recommendations, and in particular shall explain all significant changes from the revised estimate for the current year to his new year recommendations.

- D. As part of the annual budget, or as a separate report attached thereto, the manager shall present a program, previously considered and acted upon by the Town Planning Commission, in accordance with Section 8-24 of the General Statutes, as amended, concerning municipal improvements, of proposed capital projects for the current fiscal year and for the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted by each department, office, or agency annually, in the form and manner prescribed by the Manager. The Manager shall recommend to the Board of Selectmen those projects to be undertaken during the current fiscal year, and the method of financing the same.

#### **Section 1107. DUTIES OF THE BOARD OF SELECTMEN.**

The Board of Selectmen shall hold two (2) or more public hearings, including at least one (1) such hearing devoted exclusively to the budget of the Board of Education, which may, at the option of the Board of Education, be held jointly with the Board of Education within thirty (30) days of the receipt of the Manager's proposed budget at which any elector or taxpayer may have an opportunity to be heard regarding appropriations. Following the holding of such public hearings, the Board of Selectmen shall recommend a budget to the Annual Town Budget Meeting of the Town. Sufficient copies of said annual budget shall be made available for general distribution in the office of the Town Clerk and the Manager at least fifteen (15) days prior to said Annual Town Budget Meeting, and the Board of Selectmen shall cause to be published in a newspaper having a substantial circulation in the Town, a summary of the budget showing revenues by major sources and proposed expenditures by function or department, in the same columnar form as prescribed for budget estimates in Section 1106 of this Article, at least seven (7) days prior to said Annual Town Budget Meeting; and shall also show the amount to be raised by taxation.

#### **Section 1108. ADOPTION OF BUDGET.**

- A. The budget shall become effective when approved at the referendum by machine vote, following the Annual Town Budget Meeting as provided in Section 1102, and an official copy shall be filed with the Town Clerk. If the budget is not adopted at the referendum, the Annual Town Budget Meeting shall be rescheduled to a date, no less than fourteen (14) days nor more than twenty-one (21) days from the date of the referendum. At the resumption of the meeting, the Board of Selectmen shall submit an annual budget as set forth in this Article. This process shall be repeated until a budget is adopted.
- B. At any Annual Town Budget Meeting the Board of Selectmen shall present an estimate of the tax rate in mills that shall be levied on the taxable property in the town for the new fiscal year.

- C. In the event that the Annual Town Budget Meeting fails to adopt a budget, the town shall operate on a budget equal to that of the preceding fiscal year, until such time as the Annual Town Meeting at referendum shall approve a budget.

**Section 1109. AMOUNT TO BE RAISED BY TAXATION, TAX LEVY.**

Upon adoption of the budget by town meeting, the Board of Selectmen shall fix the amount of revenues to be raised by taxation for town and school purposes combined, so as to preserve a balanced relation between receipts and expenditures including any estimated cash surplus or cash deficit from the current fiscal year. After the budget is adopted, the Board of Selectmen shall, as soon as practical, fix the rate of taxation on the last property grand list at a point sufficient in its judgment to produce such amount.

**Section 1110. EFFECT OF ADOPTION OF TOWN BUDGET.**

The adoption of the Town budget as amended shall be deemed to constitute the appropriation to each department, or when so indicated in the budget a major subdivision thereof, office, board, commission and agency separately listed in the budget, of the sum estimated in the budget to be expended by each such unit respectively.

**ARTICLE XII  
THE MERIT SYSTEM**

**Section 1201. THE MERIT SYSTEM ESTABLISHED.**

All officers and employees in the classified service of the Town, as described in Section 1202 below, shall be appointed on the basis of merit and in conformity with recognized principles of public personnel administration.

**Section 1202. THE CLASSIFIED SERVICE.**

The classified service shall include appointees to all positions now or hereafter created, except the following: Elective officers and persons appointed to fill vacancies in elective offices; members of boards and commissions and other officers appointed by the Board of Selectmen; employees of the Board of Education; members of the Parking Commission; persons employed in a professional capacity to make a temporary and special inquiry, study or investigation; the judges, clerks and other personnel of the Probate Court; and persons employed for a temporary period not exceeding three (3) months. It shall be the duty of the Manager to cause to be prepared a statement of the duties and responsibilities of each position in the classified service and of the minimum qualifications for appointment to such positions. These statements shall comprise the classification plan of the Town, which shall become effective upon approval by resolution of the Board of Selectmen and which may be amended upon recommendation of the Manager, by resolution of the Board of Selectmen. New or additional positions in the classified service may be created and changes in the duties and responsibilities of existing positions may be made by resolution of the Board of Selectmen upon the recommendation of the Manager. The Manager shall also cause to have prepared a set of personnel rules which shall provide, among other things, for the method of



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holding competitive examinations, administration of the classification plan, probationary periods of employment, hours of work, vacations, sick leaves and other leaves of absence, removals, and other such rules as may be necessary to provide an adequate and systematic procedure for the handling of the personnel affairs of the town. Such rules and any amendments thereto shall become effective upon being filed by the Manager, with the Town Clerk. Copies of such rules and any amendments thereto shall be distributed to all members of the classified service.

### **Section 1203. POLITICAL ACTIVITY.**

No person holding a position in the classified services of the Town shall be a candidate for elective municipal office in the Town of Winchester.

### **Section 1204. RETIREMENT OF MUNICIPAL EMPLOYEES.**

The Board of Selectmen may provide by ordinance a system of retirement allowances for the Town's regular full-time paid employees and for contributions by employees and the Town to a fund from which such allowance shall be paid. The Town may operate its own retirement plan and in connection therewith may retain investment and actuarial assistance and may enter into an agency or trust agreement with any state bank and trust company or with any national banking association located in the State of Connecticut providing for the care, custody, and investment supervision of the retirement fund, and the charges therefor shall be paid from such fund; or the Town may enter into a contract with any insurance company authorized to do business in this State for the purpose of insuring the whole or any part of its retirement plan, may elect to participate in the Connecticut Municipal Employee's Retirement Fund in the manner provided in the General Statutes, or may elect to participate in the Old Age and Survivor Insurance System under Title II of the Federal Social Security Act in accordance with the provisions of Part II of Chapter 113 of the 1958 revisions, as amended, or may choose any combination thereof. The Board of Selectmen may by ordinance provide for compulsory retirement at an age to be determined.

## **ARTICLE XIII SIDEWALKS**

### **Section 1301. POWERS OF BOARD OF SELECTMEN.**

The Board of Selectmen shall have the power to extend, alter, and widen highways in the Town for the purpose of locating, building, altering, and enlarging sidewalks on said highways, and to make and appropriate such land or property of adjoining proprietors as they may deem necessary for such purpose. They are empowered from time to time, as they shall judge proper, by themselves or a committee by them appointed, to designate, alter, fix, and establish the location, width, course, height, grade and level of all sidewalks, crosswalks, driveway entrances and curb lines in and upon the streets and highways of said Town, and to order the owners of land or buildings fronting upon highways or streets to make such walks on their several fronts according to the location, width, height, and grade designated as aforesaid; also to curb, flag, and pave the same such line, in such manner and place, and with such material as the Board of Selectmen or its committee shall direct, and to order such

owners to provide and erect such railings or guards along the sidewalk in front of their premises as public safety may require; and to order any such proprietor to repair his sidewalks, curb, gutters, guard, driveway entrance or railing, when such repairs are necessary, within such time and in such manner as said Board of Selectmen or committee may designate and direct; and to designate what streets shall have sidewalks to be constructed on any such street; and to issue orders requiring the building of sidewalks, including the curbing thereof, and the care of the same; and to pass ordinances requiring the removal therefrom of ice, snow, rubbish, piles of lumber, and other obstructions and encumbrances, and compelling the occupants, persons in charge, or owners of lands or buildings to remove snow and ice from the sidewalks and gutter in front of such lands or buildings; and to keep such sidewalks safe for public travel.

### **Section 1302. LIENS.**

Whenever the Board of Selectmen shall lay out and order the building of sidewalks, curbing, driveway entrances or railings on any street or streets, or the repair of sidewalks, curbing, driveway entrances or railings already built, and any adjoining property owner shall neglect or refuse to build or repair such sidewalk, curbing, driveway entrance, or railing within the time required by such order, the Selectmen may grade and construct such walk or walks or may erect such curb railing, or repair any or all of the same, as the case may be, and assess the cost of the same, with the necessary costs of the proceedings, in whole or in part, upon the adjoining property or the owner thereof, and such assessment shall be a lien upon such property, to take precedence over all other liens or encumbrances, tax liens and other Town liens prior in date excepted, and shall remain a lien upon the property in favor of said Town until paid, and the payment thereof may be enforced by said Town in a civil action in the name of said Town, or by foreclosure, or by any other proper remedy, provided such lien shall not be good for a longer period than two months after such assessment or lien shall be made, unless a certificate in writing made and signed by the First Selectman or Town Clerk, describing the premises, the amount claimed as a lien, and the date of the order requiring the sidewalk, curbing, railing, or guard to be built or repaired, the date of the completion of the sidewalk, curbing, railing, or guard, or repairs made as aforesaid, and the date of the assessment thereof, shall be lodged with the Town Clerk for record, and all such liens shall bear interest from the date of the filing thereof at an annual rate set from time to time by the Board of Selectmen until paid, and whenever the claim secured by said lien is paid, with the interest and cost thereon, one of the officers aforesaid shall sign a certificate stating such claim has been paid, and lodge such certificate with the Town Clerk for record.

### **Section 1303. APPEALS.**

Any person aggrieved by such assessment or by any order of the Board of Selectmen in relation thereto may appeal from such assessment or order in the manner and form as provided in Sections 7-141 to 7-143, inclusive, of the General Statutes.

### **Section 1304. MAINTENANCE OF SIDEWALKS.**

Whenever the Board of Selectmen shall require by ordinance that the sidewalks shall be cleared of ice and snow, and the owners or occupants of adjoining property shall fail to clear the same within the time and in the manner required by such ordinance, the Director of

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Public Works or the Selectmen or the Town Manager or other proper officer or authority may cause such snow or ice to be removed, and the cost of such removal shall remain a lien upon the adjoining property and take precedence and be collected in the same manner as is provided herein for liens for neglect to build or repair sidewalks, curbing, driveway entrances, railings or guards.

#### **Section 1305. MUNICIPAL EXEMPTION FROM LIABILITY.**

Notwithstanding any provisions of this Charter or any General Statutes or Special Act, the Town of Winchester shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the Town is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided the Town shall be liable for its affirmative acts.

### **ARTICLE XIV**

#### **WINSTED WATER DIVISION**

#### **Section 1401. RIGHTS, POWERS AND DUTIES.**

All rights, powers, and franchises granted by and required under the provisions of an Act authorizing the borough of Winsted to construct a water division, approved June 23, 1860, and Acts amendatory thereof and in force on the date this Charter takes effect are hereby vested in said Town of Winchester, and the Water and Sewer Commission of said Town shall have all the rights, powers, and duties that were vested in, and imposed upon, the Water Commissioners by the original provisions of the borough of Winsted; and all the provisions of said Act and subsequent Acts and Amendments pertaining to the Winsted Water Division in force on the date this Charter takes effect and not inconsistent herewith, are continued in force and made a part hereof.

#### **Section 1402. MANAGEMENT OF WINSTED WATER DIVISION.**

The Winsted Water Division shall be under the care and management of the Water and Sewer Commission, who shall have exclusive control and direction of said Water Division and of the laying, repairing, cleaning, and general care of the pipes, aqueducts, reservoirs, dams, hydrants, water tanks, and fountains, and all things connected therewith, and the establishing of the water rents, or scales of prices or terms upon which water shall be furnished, and the changing and revising thereof, and the regulation of the time of payment, which prices or rents, when so established, shall not be reduced below a fair and reasonable compensation for the use of said water, and said Water and Sewer Commission may require additional rents for use of water whenever extra quantities shall be used exceeding the quantity estimated for the same class of buildings, establishments, or trades in the scale of prices by it adopted. Said Water and Sewer Commission shall keep a register of all persons who use the water, and of the prices by them payable therefor, which shall at all reasonable times, be open for inspection by the inhabitants of said Town, and shall make out, or cause to be made out, all bills for water rents, and hand them over to the Tax Collector for the purpose of collection. Said Commission shall have the power to make such rules and regulations, and may amend and alter the same, concerning the use and taking of water, and the repairs of replacing the

service pipe leading from the water main to the sidewalk. The present by-laws, ordinances, rules and regulations of the Winsted Water Division and the scale of prices for the use of water shall remain in full force and effect until amended or changed by said Commission.

#### **Section 1403. FINANCES OF WINSTED WATER DIVISION.**

All income arising from the operation of said Water Division, less the salary of the Superintendent of the Water Division, and less the expense of operation, administration, maintenance, altering, and enlarging said Water Division, shall be applied to the payments of the principal and interest on any bonds or notes which may have been issued for the purpose of enlarging, improving, or extending such system, and the Water and Sewer Commission may at the close of each fiscal year, transfer any surplus monies from the operation of said Water Division system, over and above the amount of any outstanding liabilities, to the extent deemed advisable by them, to a reserve fund for the enlargement, improvement, or expansion, or extension of said system. Said accounts will be maintained separately from those of the Water Pollution Control Authority.

#### **Section 1404. BONDING.**

The Water and Sewer Commission may authorize the enlargement, improvement or extension of said water division system and make an appropriation therefor, and the Town of Winchester is authorized to issue bonds or notes for such purpose which are secured as to both principal and interest by a pledge of revenues to be derived from water rentals or charges and also by the full faith and credit of the Town. Said Water and Sewer Commission shall determine the aggregate principal amount of such notes or bonds to be issued and the form of such bonds or notes, their date, the dates of principal and interest payments, the manner of issuing such bonds or notes and by whom such bonds or notes shall be signed or countersigned, and all particulars thereof. Such bonds or notes shall be sold under the direction of the Water and Sewer Commission at public or private sale, and such Water and Sewer Commission shall determine the rate or rates of interest for such issues of notes or bonds. Said Water and Sewer Commission shall provide for a sinking fund from the previous net revenues of said system for the payment of any or all parts of such bonds or notes or interest thereon.

#### **Section 1405. VANDALISM.**

If any person shall maliciously or willfully divert or corrupt any water collected or conducted in or to any reservoir, cistern, hydrant, conductor, engine, pipe, or any portion of said Water Division, or destroy or injure any work, machinery, materials, or property erected, constructed, used or designed to be used in connection with said Water Division for the purpose of procuring or keeping a supply of water, he shall forfeit and pay to said Town of Winchester treble damages in any proper action brought by said Town; and such person may also be prosecuted criminally for such offense before any Court having jurisdiction.

**Section 1406. LIENS.**

Any claim of said Town for use of water shall be and remain a lien, until paid, on the house, tenement, or land within or in connection with which said water was used by the owner or occupant thereof, and all such liens shall take precedence and priority over all other liens and encumbrances on the property wherein the same is imposed except tax liens and liens of said Town prior in date, and any such lien may be foreclosed in the same manner as if it were a mortgage on said property in favor of said Town to secure the amount of such lien, provided no such lien shall continue to exist longer than one (1) year after the water rent shall become due and payable unless within that period, a certificate signed by the Chairman for the Water and Sewer Commission or Tax Collector for Water Rents describing the property upon which the lien exists, and the amount claimed by said Town as a lien thereon, shall be lodged with the Town Clerk for a record, and all such liens shall bear interest from the expiration of one year after the date when the claim secured thereby shall become due at the rate of interest, as may from time to time be set by the Water and Sewer Commission, until fully paid, and whatever costs thereon, one of the officers aforesaid shall sign a certificate stating that said claim has been paid and lodge such certificate with the Town Clerk for record. Any claim for sale of water may be collected in a civil action for goods sold and delivered.

ARTICLE XV  
**CODE OF ETHICS**

**Section 1501. PERSONS SUBJECT.**

All town officials, members of any board, commission or agency and employees of the Town of Winchester, elected or appointed, paid or unpaid, shall be subject to a Code of Ethics as established or amended pursuant to the provisions of this Charter.

**Section 1502. Existing Code of Ethics.**

The ordinance comprising the Code of Ethics existing and in force as of the date of the adoption of this Charter shall remain in force and effect until amended or superseded by regulations adopted according to the provisions of this Charter, at which time such ordinances shall be considered to be repealed.

**Section 1503. ETHICS COMMISSION.**

All appointments to the Commission shall be for a term of three (3) years except initial appointments. Two initial appointments shall be each for terms of three (3) years; two each for terms of two (2) years and one for a term of one (1) year. Thereafter, terms shall be staggered so that no more than two (2) terms expire in any one year. No person shall serve more than two (2) consecutive terms. For individuals filling a vacancy, successive years of service will commence with the next appointment period. No individual while a member of the Ethics Commission shall —

- A. Hold or campaign for any public office; or
- B. Hold office in any political party or political committee.

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No more than three commission members shall be members of the same political party.

#### **Section 1504. ADOPTION OF REGULATIONS.**

- A. The Ethics Commission shall adopt rules of procedure, orders, codes, and regulations, including penalties, which it deems necessary to carry out the intent of Section 7-479 of the General Statutes and this Article. All such rules, orders and regulations and amendments thereto, and all proceedings of the Commission shall be filed in the office of the Town Clerk and be available for public inspection.
- B. Before the enactment, amendment or repeal of any rules of procedure, orders, codes or regulations, including penalties, the Ethics Commission shall cause to be published twice in a newspaper having a substantial circulation in the Town of Winchester a notice setting forth the subject matter of the proposed enactment, amendment or repealed matter. Said notice shall be published once a week for two (2) consecutive weeks not later than two (2) days before such action is taken. After the Ethics Commission has enacted, amended, or repealed any such rules of procedures, orders, codes, or regulations, including penalties, said change shall become effective fifteen (15) days after the entire text of the same shall have been published once in a newspaper having a substantial circulation in said Town.

#### **Section 1505. INVESTIGATIONS.**

The Ethics Commission shall have the power to investigate the official conduct of any department or agency of the Town or of any town office, member of any board, commission, agency or employee thereof according to the rules of procedure and regulations established by the Ethics Commission.

### **ARTICLE XVI REMOVALS**

#### **Section 1601.**

Any appointive officer or employee or appointive member of a board or commission may, except as otherwise provided in this Charter or the Connecticut General Statutes, be removed by the authority which appointed him provided he shall first be given notice in writing of the specific grounds of his removal and an opportunity to be heard in his own defense, personally or by counsel, at a public or private hearing before the Board of Selectmen. Said hearing will be held not less than five (5) nor more than twenty (20) days after such notice. Pending such hearing, he may be suspended by the appointing authority. Compensation, if any, shall be continued during the period of suspension for thirty (30) days from the date of suspension, whichever is longer. There shall be no appeal from the decision of the Board of Selectmen. The Board of Selectmen, after such hearing, shall affirm, reverse or modify the action of the appointing authority.

## ARTICLE XVII

**TRANSITION AND MISCELLANEOUS PROVISIONS****Section 1701. PRESENT EMPLOYEES TO RETAIN POSITIONS.**

All persons holding permanent positions in the Service of the Town, on the effective date of this Charter, whose positions are included in the classified service by the terms of this Charter, shall remain members of the classified service and retain such positions until promoted, transferred, reduced or removed in accordance with the provisions of this Charter. All other employees of the Town on the effective date of this Charter, whose positions are not abolished by the provisions of this Charter, shall retain such positions pending action by the Board of Selectmen or the appropriate officer, charged by this Charter with powers of appointment and removal. Any provision of law in force at the time when this Charter shall take effect, and not inconsistent with the provisions of this Charter, in relation to personnel, appointment, ranks, grades, tenure of office, promotions, removals, pension and retirement rights, civil rights or any other rights or privileges of employees of the town or any office, department or agency thereof, shall continue in effect.

**Section 1702. TRANSFER OF RECORDS AND PROPERTY.**

All records, property and equipment whatsoever of any commission, board, department or office or a part thereof, all the powers and duties of which are assigned to any commission, board, department, or office by this Charter, shall be transferred and delivered intact to the commission, board, department or office to which such powers and duties are so assigned. If part of the powers and duties of any commission, board, department, or office, or part thereof, are by this Charter assigned to another commission, board, department or office, all records, property and equipment relating exclusively thereto shall be transferred and delivered intact to the commission, board, department or office to which such powers and duties are so assigned.

**Section 1703. CONTRIBUTIONS.**

No contribution by the Town of more than five hundred dollars (\$500.00) shall be made to any organization or private corporation unless the Town is represented on its board by one or more members nominated thereto by the Board of Selectmen.

**Section 1704. LEGAL PROCEEDINGS.**

No action or proceeding, civil or criminal, pending on the effective date of this Charter brought by or against the Town or any commission, board, department or office thereof, shall be effected or abated by the adoption of this Charter or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any commission, board, department or office party thereto may by or under this Charter be assigned or transferred to another commission, board, department or office, but in that event the same may be prosecuted or defended by the head of the commission, board, department or office to which such functions, powers and duties have been assigned or transferred by or under this Charter.

**Section 1705. EXISTING LAWS AND ORDINANCES.**

All general laws in their application to the Town and all ordinances and by-laws of the Town shall continue in full force and effect, except insofar as they are inconsistent with the provisions of this Charter. All Special Acts or parts of Special Acts relating to the Town of Winchester, inconsistent with the provisions of this Charter are repealed.

**Section 1706. AMENDMENT OF CHARTER.**

This Charter may be amended in the manner prescribed by law.

**Section 1707. SAVING CLAUSE.**

If any section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter, nor the context in which a section or part of section is held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply.

**Section 1708. DEFINITIONS OF VOTERS AND ELECTORS.**

As used in this Charter an "Elector" means any person who is an Elector of the Town or a property owner of the age of eighteen (18) years or more, who, jointly or severally, is liable to the Town for taxes assessed against him on an assessment of not less than one thousand dollars on the last completed Grand List, or who would be so liable if not entitled to a statutory exemption.

**Section 1709. REFERENDUM ON APPROVAL OF THE CHARTER.**

This Charter was submitted to the Electors of the Town of Winchester and Adopted on April 23, 1960, becoming effective on October 2, 1961.



# **THE CODE**



# **DIVISION 1**

## **TOWN ORDINANCES**



# **PART I**

## **ADMINISTRATIVE LEGISLATION**



## **Chapter 1**

### **GENERAL PROVISIONS**

#### **ARTICLE I**

##### **Adoption of Code**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Adoption of Code**

**[An ordinance to adopt the Code of the Town of Winchester and making certain substantive changes to existing ordinances of the Town is currently under review. Upon final adoption it will be included here as Article I of this chapter.]**





## **Chapter 5**

### **AMBULANCE SERVICE**

#### **§ 5-1. Authorization of ambulance service.**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Winchester 12-6-1976 (§ 117 of the prior compilation). Amendments noted where applicable.]**

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#### **§ 5-1. Authorization of ambulance service.**

The furnishing of ambulance service in the Town of Winchester by the Winsted Area Ambulance Association, Inc., and appropriations therefor by the Town, in the manner approved by law, are hereby authorized.



## Chapter 12

### CIVIL SERVICE BOARD

#### § 12-1. Members; terms; qualifications for office.

#### § 12-3. Removal of Commissioners.

#### § 12-2. Oath of office.

#### § 12-4. Powers.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 12-12-1996 (§ 172 of the prior compilation). Amendments noted where applicable.]**

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#### **§ 12-1. Members; terms; qualifications for office.**

There shall be a Civil Service Board, which shall consist of three members who shall be appointed by the Town Manager. Those first appointed shall be designated to serve for two, four and six years respectively, and thereafter members shall be appointed annually to serve for six years. Each member shall serve until a successor is appointed, and any vacancy shall be filled by the Town Manager for the unexpired term. The members of the Commission shall receive no compensation for their services but shall be reimbursed for their necessary expenses incurred in the performance of their official duties. Two Commissioners shall constitute a quorum. All appointments to said Board, both original and to fill vacancies, shall be so made that not more than two members shall, at the time of appointment, be members of the same political party, and no such Commissioner shall, during their term of office, hold any other lucrative office or employment under the United States or the state or any political subdivision thereof having employees classified under the provisions of this part.

#### **§ 12-2. Oath of office.**

Each Commissioner, before entering upon the duties of the office, shall take the oath prescribed for executive officers.

#### **§ 12-3. Removal of Commissioners.**

The Town Manager may remove any Commissioner for lack of moral character, incompetency, neglect of duty, malfeasance or partisan activity while in office, but the Town Manager shall, at the same time, file with the Clerk of the Superior Court for the appropriate judicial district a report, in writing, of such removal, with the reasons therefor.

#### **§ 12-4. Powers.**

The Civil Service Board shall exercise all powers set forth in Chapter 113, Part I of the Connecticut General Statutes.



## **Chapter 16**

### **CONSERVATION COMMISSION**

**§ 16-1. Establishment, authority and purpose.**

**§ 16-2. Membership and terms.**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Winchester 10-7-1968 (§ 69 of the prior compilation). Amendments noted where applicable.]**

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**§ 16-1. Establishment, authority and purpose.**

There is hereby established in the Town of Winchester a Conservation Commission pursuant to the provisions of C.G.S. § 7-131a for the development and conservation of natural resources, including water resources, within the Town.

**§ 16-2. Membership and terms. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Commission shall consist of seven members. Four of the members first appointed shall hold office for four years and three of the members first appointed shall hold office for two years, and thereafter each new member shall be appointed for a term of four years. One alternate first appointed shall hold office for four years and the other shall hold office for two years, and thereafter each new alternate shall be appointed for a term of four years.



## **Chapter 19**

### **COORDINATING COMMISSION**

#### **§ 19-1. Membership.**

#### **§ 19-3. Officers; meetings.**

#### **§ 19-2. Duties.**

**[HISTORY: Adopted by the Town of Winchester effective 1-15-1972 (§ 72 of the prior compilation). Amendments noted where applicable.]**

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#### **§ 19-1. Membership.**

There is hereby established in the Town of Winchester a Coordinating Commission. The Commission shall be composed of the Chairman and one alternate from each of the Town boards, commissions or agencies as designated by the Board of Selectmen; the alternate to be designated by each board, commission or agency so indicated. Each member shall serve for one year, commencing with the effective date of this ordinance; provided, however, that a member shall serve on the Coordinating Commission only while he is a member of such board, commission or agency. The Mayor and Town Manager shall serve as ex-officio members of the Commission.

#### **§ 19-2. Duties.**

The Coordinating Commission shall coordinate recommendations and advise actions for implementation of the Town Community Development Action Plan and such other Town development programs as are referred to it by the Board of Selectmen.

#### **§ 19-3. Officers; meetings.**

The members of said Coordinating Commission shall elect a Chairman, Vice-Chairman and Secretary to serve for one year; provided, however, that a member shall serve as an officer only while he is a member of such Town board, commission or agency. The Chairman of said Coordinating Commission shall call at least two meetings a year.





## **Chapter 30**

### **ECONOMIC DEVELOPMENT COMMISSION**

#### **§ 30-1. Established; powers and duties.**

**[HISTORY: Adopted by the Town Meeting of the Town of Winchester 4-2-1956 (§ 53 of the prior compilation); and 10-4-1971 (§ 76 of the prior compilation); amended 6-17-1957 STM; 4-13-1981 STM; at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]**

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#### **§ 30-1. Established; powers and duties.**

An Economic Development Commission is established in the Town, with the composition, powers and duties set forth in the Town Charter.



## **Chapter 33**

### **ELECTIONS**

#### **ARTICLE I**

##### **Board for Admission of Electors**

###### **§ 33-1. Members.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Board for Admission of Electors**

**[Adopted 10-4-1965 ATM (§ 62 of the prior compilation)]**

###### **§ 33-1. Members.**

The Board for Admission of Electors of the Town shall consist of the Town Clerk and the Registrars of Voters.



## Chapter 36

### ETHICS, CODE OF

§ 36-1. Purpose; investigations and hearings.

§ 36-2. Definitions.

§ 36-3. Impartiality.

§ 36-4. Confidential information.

§ 36-5. Use of public property.

§ 36-6. Gifts and favors.

§ 36-7. Conflict of interest.

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§ 36-9. Future representation of others.

§ 36-10. Penalties for offenses.

§ 36-11. Ethics Commission.

§ 36-12. Severability.

§ 36-13. Effective date.

§ 36-14. Distribution of code.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 11-14-1983; amended effective 9-6-1987; 2-7-2005; and 12-4-2017 (§ 132 of the prior compilation). Subsequent amendments noted where applicable.]**

#### § 36-1. Purpose; investigations and hearings.

- A. The proper operation of Town government requires that public officers and employees be independent, impartial and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; that public office and employment not be used for personal gain; and that the public have confidence in the integrity of its government. The purposes of this code are to set forth standards of ethical conduct; to assist public officers and employees in establishing guidelines for their conduct; and to develop and maintain a tradition of responsible and effective public service.
- B. As required by C.G.S. § 7-148h(a), as amended, the provisions of C.G.S. § 1-82(a) through (c), as amended shall apply to all investigations and hearings held under this chapter. If the Board determines that there is probable cause, it shall continue the investigation and hold such further hearings as may be necessary; and if the Board determines that the respondent has, in fact, violated the provisions of this code, it shall file a memorandum of decision with a recommendation for appropriate action with the Board of Selectmen.

#### § 36-2. Definitions.

As used in this chapter, the following words shall have the following meanings, unless a different meaning is required by the content or is specifically prescribed:

**AGENCY** — Includes the Board of Selectmen and the Board of Education of the Town, and all commissions, committees, boards and agencies appointed by either such board.

**CODE** — This Code of Ethics.

COMMISSION — The Ethics Commission established under § 36-11.

FINANCIAL INTEREST — Any financial interest, direct or indirect, which is of more value than \$100 to an officer, employee or member of an agency of the Town and which is not common to the interest of other citizens or nonresident taxpayers of the Town. "Financial interest" shall include the private financial interest of a spouse or child who is a member of the household. "Financial interest" shall also include the interest of any subcontractor of any prime contract with the Town and the interest of any spouse or child who is a member of the household in any corporation, firm or partnership which has a direct or indirect interest in any transaction with the Town.

OFFICER OR EMPLOYEE — Includes any Town official (other than a Justice of the Peace) elected by the public, and any employee of the Town or of any agency.

TRANSACTION — Includes the offer, sale or furnishing of any real or personal property, material, supplies or services, by any person, directly or indirectly, as vendor, prime contractor, subcontractor or otherwise, for the use and benefit of the Town for a valuable consideration.

### **§ 36-3. Impartiality.**

No officer, employee or member of an agency shall grant any special consideration, treatment or advantage to any person beyond that which is available to every other person similarly situated.

### **§ 36-4. Confidential information.**

No officer, employee or member of an agency shall, without proper authorization, disclose confidential information concerning Town affairs, nor shall he use such information to advance the financial interests of himself or others.

### **§ 36-5. Use of public property.**

No officer, employee or member of an agency shall use or permit the use of Town-owned or -leased vehicles, equipment, material or property for personal convenience or profit except when the use thereof is available to the public generally or is provided in conformance with established Town policies for such person in the conduct of Town business.

### **§ 36-6. Gifts and favors.**

No officer, employee or member of an agency shall accept from any person in any calendar year any gifts or favors having a total value in excess of \$100, whether in the form of a service, a loan at less than a commercially reasonable interest rate, a material thing or a promise from any person who to his knowledge has an interest, direct or indirect, in the business dealings of the Town; nor shall any such person accept, agree to accept or solicit any gift or favor that may tend to influence him in the discharge of his duties or to influence any improper service, favor or thing of value.

**§ 36-7. Conflict of interest.**

- A. Financial interest. No officer, employee or member of an agency shall have any financial interest, or engage in any transaction or professional activity or incur any obligation of any nature, which is in conflict with the proper discharge of his duties in the public interest or which will impair his independence of judgment or action in the performance of his official duties; but the existence of such a financial interest shall not constitute a violation of this provision if the person complies in all respects with the provisions of § 36-8.
- B. Employment. No officer, employee or member of an agency shall engage in or accept private employment or render services for private interests when the employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgement or action in the performance of his official duties.
- C. Representation of others before Town agency or against Town. No officer, employee or member of an agency shall knowingly render or agree to render for compensation or otherwise any service to any person or party other than the Town in connection with any cause, proceeding, application or other matter which is before any Town agency or is the subject of litigation to which the Town is a party; but nothing in this subsection shall prohibit an officer, employee or member of an agency from appearing on his own behalf before any Town agency or in any litigation.

**§ 36-8. Disclosure.**

- A. If an officer, employee or member of an agency has a financial interest in the outcome of any matter coming before him in his official capacity, he shall file with the Town Clerk a written statement regarding the existence of such interest, and he shall refrain from acting, or participating in the making of any decision, upon such matter; if the person is an employee of the Town, he shall transmit a copy of the statement to the Town Manager; if the person is an employee of the Board of Education, he shall transmit a copy to the Board of Education; and if the person is a member of an agency, he shall transmit a copy of the statement to the chairman of the agency, who shall notify the other members of the agency of the receipt of the statement.
- B. If an officer, employee or member of an agency has knowledge that a parent, child, sister, brother, partner or a corporation in which he owns more than 10% of the stock is doing business or proposes to do business with the Town, he shall file with the Town Clerk a written statement to that effect; he shall transmit a copy of the statement to the appropriate person or persons referred to in Subsection A of this section, and he shall refrain from acting or participating in the making of any decision regarding any such proposed business.

**§ 36-9. Future representation of others.**

The provisions of § 36-7C shall apply to any former officer, employee or member of an agency if the service concerns a matter which was pending before him prior to the time he ceased to be an officer, employee or member of an agency.

**§ 36-10. Penalties for offenses.**

A violation of this Code of Ethics by any appointed officer, employee or member of an agency shall constitute grounds for disciplinary action, including but not limited to reprimand, suspension and dismissal.

**§ 36-11. Ethics Commission.**

- A. Establishment. An Ethics Commission is established as set forth in the Town Charter. No more than three members of the Commission shall be members of the same political party. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Organization and procedure. The Commission shall elect a Chairman and a Clerk, and shall establish its own rules of procedure. Copies of the rules and all amendments thereof shall be filed in the office of the Town Clerk. The Commission shall keep records of its meetings and shall hold meetings at the call of the Chairman and at other such times as the Commission may determine.
- C. Advisory opinions. At the written request of the Board of Selectmen or the Board of Education, the Ethics Commission shall render advisory opinions with respect to the applicability of the code to a particular situation. The Commission shall also render advisory opinions at the written request of any actual or prospective officer, employee or member of an agency who is personally concerned. The identity of the individual requesting the opinion shall be treated as confidential, but the opinion of the Commission shall be a matter of public record and shall be filed in the office of the Town Clerk. Reliance in good faith upon an opinion of the Commission is an absolute defense to any action brought under this code.
- D. Investigation by Commission. The following rules and procedures shall apply for the filing of complaints and the conduct of hearings in connection with such complaints.
  - (1) All complaints alleging a violation of the Code of Ethics shall be in writing, conforming to the Board of Ethics Complaint Form, and must be signed and dated by all complainants. In accordance with C.G.S. § 1-82a, as amended, all such complaints shall be confidential unless made public by the person against whom the complaint is made (herein referred to as the "respondent"). Failure by the complainant to observe the confidentiality required by the statute may result in summary dismissal of the complaint. Complaints shall address specific provisions of the Code of Ethics and/or contain sufficient detail to permit the Board to identify each section of the Code that is the subject of the complaint.
  - (2) Complaints shall be written on the Board of Ethics Complaint Form and hand-delivered or mailed to the Chair of the Board of Ethics (herein referred to as the "Board"). Copies shall be sent promptly to members of the Board and to the respondent. The Board shall convene in an executive session and determine whether the complaint justifies an investigation. If the complaint fails to provide sufficient information upon which the Board can take appropriate action or fails to fall within the Board's jurisdiction, the complaint shall be returned to complainant.



- (3) If, after preliminary review, the Board determines that the complaint fails to address a matter that is within the purview of the code, the Board may dismiss the complaint without further proceedings.
- (4) If the Board determines that the complaint warrants an investigation, the Board may convene the entire Board to conduct a confidential investigation. As part of the investigation, the respondent shall have the right to be present and heard. Upon completion of the investigation and after due discussion by the Board, the Board shall determine, by majority vote, whether or not probable cause exists that a violation of the ethics code has occurred.
- (5) Upon a finding of probable cause, the Board shall set a date for a public hearing on the complaint which is not less than 10 days nor more than 30 days after notice has been given to the respondent that the Board has found probable cause and is proceeding with a public hearing on the complaint. The date of the hearing may be set by the Board sooner than 10 days or later than 30 days for good cause shown. The reason for granting an earlier or later date shall be set forth in the minutes of the Board. Any hearing on a complaint may be adjourned by the Board for a reasonable time to allow all relevant evidence to be presented.
- (6) In accordance with C.G.S. § 1-82a, as amended, not later than three days after the termination of the investigation, the Board shall inform the complainant and respondent of its finding and provide them a summary of its reasons for making that finding. If the Board finds no violation of the code, the complaint and the record of its investigation shall remain confidential, except upon request of the respondent. If the Board finds a violation of the code, such finding shall be forwarded, not later than five days after the termination of the investigation, to the Board of Selectmen with respect to respondents under its jurisdiction or to the Board of Education with respect to respondents under its jurisdiction. The finding shall also be made public, except as set forth in C.G.S. § 1-82a, and except as may be otherwise ordered by a court of competent jurisdiction.
- (7) All hearings shall be conducted in accordance with C.G.S. § 1-82a, as amended, with confidentiality rules strictly adhered to; provided, however, in the case of a nonpublic hearing, the respondent shall have the right to a public hearing. All parties shall have the right to legal counsel at their own expense. All parties are permitted to produce witnesses and to cross-examine witnesses. The Board reserves the right to call additional witnesses. Witnesses shall testify under oath. All parties shall have the right to be fully heard. Any party to the proceeding may introduce relevant documentary evidence. In nonpublic hearings, evidentiary documents shall be subject to the confidentiality rules.
- (8) Aside from the hearing process, the Board may conduct such other investigations as it deems necessary to reach a conclusion on a complaint, and the results of any such investigation shall be disclosed to the parties.
- (9) Upon conclusion of a hearing, the Board shall recommend to the Board of Selectmen or Board of Education, as the case may be, that the complaint be dismissed or, if not dismissed, that the respondent be reprimanded or disciplined. The Board's recommendation shall be advisory only and not binding on the Board of Selectmen or Board of Education, and they may take whatever action they

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deem appropriate in accordance with this Code of Ethics and other applicable law. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (10) By agreement of the Board and the parties in any proceeding conducted under the Code of Ethics and these rules, rules and procedures may be modified to accommodate a particular circumstance, provided that any such modification shall be in accordance with applicable law.

- E. Expenses and compensation. The members of the Commission shall serve without compensation for their services. In the performance of its duties and in the exercise of its powers, the Commission shall not incur any expense in excess of the funds appropriated by the legislative body for such purpose.

**§ 36-12. Severability.**

If any section, clause, provision or portion of this code shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this code.

**§ 36-13. Effective date.**

This code shall become effective 15 days after publication in a newspaper having a substantial circulation in the Town of Winchester.

**§ 36-14. Distribution of code.**

The Town Clerk shall cause a copy of this Code of Ethics, Chapter 36, as amended, to be distributed to every current Town official, member of any board, commission or agency and employee of the Town of Winchester, elected or appointed, paid or unpaid, within 60 days of the enactment of this chapter. Each Town official, member of any board, commission or agency and employee elected or appointed subsequent to enactment of this chapter shall be furnished a copy of this Code of Ethics before entering upon the duties of his or her office or employment. A signed receipt for all copies shall be returned to the Town Clerk and retained on file.

## **Chapter 40**

### **FINANCE AND BUDGET**

#### **ARTICLE I** **Uniform Fiscal Year**

##### **§ 40-1. Statutory authority.**

#### **ARTICLE II** **Payment of Claims**

##### **§ 40-2. Determination of past-due taxes or fees.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories.  
Amendments noted where applicable.]**

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##### **§ 40-3. Town employee wages exempt.**

#### **ARTICLE III** **Rules of Order for Annual Budget Meeting**

##### **§ 40-4. Rules established.**

#### **ARTICLE I** **Uniform Fiscal Year** **[Adopted 10-4-1965 ATM (§ 60 of the prior compilation)]**

##### **§ 40-1. Statutory authority.**

The Town of Winchester shall become a complying municipality as provided in Chapter 110 of the General Statutes of Connecticut, Revision of 1958.

#### **ARTICLE II** **Payment of Claims** **[Adopted by the Board of Selectmen effective 11-17-1998 (§ 169 of the prior compilation)]**

##### **§ 40-2. Determination of past-due taxes or fees.**

The Finance Director, before making payment to any person for services rendered to or materials purchased for the Town, shall ascertain from the Tax Collector whether such person owes past-due taxes on real or personal property or water or sewer user fees. Any such past-due taxes and fees, and any interest and fees in respect thereto, shall be deducted from the amount due and owing from the Town to any such person and shall be paid to the Tax Collector and applied to such taxes, interest and fees.

##### **§ 40-3. Town employee wages exempt.**

The provisions of this article shall not apply to the payment of wages of employees of the Town of Winchester.

## ARTICLE III

**Rules of Order for Annual Budget Meeting****[Adopted by the Board of Selectmen 5-16-2005 (§ 183 of the prior compilation)]****§ 40-4. Rules established.**

The following rules shall apply at any Annual Town Budget Meeting convened pursuant to the Town of Winchester Charter.

- A. The Moderator shall be chosen by the Board of Selectmen pursuant to Town Charter.
- B. The Clerk shall read the call of the meeting, which shall be substantially in the form as follows:

Warning to all persons entitled to vote in Town Meetings of the Town of Winchester, County of Litchfield, and State of Connecticut: you are hereby notified and warned that the Annual Town Budget Meeting of said Town will be held in said Town on \_\_\_\_\_ at \_\_\_\_\_ o'clock for the following purpose; to Wit:

- 1) To receive a report of the Board of Selectmen, including its estimate of receipts and expenditures and its proposed budget of \$\_\_\_\_\_ and to take action upon the same for the next fiscal year commencing July 1, 20\_\_.
- 2) To take any action properly to come before said meeting.

- C. Referendum.

- (1) The following motion shall be made to schedule a referendum on the proposed budget:

I move that the budget referendum be scheduled for (insert date) from 8:00 a.m. to 8:00 p.m. at the Pearson School.

- (2) The above date must be not less than 21 days and not more than 28 days from the budget meeting.
- (3) This motion may be debated but not amended and must pass by a majority vote. Should the motion fail, another motion must be made for a different date, which also may be debated but not amended and must pass by a majority vote. Should the second motion fail, the Board of Selectmen shall choose the date of the referendum and shall vote on said date immediately after the budget meeting has adjourned, but in no event later than 48 hours after said adjournment.

- D. Representatives of the Board of Selectmen and the Board of Education shall be provided an opportunity to discuss the proposed budget prior to debate by the body.

- E. The Moderator will then recognize speakers to discuss or amend the budget.

- F. Amendments.

- (1) Any amendment shall be in the following form:

"I move that the budget be amended by reducing line item number \_\_\_\_\_ by \$(dollar amount)."

- (2) After a second, the Moderator shall recognize speakers addressing the amendment only.
  - (3) After discussion has been exhausted or a request to move the question has been received and 2/3 of those present vote to move the question, the Moderator shall end discussion on the amendment.
  - (4) All votes on the amendment shall be done by machine vote.
- G. After the vote on an amendment, the Moderator shall continue to accept discussion and amendments according to the procedure provided above.
- H. After the Moderator has decided reasonable discussion has occurred, he may accept a request to move the question, which shall end all debate. Such a motion must pass by two-thirds vote. If no such motion is made or said motion fails, but the Moderator deems all debate to be exhausted, he will recognize a motion to adjourn, which must pass by a majority vote. The motion to adjourn shall be in the following form:
- "I move that the meeting be adjourned to referendum to be held on (insert the date set earlier by the meeting or the date to be set by the Board of Selectmen)."



## Chapter 43

### FIRE DEPARTMENT AND FIRE DISTRICTS

#### ARTICLE I Establishment and Operation

- § 43-1. Fire districts.
- § 43-2. Duties of Chief.
- § 43-3. Duties of Fire Chief and Deputy Chiefs; organization of company.
- § 43-4. Deputy Chief to proceed to fire.
- § 43-5. Enlistment of members in fire companies.
- § 43-6. Officer in charge until arrival of Chief.
- § 43-7. Deputy Chiefs to report to Chief.
- § 43-8. Compensation for services limited.
- § 43-9. Nonmembers not to interfere at fire unless requested.

#### § 43-10. Removal of Chief, Deputy or member.

#### ARTICLE II Health Standards for Volunteer Firefighters

- § 43-11. Definitions.
- § 43-12. Hospitalization of members.
- § 43-13. Authority to require medical treatment at emergency scenes.
- § 43-14. Authority to determine physical fitness.
- § 43-15. Placement on non-responder list; removal from Department.
- § 43-16. Annual physical required.
- § 43-17. Appeals.
- § 43-18. Penalties for performing duties while on non-responder list.

[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]

#### ARTICLE I Establishment and Operation

[Adopted effective 7-1-1960; 5-13-1985 and 11-12-1985 (§§ 102 to 112 of the prior compilation)]

#### § 43-1. Fire districts.

The Town shall be divided into fire districts as follows:

- A. District No. 1: All that part of the Town lying westerly of a line running in the center of High Street, at its intersection with Main Street.
- B. District No. 2: All between the easterly line of District No. 1 and the center line of Chestnut Street, extending to center line of Wetmore Avenue.
- C. District No. 3: All between said center line of Chestnut Street to the center line of Wetmore Avenue, extending to the east line of the Town.
- D. District No. 4: All lying north of said center of Wetmore Avenue.

**§ 43-2. Duties of Chief.**

It shall be the duty of the Chief to have charge of all the engines, hoses, hose vehicles and other tools and implements used for fire purposes, belonging to the Town; also to have care of the building used for storing the same and to see that they are in perfect order at all times and ready for immediate use. Whenever any alarm of fire is given, it shall be his duty to ascertain its locality, and reach the same as soon as practicable, and at once take the direction and give such orders to his assistants and others as he shall think proper.

**§ 43-3. Duties of Fire Chief and Deputy Chiefs; organization of company. [Amended 5-6-2013]**

- A. It shall be the duty of the Fire Chief, annually, to organize, by voluntary enlistments, a company of not less than 10 nor more than 25 active members, as may from time to time be directed by the Board of Selectmen, to serve as firefighters or support personnel for one year from their first meeting in June of the then present year, each of whom shall be found to observe all rules and regulations that may be adopted from time to time by the Board of Selectmen, and to be governed by the Chief and Deputies, and to comply with all their orders. Upon obtaining the requisite number, the Chief shall present the names to the Board of Selectmen for its approval. If no objections are made by said Board of Selectmen, they shall be accepted as active members of their respective companies. The foreman of each company shall be known as "Captain," and the first and second assistant foremen shall be known as "Lieutenants."
- B. An "active member" shall be defined as personnel whose duties are primarily to perform work directly connected with interior and exterior control and extinguishment of fires, or the maintenance and use of firefighting apparatus and equipment, and shall include those personnel performing a supervisory or support position. Active members shall not include associate or honorary members.

**§ 43-4. Deputy Chief to proceed to fire.**

It shall be the duty of each Deputy Chief, whenever an alarm of fire is given, to proceed with all reasonable haste to the fire.

**§ 43-5. Enlistment of members in fire companies. [Amended 5-6-2013]**

The form of enlistment to be used for members of the fire companies shall be as follows:

We, the undersigned citizens of the State of Connecticut, do hereby enlist in (HOSE) (ENGINE) (LADDER) Company of said City of Winsted, and engage to perform voluntarily the duties of firefighter in said company for a period of one year from the first meeting in June, A.D., \_\_\_\_\_, subject to all the ordinances of said City and all the rules and regulations consistent with said ordinances as shall from time to time be made and adopted by the Board of Selectmen, and to comply with and obey all the orders of the Chief and Deputy Chiefs.



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**§ 43-6. Officer in charge until arrival of Chief.**

In case of the absence of the Chief, the Deputy who first arrives at the fire shall act as Chief until said Chief arrives. In the case of the absence of the Deputy whose company shall first arrive, the chief officer of said company shall take charge until a superior officer arrives upon the ground.

**§ 43-7. Deputy Chiefs to report to Chief.**

On reaching the fire, or the vicinity of the same, each Deputy Chief shall report to the Chief.

**§ 43-8. Compensation for services limited. [Amended 5-6-2013]**

No member of said companies will receive any pay for services as firefighters, except when ordered to remain on fire-watch service by the Chief or his Deputies, or as may be provided by the City of Winsted.

**§ 43-9. Nonmembers not to interfere at fire unless requested.**

No person not a member of a company will be allowed to interfere or meddle with an engine, hose vehicle, or any tools or implements belonging to the Town, at any fire, unless requested to do so by the Chief or his Deputies or some person in charge of the same.<sup>1</sup>

**§ 43-10. Removal of Chief, Deputy or member.**

- A. The Board of Selectmen shall have the right, as hereinafter set forth, to remove the Chief or any of his Deputies, or any member of any fire company. The fire companies shall have the power to make rules for their own government, subject to the approval of the Board of Selectmen, not inconsistent with the Charter of the Town of Winchester or any of the bylaws or ordinances made by the Board of Selectmen.
- B. The right of the Board of Selectmen to remove any of the Deputies, or any member of the fire company, shall be exercised only after all internal disciplinary procedures of the Department have been exhausted. The Board of Selectmen shall serve as an appeal board of last resort only for disciplinary matters affecting personnel of the Fire Department.

## ARTICLE II

**Health Standards for Volunteer Firefighters**

**[Adopted effective 1-25-1984; amended 5-20-2013 (§ 134 of the prior compilation)]**

**§ 43-11. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

1. Editor's Note: Original Sec. 111, prohibiting driving vehicles over fire hose, amended 5-6-2013, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 367-6.

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ACTIVE DUTY — The performance of all normal duties of an interior and exterior firefighter or fire police officer.

NON-RESPONDER — The status of a firefighter who shall not respond to or attend practices or drills, but who may attend meetings and exercise their right to vote.

#### **§ 43-12. Hospitalization of members.**

When any member of the Fire Department shall be hospitalized for any reason, said member shall automatically be placed on the non-responder list immediately upon their hospitalization. Said member shall only be returned to active duty upon their presentation to the Fire Chief or to a Deputy Fire Chief of a written certification by a physician that said member is physically fit to return to active duty.

#### **§ 43-13. Authority to require medical treatment at emergency scenes.**

The Fire Chief and/or any Fire Officer in charge shall have authority at any emergency scene to order a firefighter to obtain immediate medical treatment and diagnosis and to submit to the Fire Chief within 24 hours thereof a report as to their medical condition. During said period, the firefighter shall be on non-responder status, and shall remain on such until the Fire Chief is presented with written certification that said member is physically fit to return to active duty.

#### **§ 43-14. Authority to determine physical fitness.**

The Fire Chief, or a Deputy Fire Chief, shall have the authority to request that a member of the Department be examined by the Department medical authority to determine the physical fitness of said member to be on active duty. Should a member so requested fail to obtain and present to the requesting Fire Officer within seven days of the date of said request a written certification of a physician that said member is physically fit to be on active duty, the Fire Chief or Deputy Fire Chief shall have the authority to place said member on the non-responder list until such time as the member obtains such written certification. The total number of requests to any single member shall not exceed two per calendar year.

#### **§ 43-15. Placement on non-responder list; removal from Department.**

- A. Any member may request to be placed on the non-responder list. Such status shall be effective immediately upon request.
- B. Any member who has been on the non-responder list for 180 consecutive days or 180 total days in a 365-day period may, with or without their consent, be removed from the Department by a majority vote of said member's company, or by action of the Fire Chief.
- C. Any member who has been on the non-responder list for 365 days, whether total or consecutive, may be removed from the Department by the Fire Chief.

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**§ 43-16. Annual physical required.**

Each member of the Fire Department shall be required to have a Department-approved physical examination every year, and those members of the Department who have reached their 40th birthday shall be required to have an annual examination which shall include an electrocardiogram. All of said examinations shall follow the requirements as set forth in the latest version of the National Fire Protection Agency (NFPA) Standard 1582 and shall be at the expense of the Department. Each member, when requested, shall present to the Fire Chief, or Deputy Fire Chief, a written certificate that said member is fit for active duty as a condition to signing over.

**§ 43-17. Appeals.**

Any member aggrieved by the procedures contained in this article shall have the right to appeal under the grievance procedures set forth in the Department's bylaws.

**§ 43-18. Penalties for performing duties while on non-responder list.**

Any member who is on the non-responder list and who performs any duty inconsistent with such status shall be subject to charges of insubordination and appropriate disciplinary action therefor.



## Chapter 46

### FREEDOM OF INFORMATION

**§ 46-1. Adherence to state law.****§ 46-3. Fees.****§ 46-2. Training and compliance.****§ 46-4. When effective.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 12-5-2022. Amendments noted where applicable.]**

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**§ 46-1. Adherence to state law.**

The Town of Winchester hereby affirms its commitment to upholding Chapter 14 of the Connecticut General Statutes, the Connecticut Freedom of Information Act. The Town shall conform to all provisions found therein.

**§ 46-2. Training and compliance.**

The Town Manager shall be responsible for providing guidance to Town staff on the Freedom of Information Act, establishing standard operating procedures for Town departments, boards and commissions on the Freedom of Information Act, and for overseeing the attainment of Freedom of Information Act compliance for all Town departments, boards and commissions.

**§ 46-3. Fees.**

A. The Town shall levy fees for all requests made under the Freedom of Information Act in accordance with the following schedule:

- (1) Viewing documents (no copies made): free of charge.
- (2) Photographing or self-copying documents (on a cell phone, etc.): a flat rate of \$20 for as many pictures as the requestor wishes to take per FOIA request, as outlined in C.G.S. § 1-212(g).
- (3) Printed 8.5-inch-by-11-inch copies provided by Town: \$0.50 per page.
- (4) Oversized printed copies provided by Town: \$6 per copy.
- (5) Computer-stored public records pursuant to C.G.S. § 1-211(a):
  - (a) An amount equal to the hourly salary attributed to all agency employees engaged in providing the requested computer-stored public record, including their time performing the formatting or programming functions necessary to provide the copy as requested, but not including search or retrieval costs.

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- (b) An amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such copying services, if such service is necessary to provide the copying as requested.
  - (c) The actual cost of the storage devices or media provided to the person making the request in complying with such request.
- B. Nothing in this chapter shall require the Town's creation of documents not previously in existence.
- C. Fees shall be collected by the Town Manager's office; fees equal to or greater than \$10 must be paid in advance of the documents being released or made viewable by the Town.
- D. Fees may only be waived by the Town Manager in accordance with C.G.S. § 1-212(d). New requests may not be made by a given member of the public until that individual has paid all fees associated with their prior requests.

**§ 46-4. When effective.**

This chapter shall be effective 15 calendar days following the Board of Selectmen's adoption of the ordinance.

## Chapter 52

### HOUSING AUTHORITY

#### § 52-1. Findings.

#### § 52-2. Authority established.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 4-9-1956 (§ 73 of the prior compilation). Amendments noted where applicable.]**

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#### § 52-1. Findings.

The Board of Selectmen of the Town of Winchester, Connecticut, hereby determines, finds and declares, in pursuance of the provisions of Section 337c of the 1953 Supplement to the General Statutes, that:

- A. Unsanitary or unsafe inhabited dwelling accommodations exist in the municipality;
- B. There is a shortage of safe or sanitary dwelling accommodations in the municipality available to families of low income at rentals they can afford;
- C. There is a need for temporary housing for veterans in the municipality;
- D. There is a shortage of safe or sanitary dwelling accommodations in the municipality available to families of moderate income at rentals they can afford; and
- E. There is a need for a Housing Authority in said Town of Winchester, Connecticut.

#### **§ 52-2. Authority established. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Housing Authority shall be appointed by the Board of Selectmen as provided in the Town Charter.





## Chapter 58

### INLAND WETLANDS AND WATERCOURSES COMMISSION

#### ARTICLE I Establishment

##### **§ 58-1. Members; terms; powers and duties.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE II Fees

##### **§ 58-2. Services for which fees are charged.**

#### ARTICLE I Establishment

**[Adopted 10-1-1973 ATM; amended 3-3-1975; 11-24-1980; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (§ 114 of the prior compilation)]**

##### **§ 58-1. Members; terms; powers and duties.**

An Inland Wetlands Commission is established with the members, terms, powers and duties set forth in the Town Charter.

#### ARTICLE II Fees

**[Adopted by the Board of Selectmen 8-7-2006; amended 4-16-2007 (§ 187 of the prior compilation)]**

##### **§ 58-2. Services for which fees are charged. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In addition to those fees enumerated in the Inland Wetlands and Watercourses Commission regulations,<sup>1</sup> which shall be deemed the minimum fees, the Commission may impose the following fees:

- A. When the Inland Wetlands and Watercourses Commission determines that the application will require the use of outside consultant services, it may add to the minimum fee a surcharge fee to fund the approximate actual cost of those services.
- B. The expenses for such outside consultants may be estimated by the Inland Wetlands and Watercourses Commission upon receipt of the application, based upon the projected expenses of reviewing, evaluating and processing the application. This reasonable estimate, together with the appropriate application fee given above, shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted. For the purpose of this article, an "outside consultant" means a

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1. Editor's Note: See Ch. 390, Inland Wetlands and Watercourses Regulations.

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professional who is not an employee of the Town, including, but not limited to, engineering, traffic, legal, environmental and planning professionals.

- C. Any portion of the surcharge fee not expended by the Town on the project shall be rebated to the applicant upon completion of the review, evaluation and processing of the application.
- D. The Commission shall bill the applicant for any costs incurred by the Town in excess of the surcharge fee paid by the applicant. This bill shall be paid by the applicant prior to the issuance of any permits.

## **Chapter 63**

### **JUSTICES OF THE PEACE**

#### **§ 63-1. Number.**

**[HISTORY: Adopted by the Town of Winchester 6-8-1964 STM; amended by the Board of Selectmen 5-6-1996 (§ 58 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### **§ 63-1. Number.**

The number of Justices of the Peace for the Town of Winchester shall be fixed at 30.



## **Chapter 69**

### **LAUREL CITY COMMISSION**

**§ 69-1. Membership; terms; vacancies.      § 69-2. Powers and purpose.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 11-15-1982; amended 1-22-1991 and 4-5-2004 (§ 129 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 69-1. Membership; terms; vacancies. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

There is hereby created in the Town of Winchester a commission known as "The Laurel City Commission." The Commission membership shall be increased to no less than 11 nor more than 25 members to be appointed by the Board of Selectmen. Members of said Commission shall serve for terms of five years or until their successors are appointed, except that the members of said Commission first appointed shall be appointed for such terms that the terms of two members shall expire three years from their appointment, and two members' terms shall expire four years from their appointment. Any vacancy occurring otherwise than by expiration of term shall be filled by the Selectmen for the unexpired portion of the term.

**§ 69-2. Powers and purpose.**

The Commission shall have power to take action appropriate for the purpose of perpetuating Winchester as the "Laurel City" of Connecticut, promoting an annual Laurel Festival and encouraging the growth of laurel throughout the Town, particularly on Town-owned property.



## Chapter 77

### LOCAL VETERANS ADVISORY COMMITTEE

#### § 77-1. Authority.

#### § 77-3. Powers and duties.

#### § 77-2. Membership and terms.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 11-19-1990 (§ 158 of the prior compilation). Amendments noted where applicable.]**

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#### § 77-1. Authority.

There is hereby established a Local Veterans Advisory Committee pursuant to C.G.S. § 27-135.

#### § 77-2. Membership and terms.

The Committee shall consist of five members, who shall be appointed by the Board of Selectmen for two-year terms.

#### § 77-3. Powers and duties.

Powers and duties are as follows:

- A. Act as the coordinating agency in all matters concerning veterans and their dependents, coordinating the activities of public and private facilities concerned with veterans' reemployment, education, rehabilitation and adjustment to peacetime living;
- B. Cooperate with all national, state and local governmental and private agencies in securing services and benefits to which a veteran or his dependents may be entitled;
- C. Use the services and facilities of the veterans' organizations so far as possible to carry out the purposes of this chapter; and
- D. Encourage and coordinate vocational training services for veterans.





## **Chapter 81**

### **MEETINGS**

#### **ARTICLE I** **Attendance at Board and Commission** **Meetings**

#### **§ 81-2. Excusing member's presence.**

#### **§ 81-1. Resignation upon multiple** **absences.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories.**  
**Amendments noted where applicable.]**

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#### **ARTICLE I** **Attendance at Board and Commission Meetings** **[Adopted by the Board of Selectmen 12-5-1994 (§ 166 of the prior compilation)]**

#### **§ 81-1. Resignation upon multiple absences. [Amended at time of adoption of Code (see** **Ch. 1, General Provisions, Art. I)]**

Any member of any municipal commission, board or committee appointed by the Board of Selectmen or Town Manager pursuant to the Town's Charter shall be deemed to have resigned if the member is absent without excuse at three consecutive meetings or a majority of meetings in a calendar year.

#### **§ 81-2. Excusing member's presence.**

The Chairman of any commission, board or committee shall be empowered to excuse a member's presence for good cause.



## **Chapter 84**

### **NORTHWEST HILLS COUNCIL OF GOVERNMENTS**

**§ 84-1. Membership in Council;  
statutory authority.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 5-4-1985; amended 10-7-2013 (§ 135 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 84-1. Membership in Council; statutory authority.**

The Board of Selectmen hereby ratifies the action of the Litchfield Hills Council of Elected Officials to join the Northwest Hills Council of Governments at their meeting of July 12, 2013, and, toward that end, the Litchfield Hills Council of Elected Officials formally adopted C.G.S. §§ 4-124i to 4-124p, inclusive, in accordance with the procedures set forth in C.G.S. § 4-124j.



## Chapter 87

### NOTICES

#### ARTICLE I Proposed Changes to Regulations

#### § 87-2. Submission of proposed changes to Town Manager; publication.

#### § 87-3. Effect on adopted regulations.

#### § 87-1. Intent.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Proposed Changes to Regulations **[Adopted by the Board of Selectmen effective 12-2-1989 (§ 153 of the prior compilation)]**

#### § 87-1. Intent.

The Board of Selectmen are concerned that the general public have an additional opportunity to become aware of proposed changes to the regulations of Town boards and commissions.

#### § 87-2. Submission of proposed changes to Town Manager; publication. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In furthering this goal, all Town boards and commissions, including but not limited to the Planning and Zoning Commission, the Zoning Board of Appeals, the Inland Wetlands Commission and the Economic Development Commission, shall transmit the full text of proposed changes to their regulations to the Town Manager 12 days prior to a public hearing thereon, or, if no public hearing is held, 12 days prior to the adoption thereof. The Town Manager will arrange for publication of the full text or other publication as the Town Manager may deem appropriate in a manner likely to reach the general public.

#### § 87-3. Effect on adopted regulations.

Nothing in this article shall be deemed to affect in any way the validity of any regulation now or in the future that is passed in accordance with the notice requirements of the Connecticut General Statutes specifically set forth for a board or commission.



## Chapter 91

### OFFICERS AND EMPLOYEES

#### ARTICLE I Retirement Plan

- § 91-1. Retirement Administration Board.
- § 91-2. Eligible members.
- § 91-3. Normal retirement date.
- § 91-4. Early retirement.
- § 91-5. Disability retirement.
- § 91-6. Vested deferred benefits.
- § 91-7. Benefit formula.
- § 91-8. Employee contributions.

§ 91-9. Contribution by Town; payments by alternative funding sources.

- § 91-10. Return of employee contributions.
- § 91-11. Amendments.
- § 91-12. Termination of Plan.
- § 91-13. General provisions.

#### ARTICLE II Removal of Officials

- § 91-14. Procedure.
- § 91-15. Scope.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Retirement Plan

**[Adopted effective 7-15-1964; amended effective 1-1-1965; 9-27-1965; 2-15-1972; 6-15-1975; 6-11-1982; 11-14-1983; 1-30-1984; 4-2-1984; 4-1-1991; 1-1-2000; and 3-14-2002 (§ 63 of the prior compilation)]**

##### **§ 91-1. Retirement Administration Board.**

- A. The Retirement Plan for the Town of Winchester (the "Plan") shall be administered by the Retirement Administration Board, hereinafter called the "Board," consisting of the Town Manager, two citizens at large and two nonsupervisory employees of the Town appointed by the Board of Selectmen. Of the citizen and employee members so appointed initially one citizen member and one employee member shall be appointed to serve for two years and one citizen member and one employee member shall be appointed to serve for four years, and thereafter the citizen and employee members shall be appointed to serve for four years. The members of the Board shall serve without compensation. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. The Board shall have full authority:
  - (1) To make rules and regulations for the administration of the Plan and to prescribe procedures to be followed and forms to be used in applying for benefits;

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- (2) To adopt procedures for the establishment of the date of birth and credited service of members;
  - (3) To make determinations as to the rights of any participant or beneficiary applying for or receiving benefits;
  - (4) To construe the Plan and to correct any defect or supply any omission or reconcile any inconsistency, including authority to make any technical changes or additions which would not affect the cost of the Plan or the benefits payable thereunder;
  - (5) To employ such actuarial, medical, clerical and other services as are necessary for the proper operation of the Plan.
- C. The Board shall select and appoint a trust company qualified to act as a depository for Town funds to manage the retirement fund. All funds appropriated by the Town or contributed by the employees of said Town pursuant to this Plan shall be paid over to the trustee, which shall have the right and power to invest and reinvest the same in securities legal under the General Statutes of Connecticut for investment of trust funds, including common trust funds. The trustee shall make payments from said trust fund from time to time on the written direction of the Board pursuant to this Plan. The Board shall enter into a written agreement with said trustee specifically outlining the duties of said trustee, which shall be in all respects in accordance with and consistent with this Plan. The Board shall not be liable for any negligence, misfeasance or malfeasance on the part of such trustee in managing said fund.
- D. The Board shall act by a majority of its members at the time in office, and such action may be taken either by a vote at a meeting or in writing without a meeting.
- E. The Board may authorize any one or more of its members to execute any document or documents on behalf of the Board, in which event the Board shall notify the trustee in writing of such action and the name or names of its member or members so designated. The trustee thereafter shall accept and rely upon any document executed by such member or members as representing action by the Board until the Board shall file with the trustee a written revocation of such designation.

**§ 91-2. Eligible members.**

- A. The terms of this Plan shall apply to all persons regularly employed on a full-time basis by the Town who have attained their 21st birthday and completed their probationary period, which for the purpose of this Plan shall be six months from the date of such full-time employment, provided said terms shall not apply to employees covered either by the State Municipal Employees' Retirement System or by the State Teachers' Retirement System who are eligible to receive benefits from either of such plans now or in the future, or to employees whose employment is governed by the terms of a collectively bargained agreement between employee representatives and the Town under which retirement benefits were the subject of good faith bargaining between the parties, unless such agreement expressly provides for such coverage in this Plan, or to alternative funding source employees, unless pursuant to an agreement with the alternative funding source applicable to such employee which expressly provides for



such coverage in this Plan. For purposes of this section, a person is considered to be employed by the Town on a full-time basis if such person is scheduled to work at least 1,000 hours of service (as hereinafter defined) in any calendar year. Each employee who is or becomes eligible to participate in this Plan may do so at his option. In order to become a participant of this Plan, an employee must elect to have the employee contributions specified in § 91-8 of this Plan deducted from his pay. Any employee who does not have employee contributions deducted from such employee's pay will not be eligible for any benefits under this Plan.

- B. Any employee who was previously excluded from participation in the Plan because the employee had attained the age of 55 on the employee's initial date of hire by the Town may elect to participate retroactively in the Plan as of January 1, 1988, provided such employee had been employed by the Town on a full-time basis for at least six months as of such date, and further provided that such employee makes employee contributions, pursuant to § 91-8, for the period from January 1, 1988, to December 31, 1991, plus interest at the annual rate of 3% of the amount of such unpaid contributions for the period January 1, 1988, through December 31, 1990, and at the annual rate of 5% of such unpaid contributions for the period January 1, 1991, through the date of final payment. Any such eligible employee shall be entitled to make such an election at any time until December 31, 1991, and an employee making such an election shall have a period of 12 months from the date of election over which to make such retroactive payments of contributions and interest by payroll deduction. Notwithstanding the foregoing, in the event that during any portion of the period January 1, 1988, through March 31, 1991, the Town made contributions on the employee's behalf to the ICMA Retirement Corporation Deferred Compensation Plan, then such employee shall not be eligible for retroactive participation in the Plan for such portion of period.
- C. In addition, effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members, any employee who was previously excluded from the participation in the Plan because the employee had ceased to have employee contributions deducted from his or her pay after the previously applicable maximum of 25 years of such deductions had been made may elect to participate retroactively in the Plan, provided such employee had been employed by the Town on a full-time basis for at least six months as of the applicable effective date, and further provided that the employee makes employee contributions, pursuant to § 91-8, for the period from the date such employee ceased to have employee contributions deducted from pay to the applicable effective date plus interest at the annual rate of 5% of the amount of such unpaid contributions for such period. Any such eligible employee shall be entitled to make such an election at any time until the first anniversary of the applicable effective date, and an employee making such an election shall have a period of 12 months from the date of election over which to make such retroactive payments of contributions and interest by payroll deduction.
- D. For purposes of Subsection A of this section, "hour of service" shall mean each hour for which an employee is paid, or entitled to payment, by the Town for the performance of duties.

**§ 91-3. Normal retirement date.**

The normal retirement date under the Plan is the latest of the following dates:

- A. The first day of any month coincident with or next following an employee's 65th birthday;
- B. The date as of which an employee has been employed by the Town for five years;
- C. January 1, 1993, for an employee who was hired by the Town after attaining age 55 but before January 1, 1988.

**§ 91-4. Early retirement.**

- A. Any participant in the Plan who has attained the age of 55 and completed 10 years of continuous full-time employment with the Town may retire at any time prior to such participant's normal retirement date. Upon such early retirement, such participant will be entitled to the benefit under § 91-7 computed on the basis of the participant's years of credited service to the date of early retirement, but the retirement benefit will be reduced by 4% per year [or, in the case of alternate funding source employees, to an equivalent actuarial value, as defined in § 91-13D(1)(c) of the Plan] because of the early commencement of such benefit. Any participant in the Plan who has attained the age of 58 and completed 25 years of continuous full-time employment with the Town, and, effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members, any participant in the Plan whose age in years plus years of continuous full-time employment with the Town at the time of the participant's termination of employment equals or exceeds 75, may retire early under this section with no reduction of the participant's early retirement benefit. Any participant who is eligible to retire early under this § 91-4 shall be entitled to commence receiving an early retirement benefit at any time prior to the participant's normal retirement date.
- B. Any participant who meets the above requirements for early retirement and terminates employment may elect to have his or her retirement benefit deferred to the participant's normal retirement date, provided that such participant does not withdraw his or her own contributions to the fund.

**§ 91-5. Disability retirement.**

- A. Service-connected. A participant who is totally and permanently disabled in the line of duty shall receive the greater of:
  - (1) The retirement benefit under § 91-7 computed on the basis of the participant's years of credited service earned to the date of disability; or

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- (2) 50% of the participant's base pay at the time of disability, exclusive of overtime pay, reduced by any social security payments which the participant shall then or thereafter be entitled to receive arising on account of such disability.
- B. A participant who has 15 or more years of credited service and becomes totally disabled while in the service of the Town otherwise than in line of duty shall receive a retirement benefit under § 91-7 computed on the basis of the participant's years of credited service earned to the date of disability.
- C. The disability retirement benefit under this section shall be reduced by payments to the participant under any workers' compensation law.
- D. As used herein, "total and permanent disability" shall mean total and permanent incapacity of a participant to engage in any occupation for wage or profit, provided that such incapacity 1) did not result from and was not due to habitual intemperance, narcotic addiction, intentional self-infliction of injury or service in any armed forces; and 2) did not occur during the commission of any felony. Such incapacity shall be deemed to exist when certification is made by a physician appointed by the Board, which physician's decision shall be final.
- E. The Board may, from time to time, call for medical evidence that the participant continues to be totally disabled. In the event that the Board shall, upon competent medical evidence, conclude that the disability for which the participant is receiving a pension no longer exists, or if it establishes that such employee is engaged in gainful occupation, the Board shall thereupon order a discontinuance of the pension payable to such employee.
- F. A disability benefit or pension under this section is payable only for the period of time for which the employee is eligible for and receives disability benefits under the Social Security Act.
- G. Notwithstanding the foregoing, the benefit payable to any alternate funding source employee under this § 91-5 shall not exceed the equivalent actuarial value, as defined in § 91-13D(1)(c) of the Plan, of the retirement benefit under § 91-7 computed on the basis of the participant's years of credited service earned to the date of disability.

**§ 91-6. Vested deferred benefits.**

- A. A participant whose employment with the Town is terminated for any reason except death or disability after five years of continuous full-time employment with the Town and who is not entitled to receive any early retirement benefit under § 91-4 will be entitled to a vested deferred benefit equal to the retirement benefit under § 91-7 computed on the basis of the participant's credited service to the time of termination of employment, such benefit to commence at the participant's normal retirement date; provided, however, that if such participant shall elect to withdraw his or her own contributions at the time of his or her termination or thereafter, as hereinafter provided, such participant shall forfeit his or her vested deferred benefit.
- B. A former employee who is entitled to a vested deferred benefit must make application for his or her benefit in writing to the Retirement Administration Board not earlier than six months prior to his or her normal retirement date. Benefit payments will commence

on the first day of the month coinciding with or next following his or her normal retirement date or the date such former employee applied for a retirement benefit, whichever is later.

**§ 91-7. Benefit formula.**

- A. The basic retirement benefit is an annual pension payable in monthly installments for life in an amount equal to 50% of final average compensation reduced proportionately for years and fractions of years of credited service less than 25. Notwithstanding the foregoing, effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members, the basic retirement benefit is an annual pension payable in monthly installments for life in an amount equal to 2% of final average compensation multiplied by the number of years and fractions of years of credited service, not exceeding 35 years.
- B. "Final average compensation" means the average annual compensation for any three consecutive calendar years during the 10 calendar years immediately prior to termination of employment or, if earlier, the discontinuance of employee contributions for reasons other than having made employee contributions for 25 years (35 years, effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members). Compensation excludes overtime pay, pay for accrued vacation time and pay for unused sick leave and includes employee contributions to the ICMA Retirement Corporation Deferred Compensation Plan. Annual compensation for any calendar year shall not exceed \$150,000 (\$200,000, effective as of January 1, 2002) as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code.
- C. Credited service.
  - (1) "Credited service" shall mean all years and completed months of full-time employment with the Town during which an employee makes the required contributions to the Plan pursuant to § 91-7E or § 91-8 and which are subsequent to the later of:
    - (a) The employee's 21st birthday; or
    - (b) The completion of the employee's probationary period as specified in § 91-2.
  - (2) If an employee initially rejects Plan membership or elects a return of his or her employee contributions and then later elects to have employee contributions deducted from his or her pay, such an employee will only receive credit for the service accrued after this later election. An exception to the preceding will apply only to employees who elected a return of their employee contributions prior to

June 30, 1984. If such employees elect to pay back their employee contributions with interest in accordance with § 91-10E of this Plan, they will receive credit for service as if these employee contributions had never been returned to them in the first place. If a participant elects to discontinue contributions but does not elect to withdraw contributions, no credit for service will be received for the period of employment during which contributions could have been made but were not.

- D. Leaves of absence. Periods of absence of not more than 90 days in any one calendar year during the course of such service shall not be considered as breaking the continuity of full-time employment. Periods of absence of more than 90 days by reason of a leave of absence or any disability necessitating the regular attendance of a physician, unless such requirement is waived if such attendance is declared unnecessary by medical authority satisfactory to the Board, shall not be considered as breaking the continuity of full-time employment, but such periods shall not be included in the period of service in determining the amount of the retirement allowance. For purposes of determining full-time employment, any period of absence which constitutes leave permitted under the Family and Medical Leave Act of 1993 shall be disregarded.
- E. Leave of absence for military service.
  - (1) Prior to December 12, 1994, leave of absence for military service in the Armed Forces of the United States of America shall not be considered as breaking the continuity of full-time employment, provided the participant shall be reemployed within 90 days of his actual discharge from military service. If, within one year after reemployment, such participant shall pay into the pension fund the amount such participant would have contributed if such participant had been in the active employ of the Town during the period of absence, based upon such participant's salary at the beginning of the leave of absence, such participant will receive credited service under the Plan for the period of such participant's military service; otherwise, such participant's years of credited service shall not include the period of military service.
  - (2) Effective December 12, 1994, leaves of absence for service in the uniformed services, as defined below ("qualified military service"), shall not be considered as breaking the continuity of employment, provided the participant is discharged with not less than an honorable discharge and reports to, or submits an application for reemployment to, the Town upon conclusion of qualified military service within the period prescribed by law (which varies depending upon the length of qualified military service), and further provided that the cumulative length of absence and of all previous absences from employment by reason of qualified military service does not exceed five years. If, within a period of no more than three times the length of the period of qualified military service, such participant shall pay into the pension fund the amount such participant would have contributed if such participant had been in the active employ of the Town during the period of qualified military service, based upon the rate of compensation such participant would have received but for the period of qualified military service (or if such rate of compensation is not reasonably certain, the participant's compensation in the 12 months immediately prior to leave for qualified military service, or such shorter period, if the participant was employed less than 12 months), such participant will receive credited service under the Plan

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for the period of such participant's qualified military service, provided such make-up contributions are completed within five years of such participant's reemployment date; otherwise, such participant's years of credited service shall not include the period of qualified military service.

- (a) For the purposes hereof, the term "uniformed services" includes the U.S. Armed Services (including the Coast Guard), the Army National Guard and the Air National Guard and the Commission Corps of the Public Health Service.
- (b) The term "service in the uniformed services" means the performance of duty on a voluntary or nonvoluntary basis in uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty and time for which a person is absent due to an examination to determine fitness to perform such duty.

**§ 91-8. Employee contributions.**

- A. As soon as an employee becomes eligible to participate in this Plan, he or she may elect to contribute 2 1/2% of his or her pay on his or her social security earnings base and 5% on the excess above the social security earnings base (effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members, 5% of his or her pay) toward the cost of the benefits provided herein. Such contributions shall be collected as deductions from pay and transmitted promptly to the Board.
- B. Employee contributions will not be deducted from any earnings which are excluded in the definition of compensation found in § 91-7.
- C. All employees will cease to have employee contributions deducted from their pay after 25 years (35 years effective as of January 6, 2000, for nonunion employees, January 13, 2000, for employees who are members of the Civil Service Employees Association, July 13, 2000, for employees who are members of the National Association of Government Employees Union Local R1-221, and such other date(s) as this change may be accepted by the bargaining units of which other employees are members) of such deductions.
- D. A participant may withdraw or discontinue his or her contributions at any time during his or her period of service with the Town.
- E. A participant who elected to withdraw or discontinue his or her contributions may again elect to have employee contributions deducted from his or her pay. Such election may be made any time after one year from the date the participant elected to withdraw or discontinue his or her contributions.

**§ 91-9. Contribution by Town; payments by alternative funding sources.**

The Town shall pay over to the Retirement Administration Board annually such amounts, in addition to the contributions by the participants, as are necessary to fund the benefits on a sound actuarial basis. The Town shall also appropriate annually such amounts as shall be necessary for the administration of the Plan. Alternative funding sources shall pay over to the Retirement Administration Board such amounts, in addition to the contributions by the alternative funding source participants, as are necessary to fund their benefits on a sound actuarial basis, at such times and in such amounts as may be agreed upon between the alternative funding source and the Town.

**§ 91-10. Return of employee contributions.**

- A. The contributions of a participant who terminates prior to becoming entitled to an immediate retirement benefit or a vested deferred benefit, or who dies before the participant has commenced to receive a retirement benefit, will be refunded to the participant or the participant's legal representatives with interest at a rate of 3% compounded annually for contributions made before January 1, 1991, and 5% compounded annually for contributions made on or after January 1, 1991.
- B. If a participant who is receiving benefits dies before having received an amount equal to such participant's contributions and interest accumulated thereon to the date of retirement, the balance will be paid to the participant's legal representatives.
- C. A participant who is entitled to the vested deferred benefit may elect to forfeit such benefit and withdraw his or her contributions plus interest any time prior to the commencement of such benefit.
- D. A participant who continues to be employed by the Town and who elects to discontinue employee contributions may elect to withdraw such contributions plus interest any time prior to the commencement of any retirement or disability benefits to which such participant may be entitled. Once a participant withdraws his or her employee contributions plus interest, such employee contributions may never be returned by the participant to the Plan and all credited service associated with such employee contributions will be forfeited forever except as provided in Subsection E below.
- E. Participants who elected to withdraw their employee contributions with interest prior to June 30, 1984, may elect to return such employee contributions with interest. In addition, employee contributions that would have been made since such elective withdrawal with interest may also be paid by these participants. Participants must make this election prior to December 31, 1984. Such employee contributions with interest may be paid to the Town in one lump sum prior to June 30, 1985, or on an installment basis which is acceptable to the Town. In no event shall the installment period run beyond December 31, 1987. Credit for service attributable to these employee contributions will not be counted until all of the employee contributions with interest have been received by the Town.
- F. If no claim is made for the return of the contributions of a participant prior to the date when the participant would have reached age 70, if then living, such contributions and the accumulated interest thereon will be forfeited and will become part of the fund.

**§ 91-11. Amendments.**

The Town of Winchester shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of this Plan. However, no such amendment shall authorize or permit any part of the pension assets (other than such part as is required to pay taxes and administrative expenses) to be used or diverted to purposes other than the exclusive benefit of the participants or their beneficiaries, and no such amendment which affects the rights, duties or responsibility of the trustee of the fund may be made without the trustee's written consent.

**§ 91-12. Termination of Plan.**

- A. The Town shall have the right at any time to terminate this Plan.
- B. Upon termination of the Plan, the Retirement Administration Board shall cause an actuarial valuation of the Plan's assets and liabilities to be made and shall allocate the assets of the trust fund for the following purposes and in the following order of priority:
  - (1) To provide the benefits of the Plan for retired participants and their contingent beneficiaries, if any.
  - (2) To provide the benefits of the Plan for participants who have reached their normal retirement dates when the Plan is terminated but have not started to receive benefits, and their contingent beneficiaries, if any.
  - (3) To provide the benefits of the Plan for participants who are eligible to retire under the early retirement provisions of the Plan when the Plan is terminated but who have not started to receive benefits, and their contingent beneficiaries, if any.
  - (4) To provide the benefits of the Plan for participants who are employees when the Plan is terminated and who have acquired vested rights.
  - (5) To provide the benefits of the Plan for participants who are separated from the Town's service before the Plan is terminated but after they have acquired vested rights and for whom the payment of benefits has been deferred.
  - (6) To provide benefits of the Plan for participants who are employees at the time of termination of the Plan and who do not have vested rights but do have pension interests because of their respective credits for past and future service at the time of such termination.
- C. There shall first be allocated to each of such group, without priority between them, an amount equal to the contributions plus accumulated interest of the participants in each group. In computing the amount of such contributions and accumulated interest, the contributions and accumulated interest of any participant shall be reduced by the amount of any benefits he or she has received under the Plan.
- D. The remaining assets shall then be allocated to the extent sufficient to the groups in order of priority. The allocations in groups 1, 2 and 3 shall be based upon immediate life annuity values with death benefits. The allocations in groups 4, 5 and 6 shall be based upon deferred life annuity values without death benefits. If the trust assets are



insufficient to provide the benefits in any one group, the reduction in benefits for such group shall be determined by the actuary in an equitable manner.

**§ 91-13. General provisions.**

- A. Rights of employees. The Plan shall not be construed as creating any contract of employment between the Town and any employee, and the Town shall have the right in all respects to deal with its employees, their hiring, discharge, compensation and conditions of employment as though the Plan did not exist. No employee shall have any right to question the action of the Town in terminating the Plan or any part thereof.
- B. Benefits not subject to anticipation. The funds contributed and held under the terms of the Plan are for the purpose of providing for the support of persons who are to receive benefits under the Plan. No benefits payable at any time under the Plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment, garnishment or encumbrances of any kind. Any attempt to alienate, sell, transfer, assign, pledge or otherwise encumber any such benefits, whether presently or thereafter payable, shall be void.
- C. Pre-retirement spouse's benefit. A qualified spouse of a deceased participant who, at the time of his death, had completed 15 years of continuous full-time employment with the Town, had attained age 50 and had elected this pre-retirement spouse's benefit is entitled to a monthly benefit commencing on the first day of the month following the participant's date of death.
  - (1) The monthly spouse's benefit is equal to 50% of the retirement benefit that would have been paid to the participant if the participant had retired on the participant's date of death and had elected a 50% contingent annuitant option. The 4% per year early retirement reduction which applies to retirements which occur between age 55 and 65 will also be applied when determining retirement benefits for purposes of the preceding sentence with respect to participants who die between ages 50 and 55. Benefits payable to the spouse, or to the participant if the participant survives to actual retirement, will be reduced by 1/2% for each year of spouse's benefit coverage.
  - (2) As used herein, a "qualified spouse" shall mean the spouse of a participant who has been married to the participant for at least one year at the time of the participant's death.
- D. Optional form of retirement benefits.
  - (1) Any participant, by written notice received by the Board prior to the due date of the first payment of his retirement benefit, may elect to convert such participant's retirement benefit into an optional benefit of equivalent actuarial value, in accordance with one of the options hereinafter described:
    - (a) Contingent annuitant option. A reduced retirement benefit payable during the participant's life, with the provision that after his death the same amount or a specified proportion thereof (not more than 100%) shall be paid during the life of, and to, the beneficiary designated in writing duly executed by the participant and filed with the Board. If said beneficiary is not the

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participant's spouse, less than 50% of the value of the retirement benefit shall be payable to the beneficiary.

- (b) Ten year certain and life annuity option. A reduced retirement benefit payable to the participant for 10 years certain and life thereafter, with provision that any guaranteed payments becoming due in the event of the death of the participant prior to the expiration of the ten-year guarantee period shall be paid to a designated beneficiary or if no beneficiary designation is on file the commuted value of the balance of payments will be paid to the estate of the last surviving annuitant or beneficiary.
- (c) Effective July 1, 2001, for purposes of determining equivalent actuarial value, an interest rate of 7% and the Blended 1983 Group Annuity Mortality Table shall be used.
- (2) If the participant or the beneficiary designated under option D(1)(a) above dies prior to the due date of the first payment of the participant's retirement benefit, the election shall thereby be revoked, unless such death occurs subsequent to the participant's normal retirement age, in which event the participant or the beneficiary, as the case may be, shall receive payments in accordance with the option elected.
- (3) The election of an optional benefit may be revoked or changed by a participant only by written notice executed by him and received by the Board at least 30 days prior to the date of the first payment of this retirement benefit.
- E. Notwithstanding anything in the Plan to the contrary, no benefits shall be paid from the Plan in excess of the limits imposed by Section 415 of the Internal Revenue Code of 1986, as amended.
- F. As of June 30, 2015, membership to the plan is closed for any new employee, regardless of union or nonunion affiliation. Membership to the plan for new union employees hired before June 30, 2015, is governed by the provisions of that employee's union contract. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

## ARTICLE II

**Removal of Officials**

**[Adopted by the Board of Selectmen 3-15-2010 (§ 191 of the prior compilation)]**

**§ 91-14. Procedure.**

In the event the Board of Selectmen seeks the removal of any person under the provisions of Charter Section 1601, the following minimum procedure should apply in addition to those provided in Section 1601:

- A. The appointee shall have the right to call witnesses and cross-examine those witnesses called against him, to submit any documents on his own behalf, as well as offer rebuttal evidence.

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- B. The Board of Selectmen shall cause the evidence to be recorded by a sound recording device and/or video recording device. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Within 15 days of the termination of the hearing, the Board of Selectmen shall cause a record of the hearing to be filed with the Town Clerk. The record shall contain all documents submitted at the hearing as well as the audio- and/or videotapes of the hearing. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- D. Within 30 days of the termination of the hearing, the Board of Selectmen shall render a final decision and reduce the decision to a written form. The decision shall contain those facts the Board of Selectmen found in support of its decision.

**§ 91-15. Scope.**

This article shall not modify or limit the protection currently contained in Charter Section 1601, nor shall the article supersede current or future state law in the removal of municipal appointed officials. This article shall have no application to any employee covered by a collective bargaining contract.



## **Chapter 96**

### **PARKING AUTHORITY**

#### **§ 96-1. Parking Authority created.**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Winchester 8-6-1956 (§ 56 of the prior compilation). Amendments noted where applicable.]**

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#### **§ 96-1. Parking Authority created.**

There is hereby created in the Town of Winchester a Parking Authority for the Town as provided by Section 281d of the 1955 Supplement to the General Statutes of Connecticut.<sup>1</sup>

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**1. Editor's Note: See now C.G.S. § 7-203.**



## Chapter 99

### PERSONS WITH DISABILITIES, COMMISSION FOR

#### § 99-1. Establishment.

#### § 99-4. Membership.

#### § 99-2. Purposes and powers.

#### § 99-5. Officers.

#### § 99-3. Terms and appointments.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 12-21-1998; amended 3-1-1999; 10-19-2009 (§ 175 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### § 99-1. Establishment.

There is hereby established a Commission for Persons with Disabilities, which shall be a part of the administration of the municipal government and shall be subject to the Charter and General Ordinances of the Town.

#### § 99-2. Purposes and powers.

A. The purposes and powers of the Commission for Persons with Disabilities shall be:

- (1) To discover and study continuously the general and specific needs of persons with disabilities of the Town in relation to housing, economics, employment, health, recreation and other matters;
- (2) To serve as a liaison between persons with disabilities of the Town and the governing body of the Town;
- (3) To analyze, evaluate and make recommendations on existing or suggested programs to existing organizations and departments;
- (4) To examine state and federal funding resources and special projects as they relate to persons with disabilities;
- (5) To inform the governing body when the needs of persons with disabilities are not being met per Section 504 of the 1973 Rehabilitation Act and the Americans with Disabilities Act of 1990;
- (6) To assist persons with disabilities to reach their fullest potential by removing barriers, to act as a forum for the needs of families of persons with disabilities and to provide community education to residents concerning persons with disabilities.

B. Neither the Commission nor any of its members shall give directives to the Town Manager or any of his administrative staff either publicly or privately.

C. The Commission shall provide the Board of Selectmen with an annual written report on or before September 1 of each fiscal year concerning Commission activities and shall

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present short- and long-range recommendations for action to the Board of Selectmen and other appropriate officials of the Town.

- D. The Commission shall assume any other matters relating to people with disabilities as may be assigned to it by the Board of Selectmen.

**§ 99-3. Terms and appointments.**

The Board of Selectmen shall appoint a Commission which shall consist of seven regular members and three alternates. The term for each member shall expire on January 1 of each even-numbered year, regardless of the date of appointment.

**§ 99-4. Membership.**

The Board of Selectmen shall attempt to appoint members with disabilities and/or members of their families or other persons who work with the disabled or have a particular interest in serving the disabled. The Board may appoint a high school student who has not reached the age of majority as a nonvoting member.

**§ 99-5. Officers.**

A Chairperson, Vice-Chairperson and a Secretary shall be elected by the members of the Commission from among its members.



## **Chapter 103**

### **PLANNING AND ZONING COMMISSION**

**§ 103-1. Established; members; powers  
and duties; fees.**

**[HISTORY: Adopted by the Town of Winchester at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]**

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**§ 103-1. Established; members; powers and duties; fees.**

A Planning and Zoning Commission is established for the Town of Winchester, with members, terms, powers and duties as set forth in the Town Charter. Application fees of the Planning and Zoning Commission are on file in the Town offices.



## Chapter 107

### POLICE DEPARTMENT

#### ARTICLE I Disposition of Property

##### § 107-1. Duties of finder.

##### § 107-2. Advertising; sale of perishable goods.

##### § 107-3. Restoration to owner if claimed.

##### § 107-4. Procedure for unclaimed property.

##### § 107-5. Disposition after expiration of time for making claim.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Disposition of Property

**[Adopted by the Board of Selectmen effective 4-4-1986 (§ 144 of the prior compilation)]**

##### **§ 107-1. Duties of finder. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who finds within the Town of Winchester and takes possession of any article of the value of \$1 or more shall report the finding of such article to the Winchester Police Department within 48 hours from the time of such finding. The finder of such article shall, at the time of reporting, furnish to the Police Department the date, time and place of finding, his name and address and a description of the article found, and within a period of one week from such finding shall deliver such article to the Police Department. Any person who violates or fails to comply with the provisions of this section shall be fined not more than \$100.

##### **§ 107-2. Advertising; sale of perishable goods.**

The Police Department shall, commencing within one week from the date of receipt of any lost article, advertise a general description of such article once a week for at least two successive weeks in a newspaper having a circulation in the Town of Winchester and shall retain custody of such article for six months from the date of receipt thereof, unless it is claimed by the rightful owner within such six-month period. The requirement of advertising may be omitted when the value or estimated value of the article is less than \$2. Perishable or obnoxious property or articles of a dangerous or harmful nature may be sold or otherwise disposed of as soon as practicable on the best terms available.

##### **§ 107-3. Restoration to owner if claimed.**

If the owner of any such article claims it within six months from the date of receipt by the Police Department, the article or the proceeds thereof shall be restored to him upon payment or deduction of all proper charges.

**§ 107-4. Procedure for unclaimed property. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

If no owner claims such article within six months from the receipt thereof by the Police Department, the Police Department shall, within two weeks thereafter, notify the finder of such fact by registered or certified mail at his last known address, and the article or the proceeds thereof shall be turned over to such finder, upon demand by him within 30 days from the expiration of the six-month period and upon payment or deduction of all proper charges; but if such finder fails to demand such article or the proceeds thereof or refuses to pay such charges within 30 days from the expiration of the six-month period, such article or proceeds shall belong to the Town of Winchester.

**§ 107-5. Disposition after expiration of time for making claim.**

The Police Chief of the Town of Winchester shall sell at public auction any articles which the Police Department acquires as provided herein after expiration of the time for the owner or finder to demand the same and after the time and place of such sale and a description of the articles to be sold have been advertised once a week for two successive weeks in a newspaper having a circulation in such municipality. The net proceeds from such sales and the unclaimed net proceeds from the sales of perishable or obnoxious property or articles of a dangerous or harmful nature shall be paid to the Town Treasurer, who shall deposit them in the Police Benefit Fund, if any, of the Town of Winchester.

## Chapter 111

### PROCUREMENT POLICY

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| <p>§ 111-1. Purpose; rules of construction.</p> <p>§ 111-2. Requirement of good faith.</p> <p>§ 111-3. Applicability.</p> <p>§ 111-4. Filing of determinations and findings.</p> <p>§ 111-5. Definitions.</p> <p>§ 111-6. Purchasing Agent.</p> <p>§ 111-7. Authority of Purchasing Agent.</p> <p>§ 111-8. Creation of Procurement Policy.</p> <p>§ 111-9. Delegation of authority.</p> <p>§ 111-10. Centralization of procurement authority.</p> <p>§ 111-11. Methods of source selection.</p> <p>§ 111-12. Competitive sealed bidding.</p> <p>§ 111-13. Competitive sealed proposals.</p> <p>§ 111-14. Small purchases (informal bids/quotations).</p> <p>§ 111-15. Local vendor preference.</p> <p>§ 111-16. Sole-source procurements.</p> <p>§ 111-17. Emergency procurements.</p> <p>§ 111-18. Modification of contracts.</p> <p>§ 111-19. Cancellation of invitations for bids or requests for proposals.</p> <p>§ 111-20. Finality of determinations.</p> | <p>§ 111-21. Preparation of specifications by Purchasing Agent.</p> <p>§ 111-22. Contractual remedies.</p> <p>§ 111-23. Supply management.</p> <p>§ 111-24. Cooperative purchasing.</p> <p>§ 111-25. Ethics in public contracting.</p> <p>§ 111-26. Disclosure of benefit received from contract.</p> <p>§ 111-27. Gratuities and kickbacks.</p> <p>§ 111-28. Restrictions on employment of present and former employees.</p> <p>§ 111-29. Contingent fees prohibited.</p> <p>§ 111-30. Use of confidential information.</p> <p>§ 111-31. Personal access to procurement information.</p> <p>§ 111-32. Civil and administrative remedies.</p> <p>§ 111-33. Civil and administrative remedies against nonemployees.</p> <p>§ 111-34. Recovery of value transferred or received.</p> <p>§ 111-35. Waiver.</p> |
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**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 1-20-1987; amended 1-5-2009; 1-3-2017 (§ 147 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 111-1. Purpose; rules of construction.**

- A. Interpretation. This chapter shall be construed and applied to promote its underlying purposes and policies.
- B. Purposes. The underlying purposes and policies of this chapter are:

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- (1) To simplify, clarify and modernize the law governing procurement by this Town;
- (2) To permit the continued development of procurement policies and practices;
- (3) To make as consistent as possible the procurement laws among the various governmental bodies;
- (4) To provide for increased public confidence in the procedures used in public procurement;
- (5) To ensure the fair and equitable treatment of all persons who deal with the procurement system of this Town;
- (6) To provide increased economy in Town procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Town;
- (7) To foster effective broad-based competition within the free enterprise system; and
- (8) To provide safeguards for the maintenance of a procurement system of quality and integrity.

**§ 111-2. Requirement of good faith.**

This chapter requires all parties involved in the negotiation, performance or administration of Town contracts to act in good faith.

**§ 111-3. Applicability.**

- A. General application. This chapter applies only to contracts solicited or entered into after the effective date of this chapter (11-1-1986) unless the parties agree to its application to a contract entered into prior to the effective date. This chapter shall apply to any modifications, extensions or alterations to existing contracts which occur after the effective dates of this chapter.
- B. Application to Town procurement. This chapter shall apply to all expenditures of public funds regardless of source, including state and federal assistance monies, by this Town, under any contract, except that nothing in this chapter shall prevent the Town from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement. This chapter shall apply to the disposal of Town supplies.
- C. Effect of state or federal assistance requirements. In the event state or federal assistance requirements conflict with the provisions of this chapter, nothing in this chapter shall prevent the Town from complying with the terms and conditions of the state/federal assistance requirements.

**§ 111-4. Filing of determinations and findings.**

Written determinations and findings required by this chapter shall be retained in an appropriate official contract file in the office of the Purchasing Agent.

**§ 111-5. Definitions.**

Unless the context clearly required otherwise, the words defined in this section shall have the meanings set forth below whenever they appear in this chapter:

**BID** — Either a single lump sum or line item price(s) offered by a vendor/firm to perform previously determined work in accord with detailed specifications. Sole determination of award = lowest responsible price.

**BLIND TRUST** — An independently managed trust in which the employee-beneficiary or any member of that employee's immediate family has no management rights and in which the employee-beneficiary is not given notice of alternatives in or other dispositions of the property subject to the trust.

**BUSINESS** — Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture or any other legal entity.

**CONFIDENTIAL INFORMATION** — Any information which is available to an employee only because of the employee's status as an employee of this Town and is not a matter of public knowledge or available to the public on request.

**CONSTRUCTION** — The process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

**CONTRACT** — Any type of Town agreement, regardless of what it may be called, for the purchase or disposal of supplies, services or construction. It includes, but is not limited to, contracts of a fixed-price, cost, cost-plus-a-fixed fee or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

**CONTRACTOR** — Any person or business having a contract with the governmental body and its subunits and utilities.

**COOPERATIVE PURCHASING** — Procurement conducted by, or on behalf of, more than one public procurement unit.

**DEBARMENT** — The disqualification of a person or business to receive invitations for bids or requests for proposals, or the award of a contract by the Town for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance.

**DESIGNEE** — A duly authorized representative of a person holding a superior position. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**EMPLOYEE** — An individual drawing a salary or wages from the Town, whether elected or not, and any noncompensated individual performing personal services for the Town; i.e., member of Town board, commission, agency or volunteer fire department.

**EXCESS SUPPLIES** — Supplies having a remaining useful life but which are no longer required by the using agency in possession of the supplies.

**FINANCIAL INTEREST**

- A. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or has a reasonable expectation of receiving, any financial benefit; **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Ownership of any interest in any business; or
- C. Holding a position in a business such as an officer, director, trustee, partner, employee, or similar position, or holding any position of management.

GRATUITY — A payment, loan, subscription, advance, deposit of money, service or anything of any monetary value, present or promised, unless consideration of substantially equal or greater value is received.

IMMEDIATE FAMILY — A spouse, children, parent, brother, sister, grandparent, stepchildren, mother- or father-in-law.

INVITATION FOR BIDS — All documents, including those attached or incorporated by reference, utilized for soliciting bids.

PROCUREMENT — The buying, purchasing, renting, leasing or otherwise obtaining of any supplies, services or construction. It also includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

PROPOSAL — Detailed listing of credentials, related experience and general qualifications of firm/vendor proposing to engage in work/service on behalf of the Town and specific scope of services to be provided with/without an estimated fee (usually "not to exceed" a certain amount). The Town establishes criteria for selection of various factors, not necessarily price alone.

PURCHASING AGENT — The person holding the position created by Section 908 of the Town Charter as the head of the central purchasing office within the Finance Department of the Town of Winchester.

REQUEST FOR PROPOSALS — All documents, including those attached or incorporated by reference, utilized for soliciting proposals.

RESPONSIBLE BIDDER — A person who has submitted a bid which conforms in all material respects to the invitation for bids; a person who has the capability in all respects to perform fully the contract requirements, and the professional reputation for reliability which will ensure good faith performance.

SERVICES — The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term includes "professional services" but does not include employment agreements or collective bargaining agreements.

SPECIFICATIONS — Any description of the physical or functional characteristics, or of the nature, of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.



**SUPPLIES** — All property, including but not limited to equipment, parts, materials, printing, insurance and leases on real and personal property which may only be disposed of or acquired by the Board of Selectmen or Town legislative body/Town Meeting.

**SURPLUS SUPPLIES** — Any supplies no longer having any use to the Town. This includes obsolete supplies, scrap materials and nonexpendable supplies that have completed their useful life cycle.

**SUSPENSION** — The disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the Town, for a temporary period pending the completion of an investigation, or during any legal proceedings that may ensue because a person is suspected, upon reasonable belief, of engaging in criminal, fraudulent or seriously improper conduct or failure or inadequacy of performance which may lead to debarment.

**TOWN** — The Town of Winchester, and shall include the Board of Selectmen and any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation or other establishment or official of the government of this Town, but not including the Winchester Board of Education or Probate Court.

**USING DEPARTMENT** — Any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation or other establishment or official of the government of this Town, but not including the Winchester Board of Education or Probate Court, which utilizes any supplies, services or construction purchased under this chapter.

#### **§ 111-6. Purchasing Agent.**

A Division of Purchasing is created within the Department of Finance, which shall be headed by the Purchasing Agent. The Director of the Department of Finance, with the approval of the Town Manager, shall appoint the Purchasing Agent. The Purchasing Agent shall have a minimum of five years' experience in the purchasing of supplies, services and construction, within the 12 years preceding the date of this appointment. Such five-year experience requirement may be satisfied by any combination of job experience and educational training, provided that two years of educational training shall be equal to one year of job experience for the purpose of fulfilling this requirement. The Purchasing Agent shall also be an individual with demonstrated executive and organizational ability. The Purchasing Agent shall be a full-time public official of the Town and may be removed from office after the probationary period only upon a showing of just cause.

#### **§ 111-7. Authority of Purchasing Agent.**

- A. Principal contracting officer. The Purchasing Agent shall serve as the principal contracting officer and central procurement officer of the Town. He shall have the power to enter into and sign contracts on behalf of the Town unless other officials are expressly designated by resolution or referendum.
- B. Power to adopt internal operational procedures. Consistent with the provisions of this chapter, the Purchasing Agent may adopt internal operational procedures governing the Town Purchasing Division.

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- C. Duties. Except as otherwise specifically provided in this chapter, the Purchasing Agent shall have the powers and duties set forth in the Town Charter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 111-8. Creation of Procurement Policy. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Except as otherwise provided in this chapter, the Board of Selectmen shall have the authority and responsibility to promulgate and approve the Procurement Policy of the Town of Winchester as an ordinance, and the Town Manager shall not exercise authority over the award or administration of any particular contract or any dispute, claim or litigation pertaining thereto. Adoption of this ordinance includes by reference the current Town of Winchester Purchasing Manual.

**§ 111-9. Delegation of authority.**

Subject to policy approved by the Town Manager and Finance Director, the Purchasing Agent may delegate authority to designees or to any department.

**§ 111-10. Centralization of procurement authority.**

All rights, powers, duties and authority relating to the procurement of supplies, services and construction, and the management, control, warehousing, sale and disposal of supplies, services and construction, now vested in or exercised by any using department, and regardless of source of funding, are hereby transferred to the Finance Director and the Purchasing Agent.

- A. Relationship with using departments. The Purchasing Agent shall obtain advice and assistance from personnel of using departments in the development of specifications and may delegate in writing to a using department the approval and authority to prepare and utilize its own specifications.
- B. Collection of data concerning procurement. The Purchasing Agent shall cooperate with the Finance Director in the preparation of statistical data concerning the procurement, usage and disposal of all supplies, services and construction. All using departments shall furnish such reports as the Purchasing Agent may require concerning usage, needs and stocks on hand, and the Purchasing Agent shall have authority to prescribe forms to be used by the using departments in requisitioning, ordering and reporting of supplies, services and construction.
- C. Accounting control of all purchases.
  - (1) All purchases made and contracts executed by the Purchasing Agent shall be pursuant to the procedures set forth in Charter Section 909. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
  - (2) The purchase order is the instrument used to initiate and control purchasing. A signed requisition stating goods or services desired must be submitted to the Purchasing Agent prior to a P.O. being issued and services or supplies secured by

any Town department, division, agency or employee/volunteer. During normal Town business hours (Monday through Friday, 8:00 a.m. to 4:00 p.m.), the requisition followed by a P.O. number must be processed against appropriate accounts prior to vendor/service provider release of goods/services. Emergency purchases in a state or local or state-wide emergency or after regular Town business hours must be followed on the next regular day of Town business with a requisition and invoice copy to the Purchasing Agent for issuance of a P.O. number.

- (3) Failure to follow the above procedures will be cause for denial of Town financial responsibility and necessitate the employee/volunteer/Town representative having to pay the expense out of his/her own pocket.
- D. The Director of Finance is empowered in accordance with Section 902C of the Town Charter to institute interim fiscal year controls and at least monitor and control normal routine departmental expenses on a quarterly basis with the advice of the Purchasing Agent and department head based on budget requests and details submitted during the budget process leading to the Annual Town Budget Meeting. Said controls shall be communicated to all departments, divisions, commissions and boards as well as the Board of Selectmen before implementation.

#### **§ 111-11. Methods of source selection.**

Unless otherwise authorized by law, all Town contracts shall be awarded by competitive sealed bidding, pursuant to § 111-12, except as provided in §§ 111-13 through 111-19.

#### **§ 111-12. Competitive sealed bidding.**

- A. Invitation for bids.
  - (1) Where competitive sealed bidding is utilized, an invitation for bids shall be issued which shall include a purchase description of all contractual terms and conditions applicable to procurement.
  - (2) If any purchase or contract for purchasing, including a continuing order or contract for the purchase of the same commodity over a period of time, involves the expenditure of the minimum monetary threshold for competitive bidding as set forth in the Town's Charter, the Purchasing Agent shall invite sealed bids or proposals, unless it shall be determined by the Board of Selectmen to be against the best interest of the Town by a vote to grant a bid waiver.
- B. Public notice. Adequate public notice of the invitation for bids shall be given prior to the date set forth therein for the opening of bids, as required by law, or in accordance with policy dictated by state and/or federal agencies. Such notice shall include publication at least 10 days prior to the bid being opened in a newspaper having a general circulation in the Town.
- C. Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified in the invitation for bids, together

with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

- D. Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or modification, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and which will be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
- E. Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. The Town, by action of the Purchasing Agent in consultation with the using department (requester) and Finance Director, may accept or reject any bids, in whole or in part, divide awards, or waive any informalities or technicalities in making an award, if to do so is in the best interest of the Town, regardless of cost. The Town Finance Department reserves the right to audit said bids/proposals upon delivery/completion of goods, services, materials, etc. and prior to final acceptance by the Town.
- F. Multi-step sealed bidding (prequalified bids/proposals). When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

#### **§ 111-13. Competitive sealed proposals.**

- A. Conditions for use. When the Purchasing Agent, in accordance with policy approved by the Town Manager and Finance Director, determines in writing that the use of competitive sealed bidding is not required by law and is either not practicable or not advantageous to the Town, a contract may be entered into through receipt of competitive sealed proposals. Competitive sealed proposals may also be used for the procurement of professional services, whether or not the written determination described herein has been made. Further, if it is the written determination of a majority of a group consisting of the Finance Director, Purchasing Agent, Town Manager and representative of the department expecting to utilize such professional services that the competitive sealed proposal procedure is impractical or otherwise unsuitable, the procurement of the necessary professional service may be made on the basis of noncompetitive negotiations without regard to §§ 111-13 and 111-14.
- B. Request for proposals. Competitive sealed proposals shall be solicited through a request for proposals.
- C. Public notice. Adequate public notice of the request for proposals shall be given in the same manner provided for competitive sealed bidding in § 111-12.

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- D. Receipt of proposals. Sealed proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and open for public inspection as with public bid documents.
- E. Evaluation factors. The request for proposals shall state the relative importance of the evaluation factors and price.
- F. Discussion with responsible offerors and revisions of proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- G. Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Town, taking into consideration the evaluation factors set forth in the request for proposals, and price. Other factors or criteria to be used in the evaluation must be stated in writing prior to the award and be communicated to each proposer as part of the solicitation process. The contract file shall contain the basis on which the award is made.

**§ 111-14. Small purchases (informal bids/quotations).**

Except as otherwise required by law, any procurement not exceeding the minimum monetary threshold for competitive bidding as set forth in the Town's Charter and Procurement Policy may be made in accordance with small purchase procedures approved by the Finance Director; provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. If the actual price of a procurement obtained through such small purchase procedure exceeds, by 15% or more, the maximum amount established by such policy, the Purchasing Agent may determine that the procurement be made using § 111-12 or § 111-13.

**§ 111-15. Local vendor preference.**

- A. For all bids and quotes submitted for purchases exceeding the minimum monetary threshold for competitive bidding as set forth in the Town's Charter but less than \$1,000,000, any qualified and registered local vendor who has submitted a bid or quote not more than 5% higher than the lowest qualified bid or quote will be awarded the contract or purchase order, subject to any limiting provision of this chapter, so long as such local vendor agrees to provide the supplies, materials, equipment, commodities and/or services which are the subject of such contract or purchase order at the same price as the lowest qualified bid or quote received. In the event that more than one local vendor submits a bid or quote not more than 5% higher than the lowest qualified bid or quote, the award shall be to that local vendor submitting the lowest qualified bid or quote.

- B. For purposes of this section, a qualified and registered local vendor is defined as one who maintains a principal place of business located within the Town limits of Winchester by occupying real property in which to conduct such business or by paying personal property taxes on business property to the Town of Winchester. Evidence of the maintenance of such principal place of business may include the ownership or long-term lease of real estate from which the principal place of business is operated or the payment of property taxes on the personal property of the business to be used in the performance of the bid.
- C. The Town Manager shall prepare a local vendor registration form and shall have it made available to all local businesses. When such form has been properly completed and filed by a local vendor with and approved by the Town Purchasing Agent, such local vendor shall be a qualified and registered local vendor in the Town for the purposes of this section.
- D. This section shall not apply in any situation where the preference created by this section would violate federal and state law or any existing contracts.

#### **§ 111-16. Sole-source procurements.**

Where permitted by law, a contract may be awarded for a supply, service or construction without formal public bid competition when the Purchasing Agent or designee determines in writing that there is only one source for the required supply, service or construction.

#### **§ 111-17. Emergency procurements.**

Where permitted by law and notwithstanding any other provision of this chapter, the Purchasing Agent or a designee may make or authorize others to make emergency procurements when there exists a threat to public health, welfare or safety under emergency conditions as defined in policy approved by the Town Manager, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

#### **§ 111-18. Modification of contracts.**

The Purchasing Agent, after consultation with the Town Attorney and with the approval of the Town Manager and Finance Director, may modify or delete existing and add new contractual provisions and clauses to all forms of supply, service and construction contracts utilized by the Town, provided that such modification, deletions or additions are supported by a written determination by the Purchasing Agent.

#### **§ 111-19. Cancellation of invitations for bids or requests for proposals.**

An invitation for bids, a request for proposals or other solicitation may be delayed or cancelled, or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, if it is determined in writing by the Purchasing Agent that such action is taken in the best interests of the Town.

**§ 111-20. Finality of determinations.**

The determinations required by §§ 111-4, 111-7, 111-11, 111-12, 111-13 and 111-15 are final and conclusive unless they are clearly erroneous, arbitrary, capricious or contrary to law.

**§ 111-21. Preparation of specifications by Purchasing Agent.**

The Purchasing Agent shall prepare, issue, revise, maintain and monitor the use of specifications for supplies, services and construction required by the Town, provided that:

- A. The Purchasing Agent may delegate to using departments responsibility for the preparation and maintenance of specifications generally or for specific supplies, services or construction, subject to approval of any such specifications by the Purchasing Agent; and
- B. If the Purchasing Agent does not approve a specification, the Finance Director may, at his discretion, upon the request of the using agency, modify or reverse such decision of the Purchasing Agent. Any determination modifying or reversing the specifications shall be in writing setting forth the grounds for such modification or reversal.
  - (1) Maximum practicable competition. All specifications shall seek to promote overall economy for the intended purpose and shall be drafted so as to assure the maximum practicable competition for the Town's actual requirements.
  - (2) Specifications prepared by architects and engineers. The requirements of this section regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers and draftsmen for public contracts.

**§ 111-22. Contractual remedies.**

- A. Authority to resolve protested solicitations and awards:
  - (1) Right to protest. Any actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. The protest shall be submitted in writing within 14 calendar days after such aggrieved person knows via notice of award to all bidders from the Purchasing Agent or his designee or should have known of the facts giving rise thereto.
  - (2) Authority to resolve protests. The Purchasing Agent shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror or contractor, actual or prospective, concerning the solicitation or award of a contract.
  - (3) Decision. If the protest is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.

- (4) Notice of decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the protestant and Town Attorney and any other party intervening.
- (5) Finality of decision. A decision under this section shall be final and conclusive unless fraudulent, or unless any person adversely affected by the decision commences an action in court.
- (6) Stay of procurements during protests. In the event of a timely protest under this section, the Town shall not proceed further with the solicitation or with the award of the contract until the Purchasing Agent has issued his decision in writing or makes a written, pre-decision determination that the award of the contract without delay is necessary to protect substantial interests of the Town.

B. Authority to debar or suspend.

- (1) Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consultation with the using agency and the Town Attorney, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the using agency and the Town Attorney, shall have authority to suspend a person from consideration for award of contracts if there is reasonable belief for debarment. The suspension shall not be for a period exceeding three months.
- (2) Causes for debarment or suspension. The causes for debarment or suspension include the following:
  - (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
  - (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a Town contractor;
  - (c) Conviction under state or federal anti-trust statutes arising out of the submission of bids or proposals;
  - (d) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment action:
    - [1] Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in a contract; or
    - [2] A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;



- (e) Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Town contractor, including debarment by another governmental entity for any of the causes listed in this chapter; and
- (f) Violation of the ethical standards set forth in this chapter.
- (3) Decision. The Purchasing Agent shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
- (4) Notice of decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the debarred or suspended person, the Town Attorney and any other party intervening.
- (5) Finality of decision. A decision under this section shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person commences an action in court.

C. Authority to resolve contract and breach of contract controversies.

- (1) Applicability. This section applies to controversies between the Town and a contractor and which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation or other cause for contract modification or rescission.
- (2) Authority. The Purchasing Agent is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in this section.
- (3) Decision. If such a controversy is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.
- (4) Notice of decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the contractor.
- (5) Finality of decision. The decision under this section shall be final and conclusive, unless fraudulent, or unless the contractor commences an action in court.
- (6) Failure to render timely decision. If the Purchasing Agent does not issue the written decision required under this section within 120 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

D. Time limitations on actions.

- (1) Protested solicitations and awards. Any legal action under this chapter shall be initiated within 90 days after the aggrieved person knows or should have known of the facts giving rise to the action.
- (2) Debarments and suspension for cause. Any action challenging a suspension or debarment shall be commenced within six months after receipt of the decision of the Purchasing Agent under this chapter.

- (3) Actions under contracts or for breach of contract. The statutory limitations on an action between private persons on a contract or for breach of contract shall apply to any action commenced pursuant to this chapter.

**§ 111-23. Supply management.**

The Purchasing Agent may promulgate operational procedures governing:

- A. The management of supplies during their entire life cycle;
- B. The sale, lease or disposal of supplies by public auction, competitive sealed bidding or other appropriate methods, except purchases of an interest in real property. However, no employee of the Town shall be entitled to purchase any such supplies, except by public auction or competitive sealed bidding; and
- C. Transfer of excess supplies within the Town. For the purpose of this action, "surplus supplies" does not include real property.

**§ 111-24. Cooperative purchasing.**

- A. Purchasing agreements. The Town of Winchester may either participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one or more public procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units, and open-ended state public procurement unit contracts which are made available to other public procurement units.
- B. Sale, acquisition or use of supplies. The Town of Winchester may sell to, acquire from or use any supplies belonging to another public procurement unit independent of the requirements of §§ 111-11 and 111-23.
- C. Cooperative use of supplies and services. The Town of Winchester may enter into an agreement, independent of the requirements of §§ 111-11 and 111-23, with any other public procurement unit for the cooperative use of supplies or services, under the terms agreed upon between the parties.
- D. Joint use of facilities. The Town of Winchester may enter into agreements for the common use or lease of warehousing facilities, capital equipment and other facilities with another public procurement unit under the terms agreed upon between the parties.

**§ 111-25. Ethics in public contracting.**

- A. Standards of conduct.
  - (1) Statement of policy. Public employment is a public trust. It is the policy of the Town to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the Town. Such policy is implemented by prescribing essential restrictions

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against conflicts of interest without creating unnecessary obstacles to entering public service.

- (2) Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Town procurement organization.
  - (3) To achieve the purpose of this section, it is essential that those doing business with the Town also observe the ethical standards prescribed herein.
- B. General standards of ethical conduct for employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this general prescribed standard, employees shall meet the specific standards set forth in this section and §§ 111-26, 111-27, 111-29 and 111-30.
  - C. General standards of ethical conduct for nonemployees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.
  - D. Conflict of interest. It shall be a breach of ethical standards, and a conflict of interest, for any employee to participate directly or indirectly in a procurement when the employee knows that:
    - (1) The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
    - (2) A business or organization in which the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
    - (3) Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
  - E. Financial interest in a blind trust. Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the Purchasing Agent and Town Attorney.
  - F. Discovery of conflict of interest, disqualification and waiver. Upon discovery of a potential or actual conflict of interest, an employee shall promptly file a written statement of disqualification with the Purchasing Agent and shall withdraw from further participation in the transaction involved.

**§ 111-26. Disclosure of benefit received from contract.**

Any employee who has or obtains any benefit from any Town contract, in which the employee participates directly or indirectly, with a business in which the employee has a financial interest shall report such benefit to the Purchasing Agent. Any employee who

knows or should have known of such benefit, and fails to promptly report such benefit to the Purchasing Agent, is in breach of the ethical standards of this chapter.

**§ 111-27. Gratuities and kickbacks.**

- A. Gratuities. It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee or to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a purchase request, influencing the content of any specification of procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor. This section is intended to supplement, and not limit, the provisions of § 111-14.
- B. Kickbacks. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order as may be prohibited by state and federal regulations imposed by the Town's acceptance of state and/or federal grant funds.

**§ 111-28. Restrictions on employment of present and former employees.**

- A. Contemporaneous employment prohibited. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to be or become, while such an employee, employed by any person contracting with the governmental body.
- B. One year restriction. It shall be a breach of ethical standards for any former employee, within one year after cessation of the former employee's official responsibility, knowingly to act as a principal, or as an agent for anyone other than the Town, in connection with any: judicial or other proceeding, application, request for ruling or other determination unless said employee is served with a court subpoena in a Town-related proceeding; contract; claim; or charge or controversy in matters which were within the former employee's official responsibility, where the Town is a party or has a direct or substantial interest.
- C. Disqualification of business. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the Town, in connection with any: judicial or other proceeding, application, request for ruling or other determination; contract; claim; or charge or controversy in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the Town is a party or has a direct and substantial interest.
- D. Selling to the Town.

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- (1) The term "sell" as used in this subsection means signing a bid, proposal or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating or discussing changes in specifications, price, cost allowance or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale, including those cases where the actual contract therefor is subsequently negotiated by another person; provided, however, that this subsection is not intended to preclude a former employee from accepting employment with a private business solely because the former employee's employer is a contractor with this Town, nor shall a former employee be precluded from serving as a consultant to the Town.
- (2) It shall be a breach of ethical standards for any former employee to sell or attempt to sell supplies, services or construction to the Town for one year following the date employment ceased.

**§ 111-29. Contingent fees prohibited.**

It shall be a breach of ethical standards to retain a person, or for a person to be retained, to solicit or secure a Town contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**§ 111-30. Use of confidential information.**

It shall be a breach of ethical standards for any employee or former employee within one calendar year from the date of termination of Town employment knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

**§ 111-31. Personal access to procurement information.**

Procurement information shall be a public record to the extent provided by state and federal law and shall be available to the public as provided by such laws.

**§ 111-32. Civil and administrative remedies.**

- A. Existing remedies not impaired. Civil and administrative remedies against employees which are in existence on the effective date of this chapter shall not be impaired.
- B. Supplemental remedies. In addition to existing remedies for breach of ethical standards of this chapter, the Town Manager may impose any one or more of the following, not necessarily in the order listed:
  - (1) Oral or written warnings or reprimands;
  - (2) Suspension with or without pay for specified periods of time; and

(3) Termination of employment.

- C. Recovery from employee. The value of anything received by an employee in breach of the ethical standards of this ordinance or regulations promulgated thereunder shall be recoverable by the Town as provided in § 111-34.
- D. Due process. All procedures under this section shall be in accordance with due process requirements and existing state/federal law.

**§ 111-33. Civil and administrative remedies against nonemployees.**

- A. Existing remedies not impaired. Civil administrative remedies against nonemployees which are in existence on the effective date of this chapter shall not be impaired.
- B. Supplemental remedies. In addition to existing remedies for breach of the ethical standards of this section, the Town Manager may impose one or more of the following:
  - (1) Oral or written warnings or reprimands;
  - (2) Termination of a transaction; and
  - (3) Suspension or debarment.
- C. Recovery from nonemployee. The value of anything transferred in breach of the ethical standards of this ordinance or regulations promulgated thereunder by a nonemployee shall be recoverable by the Town from such person as provided in § 111-34.
- D. Right of Town to suspend or debar.
  - (1) Suspension of a contractor may be imposed during an investigation of charges of a serious and compelling nature based on probable cause indicating the existence of a breach of ethical standards under this ordinance or other irregularities of a serious and compelling nature which would affect the integrity of the contractor.
  - (2) Debarment of a contractor may be imposed by reason of a finding of any breach of ethical standards under this chapter or for a finding of other irregularities of a serious nature affecting the integrity of the contractor.
- E. Due process. All procedures under this section shall be in accordance with due process requirements.

**§ 111-34. Recovery of value transferred or received.**

- A. General provisions. The value of anything transferred or received in breach of the ethical standards of this section by an employee or a nonemployee may be recovered from both the employee and the nonemployee.
- B. Recovery of kickbacks by the Town. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the Town and will be recoverable hereunder from the recipient. In addition,

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said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

**§ 111-35. Waiver.**

On written request of an employee, the Town Manager may grant an employee or former employee a written waiver from the application of § 111-25D or § 111-28 and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the Town so require, or when the ethical conflict is insubstantial or remote.





## Chapter 118

### RECREATION BOARD

**§ 118-1. Membership; terms; vacancies; compensation.**

**§ 118-2. Officers; rules and regulations; quorum.**

**§ 118-3. Powers and duties.**

**[HISTORY: Adopted by the Town of Winchester effective 4-1-1940; amended effective 1-24-1955; 9-1-1977; 12-2-1989 (§ 30 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 118-1. Membership; terms; vacancies; compensation. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

There is hereby created in the Town of Winchester a Recreation Board. The Board shall consist of not fewer than nine members nor more than 11 members and two alternate members. A member of the Board of Selectmen, the Superintendent of Schools, the principal of the parochial school, and the principal of the Gilbert School shall be ex-officio, nonvoting members. The members shall serve for terms of six years or until their successors are appointed. The terms of 1/3 of the members shall expire every two years. Any vacancy occurring other than by expiration of term shall be filled by the Selectmen for the unexpired portion of the term. The members shall serve without pay. At each meeting, the Chair shall determine which alternate shall sit for regular members, as may be required.

**§ 118-2. Officers; rules and regulations; quorum.**

Members of the Recreation Board shall elect their own Chairman and Secretary and all other necessary officers to serve for a period of one year. The Board shall have power to adopt rules and regulations for the conduct of all business within its jurisdiction. A majority of the members shall constitute a quorum for the transaction of business.

**§ 118-3. Powers and duties.**

The Recreation Board shall have power and authority to establish, maintain and conduct playgrounds, swimming pools, baths, bathing beaches, gymnasiums, recreation places, public gardens and provide for entertainments, concerts and celebrations. It may use for these purposes any ground or building which the Board of Selectmen, Board of Education, the Board of Finance and the Town Meeting may, from time to time, provide, acquire, authorize, offer, designate or set apart for such use by the Recreation Board. Said Board shall have power, with the consent of the Board of Education and the Trustees of Gilbert School, likewise to use the school grounds and buildings controlled by these bodies. Said Recreation Board may also, at its discretion, take charge of and use any grounds, buildings or other facilities which may be offered either temporarily or permanently for playground and recreational purposes; and may receive donations and gifts from individuals, corporations or others for equipment, improvement, maintenance or supervision. Nothing contained in this

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section shall be construed as taking away any powers of the Selectmen to establish, maintain and conduct public parks, playgrounds, bathing beaches and other recreation places except insofar as they may see fit from time to time to transfer the custody of properties, the regulation of activities and the performance of such duties as necessary in connection therewith to the Recreation Board.

## **Chapter 121**

### **REDEVELOPMENT AGENCY**

**§ 121-1. Members.**

**§ 121-3. Compensation.**

**§ 121-2. Terms; vacancies.**

**§ 121-4. Powers.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 1-21-1998 (§ 171 of the prior compilation). Amendments noted where applicable.]**

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**§ 121-1. Members.**

There shall be a Redevelopment Agency which shall consist of five members, who shall be appointed by the Town Manager. Any person appointed shall serve at the pleasure of the Town Manager.

**§ 121-2. Terms; vacancies.**

Those first appointed shall be designated to serve for one, two, three, four and five years respectively; and thereafter members shall be appointed annually to serve for five years. Each member shall serve until his successor is appointed, and any vacancy shall be filled by the Board of Selectmen for the unexpired term.

**§ 121-3. Compensation.**

The members of the Commission shall receive no compensation for their services but shall be reimbursed for their necessary expenses incurred in the performance of their official duties.

**§ 121-4. Powers.**

The Redevelopment Agency shall exercise all powers set forth in Chapter 130 of the Connecticut General Statutes.



## **Chapter 130**

### **SELECTMEN, BOARD OF**

#### **ARTICLE I**

##### **Meetings**

#### **§ 130-1. Date and time of regular meetings.**

#### **§ 130-2. Special meetings.**

#### **§ 130-3. Location for regular meetings; access.**

#### **§ 130-4. Submission of matters for consideration by Selectmen.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Meetings**

**[Adopted by the Board of Selectmen effective 6-16-1952; amended effective 3-1-1968; 1-11-1982; 2-3-1986 (§ 33 of the prior compilation)]**

#### **§ 130-1. Date and time of regular meetings.**

The Board of Selectmen shall hold a regular meeting on the first and third Monday of each month at 7:00 p.m. for the transaction of any business of the Town, and may adjourn any regular meeting from time to time by majority vote; provided, however, that when the day fixed for the regular meeting falls upon a legal holiday, such meeting shall be held at the same hour on the next succeeding business day.

#### **§ 130-2. Special meetings.**

Special meetings of the Board of Selectmen shall be called in the manner provided in the Town Charter.

#### **§ 130-3. Location for regular meetings; access.**

The regular meeting on the first and third Monday of each month of the Board of Selectmen shall be held in the Town building and shall be open to any resident or property owner except when said Board shall meet in executive session.

#### **§ 130-4. Submission of matters for consideration by Selectmen.**

Any elector or property owner of the Town of Winchester may submit any matter of Town business to the Board of Selectmen at either regular meeting of said Board in any month. Matters of Town business may be submitted by any resident or property owner at any meeting of said Board.



## Chapter 133

### SENIOR CITIZENS COMMISSION

**§ 133-1. Established; composition; terms; vacancies.**

**§ 133-2. Officers; meetings and agenda.**

**§ 133-3. Recommendations regarding personnel.**

**§ 133-4. General duties of Commission.**

**§ 133-5. General duties of Director.**

**§ 133-6. Discrimination.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 10-10-1987 (§ 148 of the prior compilation). Amendments noted where applicable.]**

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**§ 133-1. Established; composition; terms; vacancies.**

There shall be a commission to study the needs of the aged and to coordinate programs for such persons in the Town of Winchester, consisting of nine electors of the Town of Winchester, appointed by the Board of Selectmen. The members so appointed shall be persons interested in the consideration and solution of the problems of the aged. In addition to the nine members of the Commission, the Mayor, or his designee, and the Town Manager shall be ex-officio members of the Commission. Three appointments shall be for three years, three appointments for two years and three appointments for one year. The Board of Selectmen shall fill any vacancy in any such position for the unexpired portion of a member's term pursuant to the provisions of the Town Charter.

**§ 133-2. Officers; meetings and agenda.**

A Chairman, Vice-Chairman, and a Secretary shall be elected by the members of the Commission from among the members. The Commission shall be empowered to determine the time and place of its meeting and agenda.

**§ 133-3. Recommendations regarding personnel.**

- A. The Commission may recommend candidate(s) to the Town Manager for the appointment of the Senior Citizen Director. The Commission may further recommend to the Town Manager such other personnel as it may deem necessary and proper for the effective administration, management and operation of the Senior Center and for the other senior citizen activities, provided that there shall be sufficient funds appropriated for the employment of such other personnel.
- B. In the alternative, the Director shall employ such other personnel as he deems necessary and proper, subject to prior consultation with the Commission and approval of the Town Manager, provided that there shall be sufficient funds appropriated for the employment of such other personnel.

**§ 133-4. General duties of Commission. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Commission shall study the conditions and needs of elderly persons in the community in relation to housing, economics, employment, health, recreation, transportation and other necessary matters. The Commission shall analyze the services provided to the aged by both public and private agencies, and shall recommend to and advise the Town Manager and the Director of the policies, programs and actions the Commission deems necessary for the effective administration, management and operation of the Senior Center and other major senior citizen activities.

**§ 133-5. General duties of Director.**

The Director shall be responsible for the implementation of the policies promulgated by the Town of Winchester and shall be responsible for all phases of the administration and management of the Senior Center and other senior citizen activities, including their daily operations. The Director shall further assist elderly persons in learning of the community resources available to them and shall assist such elderly persons in applying for federal, state and local benefits. In addition, the Director shall publicize and make known the availability of such federal, state and local resources and benefits. The Director shall be subject to all applicable state guidelines and regulations in the daily operation of the Senior Center and for other senior citizen activities.<sup>1</sup>

**§ 133-6. Discrimination.**

The Commission established by this chapter shall neither practice nor allow any discrimination because of any person's sex, color, creed, national origin or political views.

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1. Editor's Note: Original Paragraph f) of the prior compilation, regarding the budget, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



## **Chapter 136**

### **SEWER COMMISSION**

#### **§ 136-1. Established; members; powers and duties.**

**[HISTORY: Adopted by the Special Town Meeting of the Town of Winchester 1-4-1965 (§ 64 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I).Subsequent amendments noted where applicable.]**

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#### **§ 136-1. Established; members; powers and duties.**

A Water and Sewer Commission is established with the members, terms, powers and duties set forth in the Town Charter.



## **Chapter 140**

### **SOLDIERS' MONUMENT COMMISSION**

**§ 140-1. Membership; terms; vacancies.      § 140-2. Powers and duties.**

**[HISTORY: Adopted by the Town of Winchester effective 7-8-1985 (§ 137 of the prior compilation). Amendments noted where applicable.]**

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**§ 140-1. Membership; terms; vacancies. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

There is hereby created in the Town of Winchester a commission known as the "Soldiers' Monument Commission." The Commission shall consist of nine members, to be appointed by the Board of Selectmen. Members of said Commission shall serve for terms of five years or until their successors are appointed, except that the members of said Commission first appointed shall be appointed for such terms that the terms of three members shall expire five years from their appointment, three members' terms shall expire three years from their appointment, and three members' terms shall expire four years from their appointment. Any vacancy occurring otherwise than by expiration of term shall be filled by the Selectmen for the unexpired portion of the term.

**§ 140-2. Powers and duties.**

The Commission shall have the power and is authorized to develop policy concerning the proper use and maintenance of the Soldiers' Monument and shall make recommendations to the Board of Selectmen for actions necessary and appropriate to preserve and safeguard said structure and its surroundings.



## **Chapter 144**

### **TOURISM DISTRICT**

**§ 144-1. Authority; establishment;  
purpose.**

**[HISTORY: Adopted by resolution of the Town of Winchester effective 4-6-1982 (§ 126 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]**

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**§ 144-1. Authority; establishment; purpose.**

The Town of Winchester, acting herein by a Town meeting, its legislative body, and pursuant to Section 7-330 of the Connecticut General Statutes, hereby votes to form and join a district known as Litchfield Hills Travel Council, and any successor agency for the purpose of establishing a convention and visitors commission pursuant to Section 7-136(a) through (c) of the statutes, as amended.



## **Chapter 145**

### **TOWN PROPERTY**

#### **ARTICLE I**

##### **Sale of Town-Owned Property**

- § 145-1. Applicability.**
- § 145-2. Review of request by Selectmen.**
- § 145-3. Referral to Planning and Zoning Commission.**
- § 145-4. Referral to other Town agencies.**
- § 145-5. Placing sale out to bid; notification of abutters.**
- § 145-6. Considerations to award of bid.**
- § 145-7. Special Town Meeting.**
- § 145-8. Vote to approve sale.**
- § 145-9. Taking of title following vote.**

- § 145-10. Buyer responsible for closing costs.**

#### **ARTICLE II**

##### **Naming of Town Facilities**

- § 145-11. Proposals to Selectmen.**
- § 145-12. Review of and action on proposal.**
- § 145-13. Review of Naming Committee information.**
- § 145-14. Meeting to act on proposal.**
- § 145-15. Eligibility to vote at Special Town Meeting.**
- § 145-16. Limitations on further renaming.**
- § 145-17. Naming standards.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Sale of Town-Owned Property**

**[Adopted by the Board of Selectmen 9-7-1999; amended 3-2-2005; 9-15-2008 (§ 176 of the prior compilation)]**

##### **§ 145-1. Applicability.**

The following procedure shall be followed whenever it is proposed to sell, lease, abandon or grant an easement concerning Town-owned property.

##### **§ 145-2. Review of request by Selectmen.**

Upon the request to purchase Town-owned property, the Board of Selectmen shall review the request and make a determination that the sale of the property is in the best interest of the Town. Such a review may require the potential buyer to submit an appraisal for the Board's consideration or any other document the Board deems appropriate.

**§ 145-3. Referral to Planning and Zoning Commission.**

Upon making a finding that the sale would be in the best interest of the Town, the proposed sale shall be referred to the Planning and Zoning Commission, which shall review and report back to the Board as required by C.G.S. § 8-24 within 35 days of the submission of the proposal. Failure of the Planning and Zoning Commission to report back to the Board within 35 days shall be taken as approval of the proposal. A disapproval of the proposal by the Planning and Zoning Commission shall contain the reasons therefor. The disapproval, however, shall not prevent the Board of Selectmen from continuing with the process to seek approval of the proposed sale.

**§ 145-4. Referral to other Town agencies. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In addition to the Planning and Zoning Commission, the Board of Selectmen may refer the proposed sale to any of the following agencies: Assessor, Inland Wetlands Commission, Department of Public Works, Winchester Land Trust, Chief of Police, Economic Development Commission, Winchester Housing Authority, Recreation Department, Planning and Community Development Office. Each agency shall report back to the Board of Selectmen within 35 days of the submission of the proposal. Failure of any agency to report back to the Board within 35 days shall be taken as approval of the proposal. A disapproval of the proposal by an agency shall contain the reasons therefor. The disapproval, however, shall not prevent the Board of Selectmen from continuing with the process to seek approval of the proposed sale.

**§ 145-5. Placing sale out to bid; notification of abutters.**

After the agencies render their reports, or after the passage of 35 days if no reports are submitted, the Board of Selectmen shall instruct the purchasing agent to place the sale of the property out to bid and shall notify in writing all abutting owners of the proposed sale.

**§ 145-6. Considerations to award of bid.**

In awarding the bid the Town may consider, in addition to price, the following:

- A. Whether bidder abuts the proposed parcel.
- B. Whether the bidder will merge the proposed parcel to make it more conforming to Planning and Zoning Regulations.
- C. Whether the bidder is current with all taxes and user fees due to the Town of Winchester.
- D. Whether the proposed bidder is a tenant or occupant of the property.
- E. The proposed and likely use of the proposed property.
- F. Any other reasons the Board feels best promote the well being of the Town, including long-term use potential for the Town, the economic benefits or loss for the Town, the environmental value and the aesthetic value of the subject premises.



§ 145-7

TOWN PROPERTY

§ 145-11

**§ 145-7. Special Town Meeting. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Upon the opening of the bid, if the Board of Selectmen decides to accept the bid, it will schedule a Special Town Meeting, to be held not less than 30 days nor more than 45 days after the opening of the bid, to act on the proposal. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the real property that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than 15 days or less than 10 days and the last not less than two days before the date set for the hearing. The municipality shall also post a sign conspicuously on the real property land that is the subject of the public hearing.

**§ 145-8. Vote to approve sale.**

An affirmative vote of a majority of those electors attending the Special Town Meeting shall be sufficient to approve the sale.

**§ 145-9. Taking of title following vote.**

The buyer must take title to the property within 45 days of the vote of the Special Town Meeting unless granted an extension by the Board of Selectmen. Should the buyer not take title to the property within 45 days and the Board of Selectmen not grant an extension, then the Board may accept the next highest competent bidder or may re-bid the property as it deems in the Town's best interest.

**§ 145-10. Buyer responsible for closing costs.**

The buyer must pay all closing costs of the Town, including but not limited to attorney's fees and broker commissions.

**ARTICLE II**

**Naming of Town Facilities**

**[Adopted by the Board of Selectmen 1-17-2012 (§ 193 of the prior compilation)]**

**§ 145-11. Proposals to Selectmen.**

Proposals for naming or renaming Town-owned facilities, including but not limited to buildings, other structures, rooms, parks, fields and roads, shall be presented to the Board of Selectmen and contain the following:

- A. The current name and location of the subject property.
- B. History of the current name (if applicable and known).
- C. If the facility is to be named for a person or organization, a statement describing that person's or organization's impact upon the Town.
- D. A petition supporting the naming signed by not less than 50 voters of the Town of Winchester.

**§ 145-12. Review of and action on proposal.**

Upon receipt of the information, the Board of Selectmen shall vote to reject the proposal or to appoint a Naming Committee, which shall serve only for the time necessary to examine the proposal. The Naming Committee shall, at a minimum, include the primary petitioner, the Town Manager and a Selectman. The Board of Selectmen may appoint additional interested individuals to serve on the Naming Committee, but the Naming Committee shall not have more than five members. After being appointed, the Naming Committee shall gather additional information, which shall include:

- A. The financial impact of the proposed change, including costs such as new signage, stationery, legal fees, contract revisions, and public notices and possible revenues such as grants, fees or in-kind services.
- B. An implementation schedule.
- C. Any other information deemed appropriate and relevant by the Board of Selectmen.

**§ 145-13. Review of Naming Committee information.**

After compiling the required information, the Naming Committee shall present the information to the Board of Selectmen, which, upon review of the material, shall vote to reject the proposal or to schedule a public hearing.

**§ 145-14. Meeting to act on proposal.**

Following the public hearing, the Board of Selectmen shall, after considering public comments, vote to reject the proposal or to schedule a vote at a Special Town Meeting to be held within 30 days. Notice of the meeting shall be made by publication in a newspaper at least seven days before the meeting.

**§ 145-15. Eligibility to vote at Special Town Meeting.**

Those persons appearing on the latest official list of the Registrar of Voters shall be eligible to vote at the Special Town Meeting.

**§ 145-16. Limitations on further renaming.**

Once named, a Town-owned facility may not be the subject of another naming proposal for at least 10 years from the date of the Special Town Meeting approval.

**§ 145-17. Naming standards.**

No facility shall be named for any racial, ethnic or religious group or organization. Facilities should not be named for individuals still living, except as deemed worthy of such recognition by the Board of Selectmen due to outstanding contributions to the Town. No facility shall be named in such a way as to cause confusion with other facilities similarly named.

## **Chapter 148**

### **TOWN VEHICLES**

**§ 148-1. Personal use prohibited.**

**§ 148-3. Penalties for offenses.**

**§ 148-2. Waiver of restrictions.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 7-5-1995 (§ 167 of the prior compilation). Amendments noted where applicable.]**

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**§ 148-1. Personal use prohibited.**

No official or employee of the Town of Winchester shall use or permit the use of any publicly owned vehicle for the personal convenience or the private advantage of himself or any other person.

**§ 148-2. Waiver of restrictions.**

The Board of Selectmen may waive the restriction of § 148-1, upon the recommendation of the Town Manager.

**§ 148-3. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates the provisions of § 148-1 shall be liable to the Town of Winchester for the full cost of the use of the vehicle, including, but not limited to, mileage, gasoline and reasonable wear and tear. Violation of the provisions of § 148-1 shall be grounds for disciplinary action up to and including termination.



## **Chapter 155**

### **ZONING BOARD OF APPEALS**

#### **§ 155-1. Members and terms.**

**[HISTORY: Adopted by the Town of Winchester effective 10-15-1955; amended effective 1-27-1960(§ 48 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]**

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#### **§ 155-1. Members and terms.**

The Zoning Board of Appeals of the Town of Winchester shall consist of regular and alternate members serving terms as provided in the Town Charter.



# **PART II**

## **GENERAL LEGISLATION**





## Chapter 162

### ADULT ENTERTAINMENT

- |                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                  |
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| <p>§ 162-1. Findings.</p> <p>§ 162-2. Definitions.</p> <p>§ 162-3. Operating requirements for adult-oriented establishments.</p> <p>§ 162-4. Minimum distance from youth facilities.</p> <p>§ 162-5. Minimum distance from other adult-oriented establishments.</p> <p>§ 162-6. Exemptions for preexisting uses.</p> <p>§ 162-7. License required.</p> | <p>§ 162-8. Application for license.</p> <p>§ 162-9. Licensing procedure.</p> <p>§ 162-10. Expiration and renewal of license.</p> <p>§ 162-11. Suspension and revocation of license.</p> <p>§ 162-12. Appeals.</p> <p>§ 162-13. Penalties for offenses.</p> <p>§ 162-14. Enforcement by injunction.</p> <p>§ 162-15. Severability.</p> <p>§ 162-16. Interpretation of terms.</p> |
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**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 2-12-2000 (§ 179 of the prior compilation). Amendments noted where applicable.]**

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#### § 162-1. Findings.

The Board of Selectmen of the Town of Winchester finds:

- A. The operation of adult-oriented establishments requires special regulation and supervision by the Town to protect, preserve and promote the health, safety and welfare of the patrons, clients or customers and employees of such establishments, as well as the health, safety and welfare of the Town's citizens. Further, protecting order and morality, preserving the character, and preventing the deterioration of the Town's neighborhoods, avoiding blight, decreasing crime and juvenile delinquency, promoting retail trade, maintaining property values, and ensuring sanitary and safe public places are desirable objectives of the community and its leaders.
- B. Statistics and studies performed by a substantial number of cities and towns in the United States indicate that:
  - (1) Large numbers of persons frequent such adult-oriented establishments, especially those which provide closed booths, cubicles, studios and rooms for the private viewing of so-called adult motion pictures and/or videotapes and/or live entertainment; and
  - (2) Such closed booths, cubicles, studios and rooms have been used by patrons, clients or customers of such adult-oriented establishments for the purpose of engaging in specified sexual activities; and
  - (3) Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles, studios and rooms; and

- (4) Doors, curtains, blinds and/or other closures installed or on the entrances and/or exits of such booths, cubicles, studios and rooms which are closed while such booths, cubicles, studios and rooms are in use encourage patrons, clients or customers using such booths, cubicles, studios and rooms to engage in specified sexual activities therein with prostitutes and/or with other persons and/or by themselves, thereby promoting or encouraging prostitution and the commission of specified sexual activities which cause blood, semen, urine or other bodily secretions to be deposited on the floors and/or walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and
- (5) Booths, cubicles, studios and rooms which are closed while such booths, cubicles, studios and rooms are in use often contain holes that have been cut or smashed out of the walls or other partitioning material. These holes permit the inhabitant of one booth to engage in specified sexual activities with the inhabitant of an adjoining booth, cubicle, studio or room. These promote and encourage specified sexual acts to occur between persons anonymously. Anonymous sexual contact poses a higher risk of spread of communicable diseases, including the AIDS virus and Hepatitis B and other sexually transmitted diseases. Further, the existence of such holes in booths, cubicles, studios and rooms in an adult-oriented establishment provides an increased risk that blood, semen, urine and other bodily secretions will be deposited on the floors and/or walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and
- (6) Specified sexual activities often occur at unregulated adult-oriented establishments which provide live adult entertainment, specified sexual activities, including sexual physical contact between employees and patrons, clients or customers of adult-oriented establishments, and specifically include lap dancing and/or manual or oral touching or fondling of specified anatomical areas, whether clothed or unclothed. Such casual, sexual physical contact between strangers may result in the transmission of communicable diseases which would be detrimental to the health of the patrons, clients or customers and employees of such adult-oriented establishments; and
- (7) The unregulated operation of adult-oriented establishments is associated with an increase in the incidents of sex-related crimes and also has a disruptive effect on the surrounding neighborhood by causing excessive noise, parking problems, the presence of discarded sexually oriented material on residential lawns, and the performance of sexual acts in public places; and
- (8) The reasonable regulation and supervision of such adult-oriented establishments tends to discourage prostitution, other sex-related crimes, anonymous high-risk sexual contact and/or high-risk unsanitary sexual activity, excessive noise and property devaluation, thereby decreasing the incidents of communicable diseases and sex-related crimes and thereby promoting and protecting the health, safety and welfare of the employees and the public who patronize such establishments and protecting the health, safety and property interests of the Town and its citizens.

- C. The continued unregulated operation of adult-oriented establishments is and would be detrimental to the general welfare, health and safety of the citizens of Winchester. The Constitution and the laws of the State of Connecticut grant to the Town powers, especially police power, to enact reasonable legislation and measures to regulate and supervise adult-oriented establishments in order to protect the public health, safety and welfare.
- D. It is not the intent of the Board of Selectman, in enacting this chapter, to deny any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Board of Selectman to impose any limitations or restrictions on the content of any communicative materials, including sexually oriented films, videotapes, books and/or other materials. Further, by enacting this chapter, the Board of Selectman does not intend to deny or restrict the rights of any adult to obtain or view any sexually oriented materials protected by the United States and/or State Constitution; nor does it intend to restrict or deny any Constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

### § 162-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ADULT AMUSEMENT MACHINE** — Includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities and specified anatomical areas, as defined below, for observation by patrons therein.

**ADULT BOOKSTORE** — An establishment having 10% or more of the value of its stock and trade in books, films or other video reproductions or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, and in conjunction therewith has facilities for the presentation of adult entertainment as defined herein and including adult-oriented films, movies, live entertainment for observation by patrons, clients or customers therein. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**ADULT ENTERTAINMENT** — Includes any exhibition of any adult-oriented motion pictures, live performance, display or dance of any type which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed in a modeling or any other personal services offered customers. It also includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons, clients or customers thereof.

**ADULT MINI-MOTION-PICTURE THEATER** — Any enclosed building with a capacity of less than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or

specified anatomical areas as defined herein for observation by patrons, clients or customers therein.

**ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity of 50 or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons, clients or customers therein.

**ADULT-ORIENTED ESTABLISHMENT** — Includes, without limitation, adult amusement machine, adult bookstores, adult motion-picture theaters, adult mini-motion-picture theaters and further means any premises to which the public, patrons, clients or customers or members are invited or admitted and wherever an entertainer provides adult entertainment, or which premises are so visibly arranged as to provide booths, cubicles, rooms, studios, compartments or stalls, separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect, or not for profit. An adult-oriented establishment further includes without limitation any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment, rap studio, exotic dance studio and encounter studio, sensitivity studio, massage studio, modeling studio or any other term of like import.

**CHIEF OF POLICE** — The Chief of Police of the Town or his designated agent.

**EMPLOYEE** — Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

**ENTERTAINER** — Any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not the entertainment is provided as an employee or an independent contractor.

**INSPECTOR** — The Director of Health, the Chief of Police, the Fire Marshal, their agents or representatives or any Town employee designated to make inspections for health, fire, building safety, public safety, zoning purposes, violations of this chapter, or violations of any laws or ordinances of the Town.

**MINOR** — Shall be deemed to refer to a person under the age of 18 years.

**OPERATOR** — Any person, partnership, corporation or other entity operating, conducting or maintaining an adult-oriented establishment.

#### **SPECIFIED ANATOMICAL AREAS**

A. Less than completely and opaquely covered:

- (1) Human genitals, pubic region;
- (2) Buttock(s);
- (3) Female breast(s) below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely opaquely covered.

## SPECIFIED SEXUAL ACTIVITIES

## A. Simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal.
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus.
- (3) Fondling or erotic touching of female genitals, pubic region, buttocks or female breasts.
- (4) Lap dancing.
- (5) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (4).

B. However, the definition of "specified sexual activity" shall not apply to any medical publications or films or bona fide educational publication or films, any art or photography publications which devote 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography; any periodical which reports or describes current events and which from time to time publishes photos of nude or seminude persons in connection with the dissemination of the news, publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depiction of nude or seminude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

**§ 162-3. Operating requirements for adult-oriented establishments.**

- A. No licensee, operator or employee of an adult-oriented establishment shall perform or permit to be performed, offer to be performed or allow patrons, clients or customers to perform any live performance or conduct in violation of Connecticut's obscenity laws, C.G.S. §§ 53a-193 through 53a-210.
- B. No licensee, operator or employee of an adult-oriented establishment shall allow or permit any minor to enter into or in any way loiter in or around any part of such establishment.
- C. Every adult-oriented establishment doing business in the Town on and after the effective date of this chapter shall be well-lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, when adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever. It shall be a violation of this chapter to install enclosed booths, cubicles, rooms within an adult-oriented establishment for any purpose in any way related to providing for the secluded viewing of adult-oriented motion pictures or any other types of adult-oriented entertainment.
- D. The licensee and operator of each adult-oriented establishment shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live entertainment shall be well-lighted and readily accessible at all times

and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons, clients or customers are permitted access at the illumination of not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

- E. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or admission of the licensee and operator as well, including any act or admission as a result of the operator's negligent failure to supervise the employee's conduct. The licensee and operator shall be punishable for such act or admission in the same manner as if the licensee or operator committed the act or caused the omission. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- F. The licensee and operator shall be responsible for the conduct of all employees while on the premises, including parking areas and all other portions of the property, and any act or admission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or admission of the licensee and operator for purposes of determining whether the operating license shall be revoked, suspended or renewed and whether the licensee and operator shall be subject to the penalties imposed by this chapter.
- G. No adult-oriented establishment shall open to do business:
  - (1) Monday, Tuesday, Wednesday, Thursday, Friday between the hours of 1:00 a.m. and 10:00 a.m.
  - (2) Saturday between the hours of 2:00 a.m. and 10:00 a.m.
  - (3) Sunday between the hours of 2:00 a.m. and 10:00 a.m.
- H. No person shall be employed in any adult-oriented establishment within three years of conviction of any of the crimes specified in § 162-8D(9) of this chapter unless such conviction has been submitted for appellate review, in which case employment shall be continued until such appeal is sustained.
- I. Every adult-oriented establishment shall display a sign outside each entrance bearing the words "Adult-oriented establishment. Persons under 18 not admitted." in letters three inches high.
- J. The licensee and operator shall ensure compliance of the adult-oriented establishment and its patrons with the provisions of this chapter.
- K. Exterior display. No adult entertainment use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas, from any public way or from any property not registered as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.

**§ 162-4. Minimum distance from youth facilities.**

Adult-oriented establishments shall be located no less than 1,500 feet from any of the following uses if existing at the time when the adult-oriented establishment is established: any public or private school serving grade 12 or lower, any day-care center, nursery school or similar use, any public park or playground, any church or place of worship or other community building or any residential zone. Measurements of this shall be from any portion of the building housing such adult-oriented establishment to any portion of the parcel of land containing such land uses or being residentially zoned. The separating distance required by this section shall be determined as of the date that the adult-oriented establishment commences to operate in accordance with this chapter and any applicable provisions of the Town of Winchester Zoning Regulations, Building Code, Health Code, and other applicable state and local laws, and such adult-oriented establishment shall not be deemed to violate this section if thereafter one of the enumerated uses is established within the distance set forth herein.

**§ 162-5. Minimum distance from other adult-oriented establishments.**

No adult-oriented establishments shall be permitted in any portion of a building that is less than 1,500 feet from the closest property line on which the adult-oriented establishment is located to the closest property line of another adult-oriented establishment.

**§ 162-6. Exemptions for preexisting uses.**

The provisions of the preceding §§ 162-4 and 162-5 shall not be deemed to prohibit any use preexisting the enactment of this chapter. Any preexisting use which shall be discontinued for a period of 30 days shall thereafter conform to §§ 162-4 and 162-5, excluding therefrom any discontinuance caused by a suspension of the operating license.

**§ 162-7. License required.**

- A. Except as provided in Subsection D below, from and after the effective date of this chapter, it shall be unlawful for any person, partnership, corporation or other entity to engage in, conduct or carry on or permit to be engaged in, conducted or carried on in or upon any premises in the Town, the operation of an adult-oriented establishment without first obtaining a license to operate from the Winchester Chief of Police.
- B. A license may be issued for only one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each such establishment.
- C. It shall be a violation of this chapter for any entertainer, employee, owner or operator to knowingly work in or about or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.
- D. All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within 60 days of the effective date of this chapter. If no application is filed within said sixty-day period, then such existing adult-oriented establishment shall cease operations, unless any such establishment has

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appealed the enactment of this chapter, whereupon this chapter shall not be enforced as to such establishment until such appeal is dismissed and judgment rendered in favor of the Town. If an application is filed then this chapter shall not be enforced as to such establishment until such application is denied.

- E. Each license shall be specific to a licensee and to a location and may not be sold, assigned or transferred to any person, corporation, partnership or other entity in any way.

#### **§ 162-8. Application for license.**

- A. Upon the effective date of this chapter, the operator of any adult-oriented establishment shall be responsible for and shall acquire a license from the Winchester Chief of Police in accordance with this section.
- B. The operator of each adult-oriented establishment shall submit an application in triplicate to the Town Clerk, together with an application fee in an amount set from time to time by the Board of Selectmen prior to commencement of business or within 60 days of the effective date of this chapter for any establishment already open for business. The Town Clerk shall date stamp all copies of the application and shall promptly deliver a copy of the application to the Chief of Police. The application shall be made upon a form prepared by the Chief of Police and disseminated by the Town Clerk. In instances where a corporation or a partner is the applicant, the application shall be signed and filed by a person having direct control or management of the proposed adult-oriented establishment or by an officer, director, majority shareholder or majority partner of the corporation or general partner of the partnership or manager or managing member of any other entity. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. The applicant, within two business days of submitting an application to the Town Clerk, shall erect and maintain for a period of not less than 14 consecutive days, in a legible condition, a sign not less than four feet by four feet upon the site to be operated as an adult-oriented establishment, which sign shall set forth the name of the proposed licensee and reflect the filing of an application for an adult-oriented establishment. The sign shall be posted along the front of the property in an area clearly visible from a Town road or state highway abutting the property. After the sign has been properly erected and maintained for 14 consecutive days, the applicant shall provide to the Chief of Police a photograph of the sign and a statement under oath attesting to compliance with the foregoing sign requirements.
- D. The applicant for a license shall furnish the following information:
  - (1) Name and residential address of the applicant, owner, operator, manager and any other person having direct control or management of the adult-oriented establishment, including all aliases, place of employment, date of birth, social security number, driver's license number and federal tax identification number, if any.
  - (2) Name and address of all employees and any other persons directly involved in the operation of the adult-oriented establishment, including aliases, date of birth,



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social security number, driver's license number and federal tax identification number, if any.

- (3) Written proof that the applicant is at least 18 years of age.
  - (4) The exact nature of the entertainment to be conducted at the adult-oriented establishment.
  - (5) The address of the adult-oriented establishment to be operated by the applicant.
  - (6) Any adult-oriented entertainment or similar business license/permit history of the applicant, whether such person has previously operated in this or another municipality or state under license or without license, has had any such license revoked or suspended, the reason therefor and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
  - (7) If the application is a corporation, the application shall specify the name of the corporation, the date and state of incorporation and the name and address of the registered agent.
  - (8) The statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
  - (9) Any criminal convictions of the applicant, operator and other persons directly involved in the management or control of the adult-oriented establishment to any crime involving prostitution, obscenity, or other sex-related crime or drug offense in any jurisdiction within three years of the date of the filing of the application. Such crimes include, but are not limited to, prostitution, soliciting prostitution, promoting or permitting prostitution and sexual assault.
  - (10) An accurate to scale but not necessarily professionally drawn floor plan of the business premises clearly indicating the location of one or more manager's stations.
- E. If a license to operate is granted, the information furnished in the application shall be updated within 30 days of any changes. Said update shall be filed at the office of the Town Clerk, who shall promptly forward such update to the Chief of Police.

**§ 162-9. Licensing procedure.**

- A. No license shall be issued unless the Chief of Police has investigated the applicant's qualifications to be licensed. The investigation shall be conducted only to confirm the qualification of the applicant and to inspect the premises for compliance with all laws and regulations. The results of the investigation shall be put in writing and filed with the Town Clerk and mailed to the applicant within 60 days after the application was filed. Additionally, the premises of the adult-oriented establishment shall be inspected for compliance with the provisions of this chapter and all local and state codes and regulations, including but not limited to health, fire, building and zoning regulations. Said inspection shall be completed and a report issued to the Chief of Police within 30 days of the filing of the application and shall be included with the investigation results

of the Chief of Police. The Chief of Police shall either issue a license or notify the applicant of the denial of the application within 75 days after receipt of a completed application. If he fails to do so, the application shall be deemed granted.

- B. The Chief of Police shall issue to the applicant a license to operate an adult-oriented establishment within 75 days from the date of the filing of an application if all the requirements for an adult-oriented establishment described in this chapter are met, unless he finds that:
- (1) The operation as proposed by the applicant if permitted would not have complied with all applicable laws and regulations, including, but not limited to, the building, health, housing, zoning and fire codes of the Town. If the premises are not in compliance, the applicant shall be advised of the reasons in writing and what, if any, measures the applicant can take to bring the premises into compliance for a license to issue.
  - (2) The applicant or any other person who will be directly engaged in the management and operation of an adult-oriented establishment has been convicted in this or any other state of any of the crimes specified in § 162-8 above, except those specified in Subsection B(3) below, within three years of the date of filing of the application.
  - (3) The applicant or any other person who will be directly engaged in the management and operation of an adult-oriented establishment has been convicted of any obscenity offense in violation of C.G.S. §§ 53a-194, 53a-196a, 53a-196b, 53a-196c within two years of the date of the filing of the application.
  - (4) The applicant has submitted a false statement or representation or misleading information on the application.
  - (5) The applicant previously violated this chapter within five years immediately preceding the date of the filing of the application.
  - (6) An applicant has been employed in an adult-oriented establishment in a managerial capacity within the preceding 36 months and knowingly:
    - (a) Permitted alcoholic liquor or cereal or malt beverages to be illegally brought or consumed upon the premises;
    - (b) Permitted the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the grounds;
    - (c) Permitted any person under the age of 18 to be in or upon the premises of an adult entertainment business; or
    - (d) Permitted any act of prostitution or patronizing prostitution as defined under the state law on the premises.
- C. Whenever an application is denied, the Chief of Police shall notify the applicant in writing within 75 days of the date of the application stating the reasons for such denial.
- D. When an application is denied solely for the reasons stated in Subsection B(1), and such violation is correctable, the applicant shall be given an additional 30 days from the

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date of such notification of denial to bring the premises into compliance. Upon verification by inspection that the correction has been made within 30 days, which shall be determined no later than three business days after receipt of written notice and corrections from the applicant to the Chief of Police, a license shall be issued to the applicant so long as no new violations or other disqualifying factors have occurred within those 30 days.

- E. The license, if granted, shall state on its face the name and residence address for the applicant to whom it is granted, the expiration date, the address of the adult-oriented establishment and the department or public official and telephone number to report any violation of this chapter.
- F. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented establishment so that it may be easily read at any time.

**§ 162-10. Expiration and renewal of license.**

- A. Each license issued to a qualified applicant shall expire one year from the date it is issued unless it is renewed upon application of the licensee accompanied by payment of a renewal fee in an amount set from time to time by the Board of Selectmen. Such application and application fee shall be submitted by the licensee to the Town Clerk at least 60 days before the expiration date, but not more than 90 days. Provided the application is filed within 60 days of its expiration date and the application fee paid, the license shall be renewed for the same licensee at the same location by the Chief of Police unless the licensee's file contains uncorrected violations of this chapter or uncorrected violations of health, fire or safety codes and regulations of which the licensee has received written notice. The renewed license shall be mailed to the licensee by certified mail prior to the expiration date of the previous license. No establishment shall continue operations without a license except in accordance with the provision of § 162-7B. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. In the event that there are uncorrected violations of this chapter or uncorrected violations of health, fire or safety codes and regulations of which the renewal applicant has received written notice, license renewal shall be delayed for a maximum of 30 days in order for all corrections to be completed and inspections done to determine compliance. If such corrections of violations are not made by the applicant within the 30 days beyond the expiration date, no license renewal will be issued. A notice of nonrenewal shall be mailed by the Chief of Police to the licensee by certified mail within five days after the extended thirty-day period, stating the reasons for the nonrenewal.
- C. Notwithstanding the provisions in Subsection B above, in no instance shall a renewal be issued to a licensee that has two or more violations of § 162-3A of this chapter for which the licensee has received written notice or one or more uncorrected violations of this chapter pending for over 60 days. A written notice of such nonrenewal shall be mailed by the Chief of Police to the licensee by certified mail prior to the expiration date of the license sought to be renewed, stating the reason for the nonrenewal revocation.

- D. Should a license not be renewed for any violation provided herein, no license shall issue for the same licensee for five years.

**§ 162-11. Suspension and revocation of license.**

- A. The Chief of Police or an authorized representative may suspend the license for a period not to exceed 30 days upon his determination that a licensee, operator or employee has violated any part of this chapter. Said suspension shall be issued in writing, mailed by certified mail, return receipt requested, to the licensee at the address of the establishment or at the home of the licensee or served by process server at the usual place of abode of the licensee or at the address of the establishment. If the suspension is issued for a correctable violation, said suspension shall be terminated upon verification by inspection that the correction has been made, which shall be determined no later than three business days after receipt of written notice of correction from the licensee to the Chief of Police.
- B. The Chief of Police or his authorized representative shall revoke any license where any of the following occurs:
- (1) It is discovered that false or misleading information or data was given on any application or material facts were omitted from any application for licensure.
  - (2) Any costs or fee required to be paid by this chapter is not paid or is paid with a bank check drawn on an account with insufficient funds and returned to the Town.
  - (3) The licensee is no longer qualified due to conviction of any crime specified in § 162-8D(9).
  - (4) The licensee has had two or more violations of § 162-3A, B, C, D or H of this chapter for which the licensee has received written notice.
  - (5) The licensee has one or more uncorrected violations of this chapter pending for over 60 days.
  - (6) Failure of licensee to correct any violation within 30 days for which licensee's license was suspended pursuant to § 162-8.
  - (7) The license or any interest therein is transferred in any way.
- C. Once revoked, no license shall issue for the same licensee for five years.

**§ 162-12. Appeals.**

If the Chief of Police or his authorized representative denies the issuance of a license or suspends or revokes a license he shall, within 10 days of his decision, send to the applicant or operator at the address listed on the application by certified mail, return receipt requested, written notice of a decision, and further shall specifically state the evidence presented, the reason for the decision and the right to an appeal. The aggrieved party may appeal the decision of the Chief of Police to the Board of Selectmen within 30 days of receipt of the notice by filing a written application to the Town Clerk requesting a hearing before the Board

of Selectmen. At the hearing, the applicant/licensee shall have the opportunity to present evidence bearing upon the question. If the applicant/licensee makes application for a hearing, a hearing shall be scheduled within 30 days of the notice of appeal. The Board must render a decision within 45 days of the receipt of the appeal. Within five days after such hearing, the Board of Selectmen shall issue written notice of a final decision and issue any license or renewal of license where applicable. All operations of the adult-oriented establishment shall be maintained pending the final decision being issued by the Board of Selectmen. Any denial, nonrenewal, suspension or revocation of a license that is sustained in a written decision after hearing, as provided for above, shall be appealable to the Superior Court within 15 days of written notice thereof by any person aggrieved in accordance with the procedure established for zoning appeals by C.G.S. § 8-8, as amended. Any denial of renewal, suspension or revocation shall be stayed during the appeal unless otherwise ordered by the Superior Court.

#### **§ 162-13. Penalties for offenses.**

- A. Every person, partnership or corporation, whether acting as an individual owner, operator, licensee or employee of an adult-oriented establishment, who operates, maintains or conducts an adult-oriented establishment without first obtaining a license and paying the applicable fee to the Town, or who violates any of the provisions of this chapter, shall be fined a definite sum not exceeding \$250 for each such violation and be subject to criminal prosecution under the laws of the State of Connecticut. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Each violation of this chapter shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense for each day the violation continues.
- C. This chapter shall not preclude any additional enforcement action taken by any appropriate municipal, state or federal official conducted pursuant to any applicable ordinance, regulation and/or law of the Town of Winchester and/or the State of Connecticut and/or the United States of America.
- D. The hearing procedure for any citations issued for violations of this chapter shall be the procedures set forth in Chapter 215, Citations, Article I, of the Code of the Town of Winchester.

#### **§ 162-14. Enforcement by injunction.**

In addition to any fines or penalties imposed herein, this chapter may be enforced by injunctive relief in the Superior Court.

#### **§ 162-15. Severability.**

Should any court of competent jurisdiction declare any section or clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter.

**§ 162-16. Interpretation of terms.**

In construing this chapter, masculine or neuter pronouns shall be substituted for those of feminine form and vice versa and the plural of the singular and the singular of the plural shall be substituted in any case in which the context may require.

## Chapter 165

### ADVERTISING MATTER AND NEWSPAPERS

#### § 165-1. Definitions.

#### § 165-2. Distribution on unimproved or vacant private premises.

#### § 165-3. Distribution on private property.

#### § 165-4. Exemptions.

#### § 165-5. Penalties for offenses.

#### § 165-6. Enforcement.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 2-21-1910; amended 8-1-2016 (§ 14 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### § 165-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ADVERTISING MATTER** — Any printed or written matter, including handbills and signs, or otherwise reproduced original or copies of any matter or literature except a newspaper as defined in this chapter, which advertises for sale any merchandise, product, commodity or thing, or which directs attention to any business or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales, or which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as an advertiser or distributor.

**NEWSPAPER** — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, any newspaper filed and recorded with any recording officer as provided by general law, or any printed matter of general circulation published for the dissemination of local, regional, state, national or international news or information of a general character.

#### § 165-2. Distribution on unimproved or vacant private premises.

No person shall deposit, distribute or place any advertising matter or newspaper, or cause the same to be done, in or upon any private premises which are unimproved or which are vacant, without first obtaining the permission of the owner or other person in control of such premises.

#### § 165-3. Distribution on private property.

No person shall deposit, distribute or place any advertising matter or newspaper, or cause the same to be done, in or upon any private premises within the Town when the owner or occupant of said private premises has notified the distributor or disseminator of such

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advertising matter or newspaper that he or she does not wish to receive said advertising matter or newspaper. Said notice shall be:

- A. By written communication to the distributor or disseminator of such advertising matter or newspaper; or
- B. By placing on said premises in a conspicuous place near the entrance thereof a sign bearing the words "No Advertising," or any similar notice indicating that no such advertising matter or newspaper is to be left upon said premises.

**§ 165-4. Exemptions.**

The provisions of this chapter shall not apply to the distribution of material through the United States mail, nor to the distribution of material if such distribution is required by federal, state or local regulation.

**§ 165-5. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Each violation of this chapter shall be considered a separate municipal offense, and each separate offense shall be subject to a fine of \$100 payable to the Town of Winchester.

**§ 165-6. Enforcement.**

This chapter is specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 215, Citations, Article I, of the Town Code shall be followed.



## Chapter 169

### ALARMS

#### ARTICLE I

##### Maintenance of Fire Alarm Systems

§ 169-1. Maintenance of systems required.

§ 169-2. Presumption of lack of maintenance.

§ 169-3. Penalties for offenses.

§ 169-4. Enforcement.

§ 169-5. Municipal and school facilities exempt.

§ 169-7. Permit required.

§ 169-8. Application for permit.

§ 169-9. Approval of application.

§ 169-10. Right of inspection.

§ 169-11. Restricted contact numbers.

§ 169-12. Noise control.

§ 169-13. Revocation of permit.

§ 169-14. Permit fee.

§ 169-15. False alarm fines.

§ 169-16. Penalties for offenses.

§ 169-17. Municipal and school facilities exempt.

#### ARTICLE II

##### Alarm Systems

§ 169-6. Definitions.

[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE I

##### Maintenance of Fire Alarm Systems

[Adopted by the Board of Selectmen effective 1-22-1989; amended effective 10-15-1990  
(§ 151 of the prior compilation)]

§ 169-1. Maintenance of systems required.

It shall be the obligation of each and every owner of property which contains a private fire alarm system to maintain said system in good working order.

§ 169-2. Presumption of lack of maintenance.

In the event the Town of Winchester Fire Department receives three alarms from any property within six months, which alarms are not the result of an actual fire nor of a manual activation of the alarm, it shall be deemed that said alarm system is not in good working order.

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**§ 169-3. Penalties for offenses.**

After the first three alarms set forth in § 169-2, the owner shall be liable for a fine of \$100 per alarm for each subsequent alarm which is not the result of an actual fire nor of a manual activation of the alarm.

**§ 169-4. Enforcement.**

The enforcing agency for §§ 169-1, 169-2 and 169-3 shall be the office of the Town of Winchester Fire Marshal.

**§ 169-5. Municipal and school facilities exempt.**

This article shall not apply to the fire alarms on property owned or leased by the Town of Winchester or the school facilities and school buildings within the Town of Winchester.

## ARTICLE II

**Alarm Systems**

**[Adopted by the Board of Selectmen 10-1-1990 (§ 154 of the prior compilation)]**

**§ 169-6. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ALARM** — Any mechanism, equipment or device designed to transmit an audible siren, horn or bell to the exterior of a dwelling or other building. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**BURGLAR ALARM** — An alarm signaling an entry or attempted entry into the area protected by the system. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**FIRE ALARM SYSTEM** — Any mechanism, equipment or device designed to transmit a signal of a fire to fire-fighting authorities.

**PRIVATE ALARM SYSTEM** — Any mechanism, equipment or device designed to transmit to others, including, but not limited to, private alarm services, notice of intrusion or other emergency.

**TELEPHONIC ALARM SYSTEM** — Any mechanism, equipment or device which is designed to be operated automatically through the use of public telephone facilities to transmit a signal, message or warning to another location.

**§ 169-7. Permit required.**

No person shall operate or maintain a telephonic alarm system, burglar alarm, or a private alarm system which automatically or through a third party transmits a signal, message or warning to the Town of Winchester Police Department or Fire Department telephone line or other emergency line without first obtaining a permit as required by this article.

**§ 169-8. Application for permit. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Applications for permits to install, maintain or operate a telephonic alarm system, burglar alarm or private alarm system which is intended to automatically or through a third party transmit a signal, message or warning to the Town Police Department or Fire Department telephone line or other emergency line shall be filed with the Chief of Police on forms supplied by the Town of Winchester, together with an application fee in an amount set from time to time by the Board of Selectmen. Said application shall set forth the name, address and telephone number of both the installer of the system and the person on whose premises the system will be installed, as well as a description of the system and the location where it is proposed to be installed.

**§ 169-9. Approval of application.**

- A. The Chief of Police may approve such application if he finds among other things that:
  - (1) The use of said alarm system to transmit a signal, message or warning to a designated Town Police Department or Fire Department telephone line or other emergency line will not interfere with the orderly conduct of Town business.
  - (2) The person and/or company installing the system maintains an adequate service organization to repair, maintain and otherwise service telephonic alarm systems, burglar systems or private alarm systems sold or leased by him and/or it.
- B. The Chief of Police shall have the authority and is hereby empowered to impose reasonable conditions on the exercise of said permit.

**§ 169-10. Right of inspection.**

The Chief of Police or designee shall have the right to inspect any telephonic alarm system, burglar alarm system or private alarm system on the premises where it is intended to function prior to issuance of any permit for its operation, and he may cause an inspection of such system to be made at any time after issuance of a permit to determine whether it is being used in conformity with the terms of the permit and the provisions of this article.

**§ 169-11. Restricted contact numbers.**

- A. It shall be unlawful for any person, firm or corporation to install, operate or maintain a telephonic alarm system or private alarm system which automatically transmits a signal, message or warning to any Town Police Department or Fire Department telephone line or other emergency line except to such telephone number or numbers as designated by the permit issued under provisions of this article.
- B. Telephone dialers will be prohibited in any new systems. Preexisting dialers must not send more than two signals to the receiving center for notice of alarm.

**§ 169-12. Noise control. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Alarms installed after the effective date of this article must contain an automatic timing device to shut down after 30 minutes. Existing systems must provide a key holder or an outside shut off.

**§ 169-13. Revocation of permit.**

The Chief of Police may revoke any permit issued pursuant to the provisions of this article. Notice to the permit holder of intent to revoke said permit shall be by registered or certified mail. The permit holder shall be entitled to a hearing before the Chief of Police within 15 days of the date of issuance of the notice of intent to revoke. If, after said hearing, the Chief of Police determines that the telephonic alarm system or private alarm system installed pursuant to said permit has been installed, maintained or operated in violation of the provisions of this article, or any term or condition of said permit, or for failure to pay the annual service fee specified in § 169-14, he may order said revocation.

**§ 169-14. Permit fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Each permit holder shall pay to the Town of Winchester, on or before June 30 of each year, a use fee in the amount set from time to time by the Board of Selectmen.

**§ 169-15. False alarm fines. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation having a burglar alarm, telephonic system, private alarm system or any other type of intrusion alarm shall be charged a fine of \$50 after the third false alarm responded to by the Police Department within a calendar year and \$100 for each false alarm so responded to thereafter within a calendar year. If the possessor of the alarms shows to the satisfaction of the Chief of Police that the false alarm was not the result of negligence or improper maintenance, such fine may be waived.

**§ 169-16. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation violating any provision of this article shall be fined \$100 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**§ 169-17. Municipal and school facilities exempt.**

This article shall not apply to fire alarms or buildings owned or leased by the Town of Winchester or to school facilities located within the Town of Winchester.

## Chapter 172

### ALCOHOLIC BEVERAGES

#### ARTICLE I Sale Near Recreation Grounds

- § 172-1. Sale prohibited.  
§ 172-2. Penalties for offenses.

#### ARTICLE II Possession of Opened Containers

- § 172-3. Definitions.  
§ 172-4. Possession of opened containers prohibited.  
§ 172-5. Exceptions.  
§ 172-6. Permit applications.  
§ 172-7. Penalties for offenses.

#### ARTICLE III Business Establishments Allowing Consumption of Alcohol

- § 172-8. Presence of minors restricted.  
§ 172-9. Definitions.  
§ 172-10. Penalties for offenses.  
§ 172-11. Applicability.

#### ARTICLE IV Possession and Consumption by Minors

- § 172-12. Definitions.  
§ 172-13. Possession restricted.  
§ 172-14. Sale or delivery of alcoholic liquor.  
§ 172-15. Hosting events.  
§ 172-16. Penalties for offenses.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Sale Near Recreation Grounds [Adopted effective 3-1-1968; amended effective 9-10-1974 (§ 15 of the prior compilation)]

##### **§ 172-1. Sale prohibited.**

The sale of alcoholic liquor of any kind except beer shall not be permitted upon any premises situated in the Town of Winchester, which premises are used principally as a playground, picnic ground or other place for the gathering of minors or the general public, or both, for purposes of outdoor recreation.

##### **§ 172-2. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate any of the provisions of this article shall for each offense be fined not more than \$100; and each day such violation continues shall constitute a separate offense.

## ARTICLE II

**Possession of Opened Containers**

**[Adopted by the Board of Selectmen effective 6-11-1985; amended 9-18-1995 (§ 136 of the prior compilation)]**

**§ 172-3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

ALCOHOLIC LIQUOR — Shall be defined as set forth in C.G.S. § 30-1, as amended.

PARKED VEHICLE — Any vehicle that is stationary, whether the engine is running or not, unless said vehicle is stopped in obedience to a traffic control signal or sign.

PARKING AREA — Lots, areas or other accommodations for the use of parking of motor vehicles off the street or highway and open to public use with or without charge.

PUBLIC HIGHWAY — A highway, road, street, avenue, alley, boulevard or other way within and under control of the Town of Winchester, and open to public use, including the sidewalks of any such highway.

RECREATION AREA — Any park, playground, beach or recreation area owned or used by the Town, including the Soldiers' Memorial Park.

**§ 172-4. Possession of opened containers prohibited.**

The possession of any opened container holding an alcoholic beverage is prohibited on any public highway, parking area or recreation area within the Town of Winchester, except as permitted in § 172-5 hereof.

**§ 172-5. Exceptions.**

The possession of opened containers of alcoholic beverages is permitted during any public function, festival or celebration being conducted pursuant to a written permit issued by the Chief of Police or person designated by the Chief to issue such permits.

**§ 172-6. Permit applications.**

- A. An application for a permit shall be in writing directed to the Chief of Police. The application shall state the name and address of responsible officials of the organization sponsoring the function, festival or celebration (event), shall specify the parts of the public highway, parking area or recreation area to be used during the event, specify the beginning and ending time of the event and, if it continues for more than one day, the hours in each day it is to be conducted, the approximate number of people to be in attendance and whether the event is open to the public.
- B. The application shall be filed at least 10 days prior to the first day of the event. The permit shall be issued or denied in writing at least four calendar days before the first day of the event. The permit shall be issued if all of the required information is provided, the application is made at least 10 days before the event and the Chief of

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Police or his designee determines that the event will be open to the public and all necessary permits, licenses and approvals have been obtained from all necessary government authorities, including, but not limited to, the State Liquor Control Commission. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 172-7. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any provision of this article shall be guilty of a municipal infraction and shall be fined \$100.

## ARTICLE III

**Business Establishments Allowing Consumption of Alcohol**

**[Adopted by the Board of Selectmen effective 4-4-1986 (§ 143 of the prior compilation)]**

**§ 172-8. Presence of minors restricted. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No business establishment operating within the Town of Winchester, which establishment shall include but not be limited to cabarets, cafes, concert halls, dance halls, "juice" bars, or any similar business, which permits or allows the consumption of alcoholic liquor within the confines of or on the grounds of said business establishment, shall permit any person whose age is under the legal drinking age, as established by C.G.S. § 30-1, as amended, to enter into or remain within said business establishment, unless that minor person is accompanied by a parent or legal guardian whose age is above the legal drinking age.

**§ 172-9. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ALCOHOLIC LIQUOR** — Shall be defined in the same manner as set forth in C.G.S. § 30-1, as amended. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 172-10. Penalties for offenses.**

A fine in the amount of \$100 shall be levied against any such business establishment found to be in violation of this article. Each minor person found within such business establishment and constituting a violation of this article shall be a separate and distinct violation, subjecting such business establishment to separate fines of \$100 for each violation.

**§ 172-11. Applicability. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The provisions of this article shall not be applicable to any business establishment which has obtained a permit from the Department of Consumer Protection pursuant to C.G.S. §§ 30-14 et seq., as amended.

**ARTICLE IV**

**Possession and Consumption by Minors**

**[Adopted by the Board of Selectmen 4-21-2003; amended 6-16-2003 (§ 181 of the prior compilation)]**

**§ 172-12. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ALCOHOLIC LIQUOR** — Shall have the same meaning as the same term is defined in C.G.S. § 30-1, as amended from time to time.

**HOST** — To organize a gathering of two or more persons, or to allow the premises under one's control to be used with one's knowledge, for a gathering of two or more persons for personal, social or business interaction.

**MINOR** — Shall have the same meaning as said term is defined in C.G.S. § 30-1, as amended from time to time.

**PERSON** — Any individual, firm, partnership, association, syndicate, company, trust, corporation, limited-liability company, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

**§ 172-13. Possession restricted.**

No minor shall be in possession of alcoholic liquors, whether in opened or closed containers or otherwise, within the Town of Winchester except: when accompanied by or in the presence of his or her parent, guardian or spouse who has attained the age of 21; a person over age 18 who is an employee of a permit holder under C.G.S. § 30-90a, or a permit holder under the Liquor Control Act and who possesses alcoholic liquor in the course of his employment or business; or a minor who possesses alcoholic liquor on the order of a practicing physician. This restriction shall apply to both public and private property.

**§ 172-14. Sale or delivery of alcoholic liquor.**

No person shall sell alcoholic liquor to a minor or deliver alcoholic liquor to a minor except: sale, shipment or delivery made to a person over age 18 who is an employee of a permit holder under C.G.S. § 30-90a, or a permit holder under the Liquor Control Act of the State of Connecticut where such sale or delivery is made in the course of such person's employment or business; a sale or delivery made in good faith to a minor who practices any deceit in the procurement of an identity card belonging to any other person, or who uses or exhibits an identity card that has been altered or tampered with in any way; or delivery made to a minor



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by a parent, guardian or spouse of the minor who is 21 years of age, and provided such minor possesses such alcoholic liquor while accompanied by such parent, guardian or spouse.

**§ 172-15. Hosting events.**

No person shall host an event or gathering at which the host knowingly allows alcoholic liquor to be consumed by or dispensed to any minor unless said minor is accompanied by or in the presence of his or her parent, guardian or spouse who has attained the age of 21. This restriction shall apply to any event or gathering within the Town of Winchester, whether conducted on public or private property.

**§ 172-16. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any provision of this article shall be subject to arrest and prosecution by the proper authorities and shall be subject to a fine not to exceed \$100 for each offense. Each violation of this article shall constitute a separate offense.



## Chapter 175

### AMUSEMENT DEVICES

- |                                                                                                                                                                                                          |                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>§ 175-1. Definitions.</p> <p>§ 175-2. License required.</p> <p>§ 175-3. Application for license.</p> <p>§ 175-4. Review of application.</p> <p>§ 175-5. Denial of application or license renewal.</p> | <p>§ 175-6. Fees.</p> <p>§ 175-7. Term of license.</p> <p>§ 175-8. Posting of license; operating standards and restrictions.</p> <p>§ 175-9. Penalties for offenses.</p> <p>§ 175-10. Revocation of license.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Town of Winchester effective 7-1-1954 (§ 37 of the prior compilation). Amendments noted where applicable.]**

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#### § 175-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**MECHANICAL AMUSEMENT DEVICE** — Any machine which, upon the insertion of a coin, slug or token or upon payment of a charge, releases balls which are propelled by a plunger across a board and register scores by striking pins, posts, levers or bumpers or by falling into holes or slots, or any machine which, upon insertion of a coin or slug or the payment of a charge, is operated to register a score or tally of any kind. It shall include such devices as pin-ball or pin-game machines.

**PERSON** — An individual, partnership, corporation, club or association in whose place of business or upon whose premises any such machine or device is placed for use by the public.

#### § 175-2. License required. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

No person shall, in any place open to the general public or occupied by any club or association, place or locate any mechanical amusement device until he shall have obtained a license therefor from the Chief of Police.

#### § 175-3. Application for license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The owner of the business or establishment where the mechanical amusement device is to be kept for use by the public shall make application for said license to the Chief of Police upon a form furnished by him and which shall contain the following information:

- A. Name of applicant; if a partnership, names of all partners; if a corporation, club or association, names of officers.
- B. Residence of applicant.

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- C. Place and state of birth; if a corporation, club or association, date organized and under laws of what state, and place and date of birth of officers.
- D. Location of place where licensed business is to be conducted.
- E. Type of business.
- F. Citizenship status of applicant or of officers, if applicant is a corporation, club or association.
- G. Whether applicant or, if a corporation, club or association, officers have ever been convicted of a crime.
- H. Number of mechanical amusement device machines for which license is sought.

**§ 175-4. Review of application. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Chief of Police shall investigate the character and record of the applicant for a license and the location wherein it is proposed to operate the machine described in the application. He shall not approve the application unless he finds that the applicant is 21 years of age or over and is a person of good moral character and that the business or activity carried on in such a location is a bona fide and lawful one.

**§ 175-5. Denial of application or license renewal. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In case of the denial of an application or refusal to issue or renew a license, the Chief of Police shall notify the applicant of such action and set a day and place for a hearing thereon, giving the applicant reasonable notice in advance thereof and an opportunity to be represented by counsel at such hearing. Said hearing shall be held before the Board of Selectmen.

**§ 175-6. Fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The annual license fee for each mechanical amusement device shall be \$100. One mechanical amusement device may be substituted by a licensee for another similar machine or device under his license, but in the event of a sale or transfer of his business by a licensee a new license shall be obtained by the transferee, and the transferor shall notify the Chief of Police of such sale or transfer.

**§ 175-7. Term of license.**

All licenses and renewals thereof shall expire on May 31 each year.

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**§ 175-8. Posting of license; operating standards and restrictions.**

The license shall be conspicuously posted in the place of business of the licensee and each licensee shall maintain good order in his place of business, shall not permit any mechanical amusement device to be used for gambling, and shall not harbor in his place of business persons under 16 years of age or allow them to congregate therein or play said amusement device. A violation of this section by an agent or employee of a licensee shall be deemed a violation thereof by the licensee.

**§ 175-9. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person violating any of the provisions of this chapter shall be fined not less than \$25 nor more than \$150.

**§ 175-10. Revocation of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Chief of Police shall have the power to revoke any license issued hereunder for cause upon due notice in writing to the licensee and an opportunity to be heard before the Board of Selectmen and to be represented by counsel at such hearing. Cause shall be deemed to include, but not to be limited to, conviction of a crime subsequent to the granting of the license, false information in the application for a license or any violation of this chapter.



## Chapter 178

### ANIMALS

#### ARTICLE I

##### Dogs

§ 178-1. Impoundment fees.

§ 178-2. Securing of dogs in heat.

§ 178-3. Removal of dog litter.

§ 178-4. Responsibility of parent.

§ 178-5. Exemptions.

§ 178-6. Penalties for offenses.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I

##### Dogs

**[Adopted by the Board of Selectmen effective 7-1-1973; amended 2-7-1994 (§ 113 of the prior compilation)]**

**§ 178-1. Impoundment fees.**

The owner of any dog impounded as provided by law shall be responsible for payment to the Town of Winchester of all costs and charges incurred by the Town incident to the impounding, maintenance and care of said dog, including veterinarian's fees for its necessary treatment.

**§ 178-2. Securing of dogs in heat.**

Any person owning or having the custody of a female dog in heat shall confine the same in an inside enclosed area except when actually being walked on a leash.

**§ 178-3. Removal of dog litter.**

It shall be unlawful for any person owning, keeping, walking or in control of any dog to allow or permit such animal to defecate upon any private property owned by another person, common areas of a condominium or public property, including, but not limited to, parks, streets, sidewalks, beaches, Town greens, playgrounds and recreation fields, unless such person shall remove all feces so deposited by such animal before leaving the immediate premises and dispose of said feces in a sanitary manner. A person will be considered to have disposed of feces in a sanitary manner if such person places such material in a bag or wrapper made of paper, plastic or some similar material and places it in a refuse container which is regularly emptied by the Town of Winchester or some other refuse collector, or otherwise disposes of such material on their own property.

**§ 178-4. Responsibility of parent.**

If said owner, keeper or person walking or in charge of said dog is a juvenile, then the parent or guardian of said juvenile shall also be deemed to have committed such offense.

**§ 178-5. Exemptions.**

The following are exempted from § 178-3 of this article:

- A. Dogs that are on the property of their owners or custodians, or where the dog owner or custodian has the permission of the property owner.
- B. Any dog owned by the Winchester Police Department and used for law enforcement purposes.
- C. Any dog which serves as a guide dog while such dog is accompanying a blind person.
- D. Any dog in the control of or being walked by a person who is physically unable to remove said feces.

**§ 178-6. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates § 178-1 or 178-2 of this article shall be subject to a fine of \$100.  
Any person who violates § 178-3 or 178-4 shall be subject to a fine of \$25.



## **Chapter 182**

### **BAZAARS AND RAFFLES**

**§ 182-1. Adoption of statutory provisions.**

**[HISTORY: Adopted by the Town of Winchester effective 6-29-1957 (§ 133 of the prior compilation). Amendments noted where applicable.]**

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**§ 182-1. Adoption of statutory provisions.**

The Town of Winchester hereby adopts the provisions of C.G.S. § 7-170 through § 7-186, inclusive, "An Act Concerning Bazaars and Raffles," which Act provides for the regulation and conduct of bazaars and raffles within the Town of Winchester.



## **Chapter 186**

### **BICYCLES AND PLAY VEHICLES**

#### **ARTICLE I** **Bicycles and Scooters**

- § 186-1. Definitions.**
- § 186-2. Operation on Main Street restricted.**
- § 186-3. Operation near pedestrians.**
- § 186-4. Penalties for offenses.**

#### **ARTICLE II** **Skateboards, In-Line Skates and Scooters**

- § 186-5. Definitions.**
- § 186-6. Prohibited activities.**
- § 186-7. Parental liability.**
- § 186-8. Penalties for offenses.**
- § 186-9. Applicability of state law.**
- § 186-10. Severability.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I** **Bicycles and Scooters**

**[Adopted effective 7-8-1985 (§ 138 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

##### **§ 186-1. Definitions.**

As used in this article, "bicycle," "electric bicycle" and "electric foot scooter" shall have the meanings set forth in C.G.S. § 14-1.

##### **§ 186-2. Operation on Main Street restricted.**

No person shall ride a bicycle, electric bicycle or electric foot scooter, including any forward movement of the bicycle, electric bicycle or electric foot scooter, whether one foot or two feet are on the pedals or platform, on the sidewalk of Main Street from its intersection with Park Place West to its intersection with Munro Place.

##### **§ 186-3. Operation near pedestrians.**

Whenever any person is lawfully riding a bicycle, electric bicycle or electric foot scooter upon any sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal within a reasonable distance before taking overtaking and passing such pedestrian.

##### **§ 186-4. Penalties for offenses.**

Any person who violates this article shall be guilty of a municipal infraction and shall be fined \$90.

## ARTICLE II

**Skateboards, In-Line Skates and Scooters****[Adopted by the Board of Selectmen 1-20-2004 (§ 182 of the prior compilation)]****§ 186-5. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

IN-LINE SKATES — Any multi-wheeled skate or boot used for skating on hard surfaces.

NUISANCE — An activity which results in a substantial and unreasonable interference with the use and enjoyment of another's property.

SCOOTER — Any wheeled device consisting of a platform and handle of metal, wood, plastic, fiberglass or any other material designed to carry its user in an erect position in a manner similar to that of a skateboard.

SKATEBOARD — Any wheeled device consisting of a platform or seat of metal, wood, plastic, fiberglass or any other material designed to carry its user in an erect, kneeling, sitting or prone position in a manner similar to that of a small surfboard.

SKATEBOARD DEVICE — Any ramp, loop, semi-circle, constructed of plywood or any other material designed for use by riders of skateboards or scooters, or users of in-line skates, as defined herein.

THREAT TO PUBLIC SAFETY — The imminent threat of physical harm. The term specifically includes the threat of physical harm to the persons using the wheeled device as well as to those persons whose physical health may be endangered by being in close proximity, defined as less than 50 yards, to the person or persons using the wheeled device.

TRESPASS — An unauthorized, intentional invasion of the real property or personal property of another.

WHEELED DEVICE — Those devices defined in the definitions of "skateboard," "in-line skates" and "scooter" of this article.

**§ 186-6. Prohibited activities.**

- A. No person shall operate a wheeled device upon any property owned by the Town of Winchester where expressly prohibited by the Recreation Board or its designated agent.
- B. No person shall operate, attempt to operate or cause to be operated by a person for whose conduct he or she is legally liable a wheeled device upon any property of the Town of Winchester or sidewalks of the Town of Winchester in a manner which is negligent or constitutes a nuisance, a trespass or threat to public safety. When using a wheeled device upon any street, the rider shall ride with the flow of traffic and ride as close to the curb as possible.
- C. No person shall operate, attempt to operate or cause to be operated by a person for whose conduct he or she is legally liable a wheeled device upon any private parking lot which is maintained primarily for the benefit of paying customers and/or which is properly posted, prohibiting the use of any wheeled devices.

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- D. No person shall operate a wheeled device upon a street or sidewalk during the hours between a half hour after sunset and a half hour before sunrise without wearing a reflective device on both the front and back of the rider.
- E. The operator of a wheeled device emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles and pedestrians approaching on said roadway. Whenever any person is riding a wheeled device upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking, and shall not otherwise endanger or interfere with normal pedestrian traffic on those sidewalks.
- F. No more than one person shall ride upon and/or operate a skateboard or scooter at the same time.
- G. No person shall erect or maintain any skateboard device on any state or Town highway, sidewalk adjacent thereto or any Town property within the corporate limits of the Town of Winchester except where expressly permitted by the Recreation Board or its designated agent. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 186-7. Parental liability.**

The parent or guardian of any minor child shall not authorize nor knowingly permit any such child to violate this article.

**§ 186-8. Penalties for offenses.**

- A. Violations of this article shall be dealt with in the following manner:
  - (1) First offense. A warning letter will be sent to the parent or guardian of a minor child who violates this article, or to the person who violates the article if not a minor, by the Chief of Police.
  - (2) Subsequent offense(s). Any person violating any provision of this article a subsequent time shall be fined not more than \$90.
- B. The above provisions regarding a warning letter for the first offense shall not constitute a waiver of liability for all first offenses. If, in the discretion of the Chief of Police, Winchester police officer or other authorized law enforcement official, the first offense is a serious one, involving personal injury and/or property damage, the matter may be treated as a subsequent offense or an arrest may be made for violation of any other applicable provision of the Connecticut General Statutes.

**§ 186-9. Applicability of state law.**

This article is in addition to any laws of the State of Connecticut that may apply to actions set forth herein.

**§ 186-10. Severability.**

Should any provisions of this article be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this article as a whole, it being the legislative intent that the provisions of this article shall be severable and that the balance of this article shall remain valid notwithstanding such declaration.

## Chapter 190

### BLASTING

**§ 190-1. Blasting restricted.**

**§ 190-4. Permit term and conditions.**

**§ 190-2. Permit required.**

**§ 190-5. Job site requirements.**

**§ 190-3. Bond or insurance required.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 8-4-1988; amended effective 10-30-1988 (§ 150 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 190-1. Blasting restricted.**

No blasting shall be permitted in the Town of Winchester except under the conditions hereinafter set forth.

**§ 190-2. Permit required.**

Any and all blasting requires a permit from the Town Fire Marshal. Such blasting permit must be obtained by the individual or firm doing the actual blasting. If blasting work is to be done by a subcontractor, then the subcontractor must secure the permit and comply with the rules and regulations.

**§ 190-3. Bond or insurance required.**

Either a blasting bond or an appropriate certificate of insurance must be furnished in order to obtain a permit.

- A. Bonds. A blasting bond shall be in the amount of \$2,000,000. This bond will cover all permits issued to the applicant for the duration of the permit. The blasting bond must be in the office of the Fire Marshal before the permit will be issued.
- B. Certificates of insurance. In lieu of a blasting bond, an applicant may furnish an appropriate certificate of insurance to the Fire Marshal as follows:
  - (1) Such insurance shall show public liability in the following amounts:
    - (a) Bodily injury: \$50,000 for any one person; \$1,000,000 for any one accident.
    - (b) Property damage liability: \$50,000 for any one accident; \$1,000,000 for the aggregate.
  - (2) Said certificate shall name the Town of Winchester and shall provide that the issuing insurance company shall furnish the Town with 30 days' written notice prior to canceling the policy.

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- (3) Said insurance certificate must state "covers blasting" or "includes blasting."
- (4) Said insurance certificate must be in the Fire Marshal's office before a blasting permit will be issued.

**§ 190-4. Permit term and conditions.**

Permits will be issued for a maximum of 30 days, and the permit shall state the location of the job, amount of powder, dynamite and the number of caps to be purchased, transported and used.

**§ 190-5. Job site requirements. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

"Two way radio" warning signs, flag men and all other requirements of the rules and regulations of the State of Connecticut Department of Emergency Services and Public Protection as well as any and all requirements of the Connecticut General Statutes must be adhered to. No temporary magazines will be allowed in the Town of Winchester. No explosives, powder or caps shall be stored on the job site for more than a twelve-hour period of time.



## **Chapter 195**

### **BUILDING CONSTRUCTION**

#### **ARTICLE I**

##### **Building Permit Fees**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Building Permit Fees**

**[Fees for building permits and work done in connection with building permits are set from time to time by the Board of Selectmen. Current fees are on file in the Town offices.]**



## Chapter 199

### BUILDINGS, NUMBERING OF

**§ 199-1. Publication of notice; time frame for compliance.**

**§ 199-3. Noncompliant numbers prohibited.**

**§ 199-2. Number location and specifications.**

**§ 199-4. Removal or destruction of numbers prohibited.**

**§ 199-5. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester effective 9-24-1979 (§ 120 of the prior compilation). Amendments noted where applicable.]**

**§ 199-1. Publication of notice; time frame for compliance. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Whenever the Planning and Zoning Commission orders the owners of any building on any street to number or renumber such buildings, notice of such order shall be published twice in a newspaper having a circulation in the Town, and a copy of such order shall likewise be mailed to all nonresident owners of such buildings. The owners of such buildings shall number or renumber such buildings in accordance with the order of the Planning and Zoning Commission within 30 days after publication and/or mailing of such order.

**§ 199-2. Number location and specifications. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Numbers provided for by § 199-1 herein shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than four inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

**§ 199-3. Noncompliant numbers prohibited.**

It shall be unlawful for the owner of any building to place or maintain any number on such building which does not correspond to the number assigned such building by the Planning and Zoning Commission.

**§ 199-4. Removal or destruction of numbers prohibited.**

It shall be unlawful for any person to remove, destroy, deface or in any way to injure any properly established building number.

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**§ 199-5. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate any provision of this chapter shall be subject to a fine of not more than \$50 for the first offense and \$100 for subsequent offenses.

## Chapter 203

### BURNING, OPEN

- |                                                                                                                                                                                            |                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>§ 203-1. Definitions.</p> <p>§ 203-2. General prohibition.</p> <p>§ 203-3. Certificate required.</p> <p>§ 203-4. Registration required.</p> <p>§ 203-5. Conditions on open burning.</p> | <p>§ 203-6. Exceptions to certificate or registration requirements.</p> <p>§ 203-7. Extinguishing of fires.</p> <p>§ 203-8. Permit from Commissioner.</p> <p>§ 203-9. Penalties for offenses.</p> <p>§ 203-10. Inspections; fees.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 2-6-2006 (§ 186 of the prior compilation). Amendments noted where applicable.]**

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#### § 203-1. Definitions.

As used in this chapter, the following words or phrases shall have the meanings indicated:

**APPLICANT** — The person making the open burning certificate application and who will be responsible for the open burning.

**BRUSH** — Shrubs, vegetation or pruning, the diameter of which is not greater than three inches at the widest point.

**BUILDING** — Any structure which is enclosed by a roof and walls.

**COMMISSIONER** — The Commissioner of the State of Connecticut Department of Energy and Environmental Protection, or his or her designee. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**DEEP** — The State of Connecticut Department of Energy and Environmental Protection. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**NUISANCE** — The discharge into the open air of any smoke, soot, dust, fumes, odors or other emissions which cause injury, detriment or annoyance or which endanger the comfort, repose, health or safety of the public or which cause, or are likely to cause, injury or damage to business or property.

**OPEN BURNING CERTIFICATE** — A certificate issued by the open burning official in accordance with this chapter, Section 22a-174 and the Regulations.<sup>1</sup>

**OPEN BURNING OFFICIAL** — Such official who has been nominated, certified and serves in accordance with Section 22a-174 and the Regulations.

**OPEN BURNING REGISTRATION** — Verbal registration which is made to the Open Burning Official 24 hours prior to the ignition of such open burning.

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<sup>1</sup> Editor's Note: The definition of "open burning certificate application," which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 203-3A below.

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OPEN BURNS or OPEN BURNING — The ignition of, causing to be ignited, permitting to be ignited or maintenance of a fire outside the confines of a building. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

REGULATIONS — Those Regulations of Connecticut State Agencies enacted pursuant to Section 22a-174, as amended.

SECTION 22a-174 — Section 22a-174 of the Connecticut General Statutes, as amended.

### **§ 203-2. General prohibition.**

No open burning shall be allowed except as specifically provided in this chapter.

### **§ 203-3. Certificate required.**

- A. An application for an open burning shall be made on the form furnished by the Open Burning Official, which form shall, at a minimum, name the person responsible for the open burning, list the applicant's address, list the applicant's telephone number, explain the purpose of the open burning, explain the type and quantity of material to be burned and list the address of the property at which the open burning shall take place. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. The following types of open burning shall be allowed only after an applicant obtains an open burning certificate:
  - (1) The open burns of brush on residential property. The applicant must be a resident or an authorized agent of a resident of the property where the open burning will occur. The Open Burning Official, in his or her discretion, may require proof of residency or proof that the applicant is an authorized agent of a resident.
  - (2) Fire training exercises.
  - (3) Eradication or control of insect infestations or disease.
  - (4) Agricultural purposes.
  - (5) Clearing vegetative debris following a natural disaster.
  - (6) Vegetative management or enhancement of wildlife habitat or ecological sustainability on Town property or on any privately owned property permanently dedicated to open space.
  - (7) Any other type of fire that is described in Section 22a-174 or the Regulations.
- C. The following conditions shall be placed on all open burning certificates:
  - (1) Open burning must take place between the hours of 10:00 a.m. and 5:00 p.m. No visible embers, flame or smoke may be present after 5:00 p.m.
  - (2) Open burning shall only be permitted on sunny or partly sunny days when the wind speed is five miles per hour to 15 miles per hour, except that fire training exercises shall not be subject to this condition.

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- (3) The open burning of brush may only occur on residential property that contains one or two residential units.
  - (4) The applicant must keep a copy of the open burning certificate in his or her possession at the time of the open burning.
  - (5) The applicant must call the open burning official or such other person listed on the open burning certificate 24 hours prior to the ignition of the open burning and leave the applicant's name, telephone number, the specific time of and location of the open burn.
  - (6) Any other conditions required to be imposed by Section 22a-174 or the Regulations.
- D. The Open Burning Official may issue such further conditions to an open burning certificate, either at the time of issuance of the open burning certificate or afterwards, as are necessary to avoid a nuisance or to protect the health, safety and comfort of the public, relating to the following:
- (1) The materials and quantities to be burned.
  - (2) The hours and days during which the open burning is allowed.
  - (3) Any other conditions allowed under Section 22a-174 or the Regulations.
- E. An open burning certificate is applicable only for the occasion and purpose outlined in such open burning certificate. The open burning certificate may be revoked in writing by the Open Burning Official or the Commissioner for violation of any provision of this chapter or the Regulations of Connecticut State Agencies enacted pursuant to Section 22a-174, as amended.

**§ 203-4. Registration required.**

The following type of open burning shall be allowed only after a person makes an open burning registration: any campfires or bonfires that exceed four feet in any direction.

**§ 203-5. Conditions on open burning.**

In addition to the conditions provided in § 203-3B, the following conditions are imposed on all open burning:

- A. No open burning shall create a nuisance.
- B. A responsible adult shall tend to the open burning at all times.
- C. Suitable fire extinguishing equipment must be in close proximity and available at the time of the open burning.
- D. The open burning must be a minimum of 25 feet from any property line and 25 feet from any building, except that barbecues or other similar outdoor fires shall not be subject to this condition.

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- E. No open burning shall be allowed to burn out of control so as to require the response of fire personnel and/or apparatus. The Fire Chief or Fire Marshal shall make determination that a fire has been allowed to burn out of control.
- F. No weeds, grass, leaves, processed wood, garbage, paper, metals, plastics, rubber, painted materials, man-made waste or demolition waste shall be burned.
- G. No open burning of brush shall occur when national or state ambient air quality standards may be exceeded.
- H. No open burning of brush shall occur where a hazardous health condition might be created.
- I. No open burning shall occur when the forest fire danger in the area is identified by the Commissioner as high and extreme and where woodland or grassland is within 100 feet of the proposed open burning.
- J. No open burning of brush shall occur when there is an advisory from the Commissioner of any air pollution episode.
- K. No open burning is allowed within the limits of any public road or public right-of-way.
- L. No open burning of brush shall occur on commercial or industrial properties, vacant lots or on properties that contain multifamily residential units.

**§ 203-6. Exceptions to certificate or registration requirements.**

The following types of open burning shall be allowed without the need for an open burning certificate or open burning registration:

- A. Barbecues or other similar outdoor fires, which fires are for the cooking of food for human consumption.
- B. Campfires, bonfires or other types of fires made out of nonprocessed wood for recreational or ceremonial purposes, provided that the size of such fires does not exceed three feet in any direction. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Fires in "salamanders" or other similar devices used by construction or other workers for heating purposes, which fires are used for street installation or paving activities, the repairing of utilities or other similar work.
- D. Fire breaks for the purpose of controlling forest fires, provided fire personnel do it.
- E. Any fire specifically exempted from such requirements in Section 22a-174 or the Regulations. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 203-7. Extinguishing of fires.**

The Fire Marshal, Fire Chief or any officer of the Fire Department, the Director of Health, or his or her designee, or any police officer may require any person who ignites or maintains an



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open burning in violation of the provisions of this chapter to extinguish such open burning. Failure to extinguish such open burning shall be a violation under this chapter.

**§ 203-8. Permit from Commissioner.**

Certain types of open burning require the issuance of a permit by the Commissioner; such types are enumerated in the Connecticut General Statutes and the Regulations of Connecticut State Agencies.

**§ 203-9. Penalties for offenses.**

Any person who violates any provision of this chapter shall be subject to the following penalties and fines:

A. Fines:

- (1) First offense or violation: \$25.
- (2) Second or subsequent offense or violation: \$100 for each separate violation and each day of continued violation.

B. The Open Burning Official may seek enforcement of the provisions of this chapter by injunction and, in such event, the violator may be liable for the Town's reasonable attorney's fees.

C. The provisions of Chapter 215, Citations, Article I, of the Town Code shall apply to this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

D. Any and all remedies which the Town has in enforcing the chapter, at law or in equity, shall be cumulative and two or more or all of such remedies may be exercised at the same time.

**§ 203-10. Inspections; fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Inspection of the premises shall be made to ensure compliance with this chapter and the Connecticut General Statutes as may be amended from time to time. Said inspection shall be carried out simultaneously with all other required inspections. All separate fee schedules shall be adhered to. A fee as set from time to time by the Board of Selectmen shall be paid to the Town of Winchester.



## **Chapter 207**

### **CARNIVALS AND EXHIBITIONS**

#### **ARTICLE I** **Public Exhibitions**

- § 207-1. License required.**
- § 207-2. Responsibility of participants; penalties for offenses.**
- § 207-3. Compliance with other requirements.**

#### **ARTICLE II** **Carnivals and Amusement Rides**

- § 207-4. Permission required for operation.**
- § 207-5. Application for permission; insurance; fees.**
- § 207-6. Sanitary requirements.**
- § 207-7. Authority to grant or revoke permits.**
- § 207-8. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I** **Public Exhibitions**

**[Adopted as § 18 of the prior compilation; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 207-1. License required.**

No circus, menagerie or exhibition shall exhibit, perform or show within the limits of the Town of Winchester before obtaining from the Town Manager a license therefor, and paying to him for the use of said Town a license fee as set from time to time by the Board of Selectmen.

**§ 207-2. Responsibility of participants; penalties for offenses.**

Every person participating as agent, servant, actor, actress or assistant in any circus, menagerie or exhibition within the limits of the Town, not licensed pursuant to the preceding § 207-1, and who has had notice that the same is not so licensed, shall be guilty of violating this article and shall be subject to a fine of \$100 for each day of violation.

**§ 207-3. Compliance with other requirements.**

Any public exhibition anticipated to include more than 500 attendees must also comply with the licensing requirements of Chapter 334, Special Events, of the Town Code.

## ARTICLE II

**Carnivals and Amusement Rides**

**[Adopted effective 8-1-1962; amended effective 10-28-1987 (§ 19 of the prior compilation)]**

**§ 207-4. Permission required for operation.**

The operation or exhibition of Ferris wheels, merry-go-rounds or concession shows, so-called, or carnivals, so-called, within the limits of the Town of Winchester is hereby forbidden, except that local organizations may operate or exhibit the same after having made application to and received permission to do so in accordance with the conditions and limitations as set out in this article.

**§ 207-5. Application for permission; insurance; fees.**

- A. The applicant for such permission shall file an application with the Town Manager on forms furnished by the Town, which shall specify the name of the applicant, the location and the length of time the location is intended to be used for the purpose applied for.
- B. The applicant shall furnish evidence that a public liability insurance policy in amounts of not less than \$50,000 for one person and \$100,000 for any one accident shall be in force and effect at the time of such operation or exhibition, which policy shall provide for saving the Town harmless from any and all liabilities or causes of action which might arise by virtue of the granting of a permit to the applicant.
- C. The applicant shall pay to the Town a service fee deposit for the first day of exhibition or carnival and per day thereafter for the total number of days for which a permit is issued. Fees shall be set from time to time by the Board of Selectmen. In the event all services for which a fee is deposited are not used, the balance will be returned. Such deposit for the first day will be applied to health and safety inspections, clean-up costs and police services. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 207-6. Sanitary requirements.**

- A. The permittee shall provide adequate sanitary facilities for members of both sexes.
- B. Trailers attached to the exhibition and used for human occupancy shall have toilet facilities sealed against use for the duration of the exhibition.
- C. The permittee shall provide an adequate supply of safe water for drinking and washing purposes.
- D. The permittee shall provide adequate illumination for all entrance and exit areas between the exhibition and the public highway.
- E. The permittee shall provide for the attendance of such special police officers under the direction of the Police Department as the Town Manager or Chief of Police may deem necessary.

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- F. The permittee shall provide access available to the street. Such means of access shall be kept clear by the permittee at all times to facilitate entrance and departure of persons in vehicles and to permit entrance of fire apparatus or ambulance in case of emergency.
- G. Exhibition grounds and adjoining areas, if necessary, shall be cleared of all litter, trash and debris within 24 hours after the exhibition closes.

**§ 207-7. Authority to grant or revoke permits.**

- A. If the Town Manager finds that all the limitations and requirements of this article have been complied with, he shall grant a permit to such organization.
- B. If the Town Manager finds that the premises on which the exhibition or carnival is being held are being maintained in violation of any of the provisions of this article, he may revoke the permit.

**§ 207-8. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate this article or any part thereof shall pay a fine of not less than \$25 nor more than \$100.



## Chapter 211

### CEMETERIES

- |                                                                                                                                             |                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>§ 211-1. Hours of operation; loitering prohibited.</p> <p>§ 211-2. General rules.</p> <p>§ 211-3. Plots.</p> <p>§ 211-4. Interments.</p> | <p>§ 211-5. Plantings.</p> <p>§ 211-6. Memorials.</p> <p>§ 211-7. Receiving vault.</p> <p>§ 211-8. Fees.</p> <p>§ 211-9. Penalties for offenses.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 8-20-2012 (§ 194 of the prior compilation). Amendments noted where applicable.]**

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**§ 211-1. Hours of operation; loitering prohibited.**

- A. The Town cemeteries shall be open to the public throughout the year (weather permitting) from 8:00 a.m. to sunset. No pedestrians or vehicles may enter the cemeteries at any time other than during the established hours of operation.
- B. In winter months, only minimal snow plowing of internal access roads will be conducted to accommodate funeral services.
- C. Loitering, idling or congregating in the cemeteries is prohibited.

**§ 211-2. General rules.**

- A. Visitors shall respect the solemnity of the cemeteries and observe these rules, which have been established for the purpose of securing quiet and good order at all times within the grounds.
- B. No person shall remove any plants or flowers, whether wild or cultivated, disturb birds or their eggs, harm any tree or shrub or deface any memorial property in any way.
- C. Reasonable efforts are made to protect flowers, shrubs and other property from vandalism and/or theft, but no responsibility for their protection is assumed or implied.
- D. No unlicensed operator of a motor vehicle is allowed to operate a vehicle in the cemeteries.
- E. Driving or parking on lawn areas is prohibited.
- F. No camping of any type is allowed on cemetery grounds.
- G. No firearms are allowed on the grounds except those used in military honor ceremonies.
- H. Dogs must be kept on a leash and restrained by the owner at all times. Owners are responsible to pick up and properly dispose of any messes made.

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- I. All rubbish collected from the plots must be removed and deposited in receptacles which are provided for that purpose. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- J. No money shall be paid or gratuity given to any person in the employ of the Town in reward for any personal attention.
- K. No person may drive or park a motor vehicle in any cemetery unless in attendance at burial services or otherwise engaged in activities consistent with the use of the cemetery.
- L. All work and traffic must stop when a burial service is being conducted.
- M. The posting of any bills, posters, placards, pictures or any other form of political or commercial advertising is prohibited on cemetery grounds.
- N. The soliciting for sale of any goods or service is prohibited from cemetery property.

**§ 211-3. Plots. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. All plots are numbered and the boundary is designated by tile markers set flush with the ground at each corner. No other boundary marking will be permitted by tree, shrub or corner post, except that corner posts of granite or marble may be used if set flush with the ground.
- B. No fence, hedge or railing will be allowed to enclose any plot or portion of a plot.
- C. Plots shall not be used for any other purpose than as a burial place for human remains.
- D. The deed of a plot shall grant to the purchaser only the right of interment upon his or her plot for himself and family, his heirs and devisees. Friends may be buried therein without any profit, gain or emolument whatsoever to the purchaser or proprietor, and such interment will be subject to all the bylaws, rules and regulations.
- E. The perpetual care of plots is basic in nature, and includes mowing of the grass and trimming around monuments.
- F. The raising of plots or mounds over graves is prohibited.
- G. Each burial plot shall be limited to one of the following:
  - (1) The interment of one human body;
  - (2) The interment of one human body and two cremation urns; or
  - (3) The interment of no more than two cremation urns.
- H. The scattering of cremated remains is prohibited on cemetery property.
- I. No grave may be opened and no burial may take place in a Town-owned cemetery except by a licensed funeral director or his employees under the supervision of the sexton or cemetery attendant.



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- J. Inasmuch as the deed to a plot only conveys the right of burial therein, it shall be the duty of the sexton to enter upon any plot and prohibit, modify or remove any object of adornment or work done contrary to the rules which may be considered objectionable or injurious to the plot or to an adjoining plot.
- K. When a plot is sold to two or more persons they take title as tenants-in-common.

**§ 211-4. Interments.**

- A. Only human remains may be interred in Town cemeteries.
- B. All caskets must be enclosed in a permanent outer burial vault suitable for earth burial.
- C. A 48-hour minimum notice is required to open a grave prior to the time of interment.
- D. After entering the cemetery, funeral processions are under the control of the sexton or cemetery attendant.
- E. All burials from the vault must take place before Memorial Day. If desired by the family, final burials from the vault may take place without minister or family. In this case, the burial will be performed at the convenience of the cemetery.
- F. No burials will be scheduled on Town-specified holidays.
- G. The sexton has full control over scheduling burials during the winter months (December 1 to April 15). Every effort will be made to accomplish the burial when requested. However, weather conditions, location and terrain of the plot, ability to locate plot corners, safety of Town employees, safety of the family and guests attending the service, and Department of Public Works snow removal obligations will all be considered in the decision as to if and when the service could be provided. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- H. A request for disinterment should be made in writing. A permit issued by the Registrar of Vital Statistics must be presented to the cemetery before disinterment may take place.
- I. The cemetery will use reasonable care in making all removals, but will not be liable for any damage to a burial vault or casket.

**§ 211-5. Plantings. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. On plots that contain a memorial, one flower pot may be placed on each side of or in front of the headstone.
- B. On plots that have a central memorial, one flower bed, if desired, may be installed adjacent to either side of the memorial.
- C. The planting of new trees or shrubbery will not be allowed on any plot.
- D. Existing shrubbery which becomes overgrown or unsightly will be removed by cemetery personnel.

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- E. All floral decorations must be in flower boxes, flower pots or containers, and are limited to one container per grave.
- F. The Town reserves the right to restrict the placing and type of container and to remove any which do not conform to the cemetery's standards of beauty and safety.
- G. Turf shall not be removed or damaged in any way to facilitate the placing of decorations on the plot.
- H. The placing of bricks or any other objects beneath containers is prohibited.
- I. Artificial decorations are not permitted in the growing season between April 1 and November 1.
- J. The placing of any types of balloons, pinwheels, bird feeders or shepherd's hooks is strictly prohibited.
- K. No shrubs, flower boxes or plants embedded in the ground are allowed in the "Veteran Section." Flower pots may be placed near the headstone on holiday weekends.

**§ 211-6. Memorials.**

- A. All memorial work must be certified material acceptable to the cemetery. It must be guaranteed against chipping, cracking or disintegration from natural causes. Artificial coloring of any type is prohibited.
- B. All workmen employed in the erection of memorials or work of any kind must be subject to the control of the sexton or cemetery attendant. No work vehicles or equipment are allowed on lawn areas without the prior approval of cemetery personnel.
- C. Water provided at the cemeteries is not for commercial use.
- D. Foundations for monuments or headstones shall be of concrete and shall be four feet deep, or as deep as the adjoining grave. Foundations for markers shall be three feet deep.
- E. All foundations shall be built in conformance with standard details provided by the cemetery. Contractors building foundations and installing monuments shall coordinate all work with the cemetery attendant.
- F. The cemetery attendant must inspect and approve in-place foundation formwork prior to the casting of concrete. A 48-hour minimum notice is required to schedule inspections. An inspection fee will be charged in accordance with the Town Cemetery Fee Schedule.
- G. Any dealer or contractor that violates the rules of the cemetery may be denied the privilege of installing memorials in the cemetery.
- H. Markers must have a stub of no less than six inches and be set on a concrete foundation and cemented to it.
- I. No memorial shall be erected upon any plot until the lot has been paid for in full. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

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- J. Memorials erected in the single-grave section of cemeteries shall not exceed three feet in height.
- K. Pictures, photographs or any other material attached to a memorial in any way is not permitted.
- L. The Town does not assume responsibility for the care of monuments or markers or for any damage to them, accidentally or by willful action.
- M. If any monument or marker in the Town's cemeteries becomes unsafe, unsightly or in need of repair or resetting, the cemetery attendant will attempt to notify the owner of the plot of such condition and shall request that repairs be made under the attendant's supervision. The Town is not obligated to place, replace or repair any monument or marker, though case-by-case repair may be considered. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 211-7. Receiving vault.**

Any person desiring a burial in a Town cemetery may have use of the vault.

**§ 211-8. Fees.**

Fees charged for all services shall be in accordance with the current published Cemetery Fee Schedule, which may be amended from time to time by action of the Board of Selectmen.

**§ 211-9. Penalties for offenses.**

Violations of any provision of this chapter may result in a fine of \$100 to be issued by the Town of Winchester Police Department. Each action of violation and each day a violation occurs or continues constitutes a separate offense.



## Chapter 215

### CITATIONS

#### ARTICLE I Citation Hearing Procedure

- § 215-1. Statutory authority.
- § 215-2. Citation hearing officers.
- § 215-3. Notice of violation.
- § 215-4. Payment of fines or costs;  
demand for hearing.
- § 215-5. Hearings.
- § 215-6. Notice of assessment due.
- § 215-7. Appeals.

#### ARTICLE II Violations of Zoning Regulations

- § 215-8. Authority to issue citations;  
service.
- § 215-9. Citations issued for zoning  
violations.

- § 215-10. Fine.
- § 215-11. Process for issuing,  
administering and appealing  
citations.

#### ARTICLE III Violations of Inland Wetlands and Watercourses Regulations

- § 215-12. Authority to issue citations;  
service.
- § 215-13. Citations issued for wetlands  
violations.
- § 215-14. Fine.
- § 215-15. Process for issuing,  
administering and appealing  
citations.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories.  
Amendments noted where applicable.]**

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#### ARTICLE I Citation Hearing Procedure

**[Adopted by the Board of Selectmen effective 3-1-1989 (§ 152 of the prior compilation)]**

##### § 215-1. Statutory authority.

This article is established under C.G.S. § 7-152c.

##### § 215-2. Citation hearing officers.

The Town Manager shall appoint up to five persons, as necessary, who shall serve as citation hearings officers. Such persons shall not be police officers, or employees or persons who issue citations on behalf of the Town or any other municipality. Each citation hearing officer is authorized to conduct the hearings set forth in this article.

**§ 215-3. Notice of violation. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. At any time within 12 months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance adopted pursuant to C.G.S. § 7-148, as amended, for an alleged violation thereof, the Town-designated municipal officer or employee shall send notice to the person cited. Such notice shall inform the person cited:
- (1) Of the allegations against him and the amount of the fines, penalties, costs or fees due;
  - (2) That he may contest his liability before a citation hearing officer by delivering, in person or by mail, written notice within 10 days of the date thereof;
  - (3) That if he does not demand such a hearing, an assessment and judgment shall be entered against him; and
  - (4) That such judgment may issue without further notice.
- B. For purposes of this section, notice shall be presumed to have been properly sent if such notice was mailed to such person's last-known address on file with the Tax Collector.

**§ 215-4. Payment of fines or costs; demand for hearing.**

If the person who is sent notice pursuant to § 215-3 of this article wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by the Town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 days of the date of the first notice provided for in § 215-3 of this article shall be deemed to have admitted liability, and the designated municipal officer shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in § 215-6 of this article.

**§ 215-5. Hearings.**

- A. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained by the Town, and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. The presence of the issuing official or policeman shall be required at the hearing if such person so requests.

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- B. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If the person wishing to contest fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

**§ 215-6. Notice of assessment due. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days or more than 12 months after such a mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the geographical area in which the municipality is located, together with an entry fee of \$8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and court costs of \$8, against such person in favor of the Town. Notwithstanding any other provision of the General Statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgement and a levy of execution on such judgment may issue without further notice to such person.

**§ 215-7. Appeals.**

A person against whom an assessment has been entered pursuant to this article is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, in the Superior Court for the geographical area in which the municipality is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

## ARTICLE II

**Violations of Zoning Regulations**

**[Adopted by the Board of Selectmen 8-20-2007 (§ 189 of the prior compilation);  
amended its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 215-8. Authority to issue citations; service.**

The Zoning Enforcement Officer is authorized to issue citations for violations of the Zoning Regulations of the Town of Winchester to the extent and in the manner provided by this article.<sup>1</sup> Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citations. If the person named in the citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. The Zoning Enforcement Officer shall file and return an original or certified copy of the citation.

**§ 215-9. Citations issued for zoning violations.**

A violation of this article shall include, but not be limited to:

- A. Any building or structure which has been erected, constructed, altered, converted or maintained in violation of any zoning regulation; or
- B. Any building, structure or land which has been used in violation of any zoning regulation; or
- C. Any violation of any zoning regulation concerning signage or excavation; or
- D. A violation of any other zoning regulation.

**§ 215-10. Fine.**

The fine for each citation shall be \$150, payable to the Treasurer of the Town of Winchester. Each violation of said regulation shall be a separate and distinct offense, and in the case of a continuing violation each day's continuance thereof shall be deemed to be a separate and distinct offense. Fines are due and payable upon receipt of each citation, with fines becoming delinquent after 30 days.

**§ 215-11. Process for issuing, administering and appealing citations.**

The process for issuing, administering or appealing said citations will be made pursuant to Chapter 215, Article I, of the Town Code.

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1. Editor's Note: See Ch. 415, Zoning Regulations.



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## ARTICLE III

**Violations of Inland Wetlands and Watercourses Regulations**  
**[Adopted by the Board of Selectmen 8-20-2007 (§ 190 of the prior compilation)]**

**§ 215-12. Authority to issue citations; service.**

The Inland Wetlands and Watercourses Enforcement Officer is authorized to issue citations for violations of the Inland Wetlands and Watercourses Regulations of the Town of Winchester to the extent and in the manner provided by this article.<sup>2</sup> Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citations. If the person named in the citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. The Inland Wetlands and Watercourses Enforcement Officer shall file and retain an original or certified copy of the citation.

**§ 215-13. Citations issued for wetlands violations.**

The citation may be issued for any violation of the Inland Wetland and Watercourses Regulations of the Town of Winchester.

**§ 215-14. Fine.**

The fine for each citation shall be \$100, payable to the Treasurer of the Town of Winchester. Each violation of said regulation shall be a separate and distinct offense, and in the case of a continuing violation each day's continuance thereof shall be deemed to be a separate and distinct offense. In no event, however, shall the total fine exceed \$1,000.

**§ 215-15. Process for issuing, administering and appealing citations.**

The process for issuing, administering or appealing said citations will be made pursuant to Chapter 215, Article I, of the Town Code.

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**2. Editor's Note: See Ch. 390, Inland Wetlands and Watercourses Regulations.**



## Chapter 222

### DRIVEWAYS

- |                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                 |
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| <p>§ 222-1. Permit required.</p> <p>§ 222-2. Angle at edge of highway pavement.</p> <p>§ 222-3. Grades.</p> <p>§ 222-4. Drainage and culverts.</p> <p>§ 222-5. Width; apron.</p> <p>§ 222-6. Sight lines.</p> <p>§ 222-7. Location near intersections and crosswalks.</p> | <p>§ 222-8. Driveways entering state highways.</p> <p>§ 222-9. Sedimentation control.</p> <p>§ 222-10. Stabilization of slopes and soils.</p> <p>§ 222-11. Permit fee.</p> <p>§ 222-12. Applicability.</p> <p>§ 222-13. Variances.</p> <p>§ 222-14. Penalties for offenses.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 2-26-1986; amended effective 8-4-1988 and 11-24-1988 (§ 142 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### **§ 222-1. Permit required.**

No driveway shall be constructed connecting to a Town road prior to the issuance of a driveway permit by the Director of Public Works or his designated representative (Superintendent of Streets). No building permit will be issued until such time as applicant secures a driveway permit.

#### **§ 222-2. Angle at edge of highway pavement.**

Every driveway shall meet the edge of the highway pavement at an angle of no less than 75° and shall adhere to this angle to a distance of 40 feet, measured from the center line of the highway.

#### **§ 222-3. Grades.**

- A. Every driveway shall have an area extending from the edge of the highway pavement to a distance of 40 feet, measured from the center line of the highway, that is not more than 4% grade.
- B. No driveway shall contain any portion having a grade greater than 14% along its length.
- C. No driveway shall contain any portion having a grade of more than 5% across its width.

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**§ 222-4. Drainage and culverts.**

- A. No driveway shall be constructed or maintained so as to discharge water into any roadway, or gutterline of any roadway, except water which previously had drained thereon as a natural condition. Driveways entering Town roads may require a culvert, or more extensive drainage structures, depending on runoff conditions. The size, type and dimensions of culverts and drainage structures will be subject to review by the Public Works Director or his designated representative prior to the issuance of a driveway permit. All culverts required by the Public Works Director shall be a minimum of 18 feet in length or two feet wider than the driveway on each side.
- B. No driveway shall be constructed or maintained so as to allow roadway water to enter the main portion of the driveway.

**§ 222-5. Width; apron.**

- A. All driveways shall have a minimum width of at least 10 feet and shall be at least 14 feet across where joining any highway. A bituminous concrete apron at least 2 1/2 inches thick will be constructed from the edge of the adjoining Town road for a length of at least 12 feet.
- B. No public or commercial driveway of over 30 feet in width shall be permitted without special approval of the Planning and Zoning Commission.

**§ 222-6. Sight lines. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Adequate sight lines, as determined by the Public Works Director, shall be established and maintained.

**§ 222-7. Location near intersections and crosswalks.**

No driveway shall be located within 20 feet of an intersection or within 20 feet of a regularly constituted crosswalk.

**§ 222-8. Driveways entering state highways.**

All driveways entering state highways must conform to the current specifications as set forth by the Department of Transportation, and must be approved by the State Department of Transportation.

**§ 222-9. Sedimentation control.**

Every reasonable precaution shall be exercised by the owner throughout the construction of the driveway to prevent, control and abate siltation, sedimentation and pollution of all waters, underground water systems and inland wetlands. Unless a specific type of sedimentation control system is ordered by the Director of Public Works, the type of system will be at the contractor's option. Hay bale systems will be allowed to remain in the toe-of-slope areas

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unless ordered removed by the Director of Public Works. The permittee will immediately remove any siltation accumulating in a Town road.

**§ 222-10. Stabilization of slopes and soils.**

All earth slopes and areas of disturbed soil produced in the process of driveway construction shall be stabilized to the satisfaction of the Director of Public Works.

**§ 222-11. Permit fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Applicants for driveway permits shall pay a permit fee to the Town of Winchester in an amount set from time to time by the Board of Selectmen.

**§ 222-12. Applicability.**

This chapter shall apply only to new construction of driveways and to substantial reconstruction of existing driveways. "Substantial reconstruction," for the purposes of this section, shall mean any reconstruction of 50% or more of the length of a driveway.

**§ 222-13. Variances.**

The effect of this chapter may be determined and varied as follows:

- A. The Board of Selectmen shall serve as the board which may grant variances or determine the effect of this chapter.
- B. It shall be the duty of the Board of Selectmen to determine and vary the application of the driveway ordinance in harmony with its general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such driveway ordinance would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.
- C. A simple majority vote is required to grant a variance or make a determination. No public hearings are required, although variances and determinations must be made at a public meeting. No notice or publication will be necessary beyond those required for regular commissions by the Freedom of Information Commission respecting posting of meetings and filing of minutes.
- D. An application to vary this chapter or to determine the effect of this chapter shall be made in writing at least two weeks prior to a meeting of the Board of Selectmen; this requirement may be waived by the Board of Selectmen for good cause. The application must set forth the reasons for which a variance or a determination is sought, including any hardship resulting from a literal enforcement of this chapter. The application shall provide the location of the property, the name of the owner, the name of the applicant

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and any other information which may be helpful to the Board of Selectmen. The application fee shall accompany the application.

- E. The application fee shall be set from time to time by the Board of Selectmen. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 222-14. Penalties for offenses.**

Any person who violates any of the terms of this chapter shall be subject to a fine of not more than \$100, and each day that a violation thereof continues shall constitute a separate offense.

## Chapter 228

### FIREARMS

#### § 228-1. Discharge prohibited.

#### § 228-3. Penalties for offenses.

#### § 228-2. Exceptions.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 9-18-1995 (§ 168 of the prior compilation). Amendments noted where applicable.]**

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#### § 228-1. Discharge prohibited.

No person shall discharge, or cause to be discharged, any firearm as defined in Section 53a-3(19) of the Connecticut Penal Code within 500 feet of any building used for human habitation or the keeping of animals without the permission of the owner or resident of such building.

#### § 228-2. Exceptions.

Section 228-1 shall not apply to the following:

- A. Peace officers as defined in Section 53a-3(9) of the Connecticut Penal Code and Animal Control Officers, when acting in the performance of their duties.
- B. Persons acting to protect themselves, others or domestic animals when such persons or animals are being attacked by wild animals.
- C. Persons acting in compliance with C.G.S. § 22-358 while protecting themselves or domestic animals from attack by dogs or cats.
- D. Members of the military acting under orders of a military officer on the occasion of military exercises or parades.

#### § 228-3. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Any person violating § 228-3 shall be fined \$200.





## **Chapter 231**

### **FLOOD DAMAGE PREVENTION**

#### **ARTICLE I**

##### **Statutory Authorization, Findings of Fact, Purpose and Objectives**

- § 231-1. Statutory authorization.**
- § 231-2. Findings of fact.**
- § 231-3. Statement of purpose.**
- § 231-4. Methods of reducing flood losses.**

#### **ARTICLE II**

##### **Definitions**

- § 231-5. Word usage.**
- § 231-6. Terms defined.**

#### **ARTICLE III**

##### **General Provisions**

- § 231-7. Applicability.**
- § 231-8. Basis for establishing areas of special flood hazard.**
- § 231-9. Compliance required.**

- § 231-10. Abrogation and greater restrictions.**
- § 231-11. Interpretation and application.**
- § 231-12. Warning and disclaimer of liability.**

#### **ARTICLE IV**

##### **Administration**

- § 231-13. Development permit required.**
- § 231-14. Designation of enforcement officer.**
- § 231-15. Duties and responsibilities of enforcement officer.**
- § 231-16. Variance procedure.**

#### **ARTICLE V**

##### **Provisions for Flood Hazard Reduction**

- § 231-17. General standards.**
- § 231-18. Specific standards.**
- § 231-19. Floodways.**

**[HISTORY: Adopted by the Town of Winchester effective 7-15-1978 (§ 119 of the prior compilation). Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Statutory Authorization, Findings of Fact, Purpose and Objectives**

##### **§ 231-1. Statutory authorization.**

The Legislature of the State of Connecticut has, in the Connecticut General Statutes, delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Board of Selectman of the Town of Winchester, acting herein pursuant to the Charter of the Town of Winchester, does ordain as follows.

**§ 231-2. Findings of fact.**

- A. The flood hazard areas of the Town of Winchester are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**§ 231-3. Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for the rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**§ 231-4. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

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- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

## ARTICLE II

**Definitions****§ 231-5. Word usage.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**§ 231-6. Terms defined.**

As used in this chapter, the following terms shall have the meanings indicated:

**APPEAL** — A request for a review of the enforcement officer's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** — A designated AQ or VO Zone of the Flood Insurance Rate Map (FIRM). The base flood depths range from one foot to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

**BASE FLOOD** — The flood having a 1% chance of being equaled or exceeded in any given year.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

**EXPANSION TO AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION** — The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk-premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**HABITABLE FLOOR** — Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

**MOBILE HOME** — A structure that is transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

**NEW CONSTRUCTION** — Structures for which the "start of construction" commenced on or after the effective date of this chapter.

**NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.

**START OF CONSTRUCTION** — The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

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STRUCTURE — A walled and roofed building or mobile home that is principally above ground.

## SUBSTANTIAL IMPROVEMENT

- A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: 1) before the improvement or repair is started; or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- B. The term does not, however, include either:
  - (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  - (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

## ARTICLE III

**General Provisions****§ 231-7. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Winchester.

**§ 231-8. Basis for establishing areas of special flood hazard. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Winchester" dated January, 1978, with accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the office of the Zoning Enforcement Officer, 338 Main Street, Winsted, Connecticut.

**§ 231-9. Compliance required.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.

**§ 231-10. Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**§ 231-11. Interpretation and application.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

**§ 231-12. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Winchester, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

## ARTICLE IV

**Administration****§ 231-13. Development permit required.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 231-8. Application for a development permit shall be made on forms furnished by the enforcement officer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level of the lowest floor (including basement of all structures);
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 231-18B; and

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- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**§ 231-14. Designation of enforcement officer. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Zoning Enforcement Officer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

**§ 231-15. Duties and responsibilities of enforcement officer.**

Duties of the enforcement officer shall include, but not be limited to:

- A. Permit review.
- (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
  - (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - (3) Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Use of other base flood data. When base flood elevation data have not been provided in accordance with § 231-8, Basis for establishing areas of special flood hazard, the enforcement officer shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer § 231-18, Specific Standards, Subsection A, Residential construction, and Subsection B, Nonresidential construction.
- C. Information to be obtained and maintained. The enforcement officer shall:
- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.
  - (2) For all new or substantially improved floodproofed structures:
    - (a) Verify and record the actual elevation (in relation to mean sea level); and
    - (b) Maintain the floodproofing certifications required in § 231-13C).
  - (3) Maintain for public inspection all records pertaining to the provisions of this chapter.

- D. Alteration of watercourses. The enforcement officer shall notify adjacent communities and the Department of Energy and Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- E. Interpretation of FIRM boundaries. The enforcement officer shall make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 231-16.

### **§ 231-16. Variance procedure.**

- A. Appeal board.
- (1) The Zoning Board of Appeals as established by the Town of Winchester shall hear and decide appeals and requests for variances from the requirements of this chapter.
  - (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the enforcement officer in the enforcement or administration of this chapter.
  - (3) Those aggrieved by the decision of the Zoning Board of Appeals, or any taxpayer, may appeal such decision to the Superior Court, as provided in Chapter 124 of the Connecticut General Statutes.
  - (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
    - (a) The danger that materials may be swept onto other lands to the injury of others;
    - (b) The danger to life and property due to flooding or erosion damage;
    - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - (d) The importance of the services provided by the proposed facility to the community;
    - (e) The necessity to the facility of a waterfront location, where applicable;
    - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
    - (g) The compatibility of the proposed use with existing and anticipated development;
    - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;



- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items (a) through (k) in Subsection A(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (6) Upon consideration of the factors of Subsection A(4) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (7) The enforcement officer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
  - (a) A showing of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Subsection A(4), or conflict with existing local laws or ordinances.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the

base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

## ARTICLE V

### **Provisions for Flood Hazard Reduction**

#### **§ 231-17. General standards.**

In all areas of special fixed hazards the following standards are required:

##### **A. Anchoring.**

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
  - (a) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
  - (b) Frame ties be provided at each corner of the home, with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
  - (c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (d) Any additions to the mobile home be similarly anchored.

##### **B. Construction materials and methods.**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

##### **C. Utilities.**

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

##### **D. Subdivision proposals.**

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## FLOOD DAMAGE PREVENTION

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- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

**§ 231-18. Specific standards.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in § 231-8, Basis for establishing areas of special flood hazard, or § 231-15B, Use of other base flood data, the following provisions are required:

- A. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in § 231-15C(2).
- C. Mobile homes.
  - (1) Mobile homes shall be anchored in accordance with § 231-17A(2).
  - (2) For new mobile home parks and mobile home subdivisions; expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:
    - (a) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

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- (b) Adequate surface drainage and access for a hauler are provided; and
- (c) In the instance of elevation on pilings, that:
  - [1] Lots are large enough to permit steps;
  - [2] Piling foundations are placed in stable soil no more than 10 feet apart; and
  - [3] Reinforcement is provided for pilings more than six feet above the ground level.
- (3) No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

**§ 231-19. Floodways.**

Located within areas of special flood hazard areas established in § 231-8 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Subsection A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V, Provisions for Flood Hazard Reduction.
- C. Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision.

## **Chapter 240**

### **HIGHLAND LAKE**

#### **ARTICLE I** **Operation of Watercraft**

- § 240-1. Operation in violation of state speed limit regulations prohibited.**
- § 240-2. Operation near swimming beaches or parks restricted.**
- § 240-3. Speed limits.**
- § 240-4. Vessel length restrictions.**
- § 240-5. Penalties for offenses.**

#### **ARTICLE II** **Beach Closing Hours**

- § 240-6. Time frame and hours of operation.**
- § 240-7. Authority to close beaches.**
- § 240-8. Off-season use; permit required for special events.**
- § 240-9. Penalties for offenses.**

#### **ARTICLE III** **Use of Snowmobiles or All-Terrain Vehicles on Frozen Lake**

- § 240-10. Hours of operation.**
- § 240-11. Speed restrictions.**
- § 240-12. Operation near shore.**
- § 240-13. Operation near public skating areas.**
- § 240-14. Negligent operation prohibited.**

- § 240-15. Noise restrictions.**
- § 240-16. Penalties for offenses.**

#### **ARTICLE IV** **Protection of Water Quality**

- § 240-17. Intent.**
- § 240-18. Prohibited activities.**
- § 240-19. "Abandonment" defined.**
- § 240-20. Penalties for offenses.**

#### **ARTICLE V** **Open Burning**

- § 240-21. Open fires prohibited.**
- § 240-22. Contained fires.**
- § 240-23. Penalties for offenses.**

#### **ARTICLE VI** **Winter Events**

- § 240-24. Permit required; fee and bond.**
- § 240-25. Exceptions.**
- § 240-26. Penalties for offenses.**

#### **ARTICLE VII** **Use of Motorized Ice Augers**

- § 240-27. Hours of operation.**
- § 240-28. Auger defined.**
- § 240-29. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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## ARTICLE I

**Operation of Watercraft**

**[Adopted by the Board of Selectmen as amended effective 4-1-1962; 4-1-1987; 2-1-1993  
(§ 43 of the prior compilation)]**

**§ 240-1. Operation in violation of state speed limit regulations prohibited.**

No person shall operate a motorboat upon the waters of Highland Lake in violation of State Boating Safety Regulation Section 15-121-B12 and 15-121-B14(a), as amended from time to time.

**§ 240-2. Operation near swimming beaches or parks restricted.**

No personal watercraft operator, motorboat operator or water skier may use any Town-owned public swimming beach or park as a staging point or a landing point for their activities at any time.

**§ 240-3. Speed limits.**

- A. No person shall operate a motorboat upon the waters of Highland Lake from one-half hour after sunset until one-half hour before sunrise at a rate of speed exceeding six miles per hour or so as to create more than minimum wake.
- B. Subject to the restrictions above, no person shall operate a motorboat upon the waters of Highland Lake on Saturday, Sunday or those days designated by law as state holidays at a speed greater than 45 MPH.
- C. On those Sundays from the Sunday preceding Memorial Day to the Sunday preceding Labor Day, inclusive, no person shall operate a motorboat upon the waters of Highland Lake at a speed in excess of 6 MPH or so as to create more than minimum wake from 5:00 p.m. until one-half hour before sunrise Monday.

**§ 240-4. Vessel length restrictions.**

No person shall operate a vessel upon the waters of Highland Lake that is of a length greater than 22 feet; except for pontoon boats, which may not exceed a length of 30 feet.

**§ 240-5. Penalties for offenses.**

Any person who violates any provision of this article shall be fined not more than \$90.

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## ARTICLE II

**Beach Closing Hours**

**[Adopted effective 8-1-1967; amended in its entirety 4-5-2021 (§ 65 of the prior compilation)]**

**§ 240-6. Time frame and hours of operation.**

Except for unusual and unforeseen emergencies, all Town-owned beaches at Highland Lake are open to the public every day from Memorial Day through Labor Day, between dawn and dusk. No person shall frequent any such beach or congregate there during such hours when the beaches are closed.

**§ 240-7. Authority to close beaches.**

The Town has the authority to close the beaches at any time deemed necessary.

**§ 240-8. Off-season use; permit required for special events.**

Town beaches are not maintained or staffed after Labor Day through Memorial Day the following year. All winter events, or special events, require proper permits to use the beaches during this period. Hours in the off-season are also dawn to dusk, with usage at one's own risk.

**§ 240-9. Penalties for offenses.**

Any person violating any provision of this article shall be fined in the amount of \$99.

## ARTICLE III

**Use of Snowmobiles or All-Terrain Vehicles on Frozen Lake**

**[Adopted by the Board of Selectmen effective 2-11-1972; amended 3-2-1992 (§ 77 of the prior compilation)]**

**§ 240-10. Hours of operation.**

No person shall operate a snowmobile or all-terrain vehicle, as defined in C.G.S. § 14-379, upon the frozen surface of Highland Lake except between the hours of 12:00 noon and 10:00 p.m. Sundays and between the hours of 9:00 a.m. and 10:00 p.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.

**§ 240-11. Speed restrictions.**

Subject to the limitations of § 240-12 below, no persons shall operate a snowmobile or all-terrain vehicle upon the frozen surface of Highland Lake at an unreasonable or imprudent speed for existing conditions.

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**§ 240-12. Operation near shore.**

No person shall operate a snowmobile or all-terrain vehicle upon the frozen surface of Highland Lake within 75 feet of the shore at a rate of speed exceeding six miles per hour.

**§ 240-13. Operation near public skating areas.**

No person operating a snowmobile or all-terrain vehicle shall use as a landing point or staging point any public ice skating area when such area is designated by markers or buoys.

**§ 240-14. Negligent operation prohibited.**

No person shall operate a snowmobile or all-terrain vehicle on the frozen surface of Highland Lake in a negligent manner so as to endanger any person or property.

**§ 240-15. Noise restrictions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person shall operate a snowmobile or all-terrain vehicle upon the frozen surface of Highland Lake in such a manner that the exhaust of the snowmobile or all-terrain vehicle makes an excessive or unusual noise; nor shall any person operate a snowmobile or all-terrain vehicle upon the frozen surface of Highland Lake without a functioning muffler or with a muffler lacking interior baffle plates or other effective muffler devices, gutted muffler or with a muffler cut out of a straight exhaust.

**§ 240-16. Penalties for offenses.**

Any person who violates any provision of this article shall be fined not more than \$100.

## ARTICLE IV

**Protection of Water Quality**

**[Adopted effective 7-22-1985; amended effective 11-12-1985 (§ 139 of the prior compilation)]**

**§ 240-17. Intent.**

The protection of the quality of water at Highland Lake and the regulation of activities on said waters are hereby declared necessary for the protection of the health, property, safety and welfare of the public.

**§ 240-18. Prohibited activities.**

The following activities are prohibited at Highland Lake:

- A. The dumping or depositing of any garbage, litter, refuse, rubbish, human or animal waste, or other foreign material into the waters of the lake.



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- B. The abandonment on the water or shorefront of any metal drums or other material formerly used as docks, wharves or other flotation apparatus on the water.
- C. The abandonment on the water, shorefront or lake bottom of any sports equipment or related device.
- D. The use of metal drums for docks, wharves or other flotation apparatus; however, owners of existing docks or other flotation devices now using metal drums shall be given until July 1, 1987, to replace same with an acceptable alternative material.

**§ 240-19. "Abandonment" defined.**

The term "abandonment" is defined as a surrendering of all rights to an article of property with the intention of not claiming any future rights to same.

**§ 240-20. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any provision of this article shall be fined not more than \$100.

ARTICLE V

**Open Burning**

**[Adopted by the Board of Selectmen 9-6-1994 (§ 165 of the prior compilation)]**

**§ 240-21. Open fires prohibited.**

No person shall have an open fire upon the waters of Highland Lake, liquid or frozen, at any time, inclusive of lakebed areas at periods of drawdown. "Open fires" shall be defined as any fire that leaves a waste after burning upon waters, liquid or frozen, and lakebed area.

**§ 240-22. Contained fires.**

Enclosed or contained fires are permitted only to the extent that no debris or waste from such fires shall be deposited on or in the waters, inclusive of the lakebed areas of Highland Lake.

**§ 240-23. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any provision of this article shall be guilty of a municipal infraction and shall be fined \$100.

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## ARTICLE VI

**Winter Events****[Adopted by the Board of Selectmen effective 4-25-1997 (§ 173 of the prior compilation)]****§ 240-24. Permit required; fee and bond. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No organized event shall be conducted on the frozen water of Highland Lake without first obtaining a permit to do so from the Chief of Police. The Chief of Police shall have the authority to issue such a license upon application therefor, provided that a license fee as set from time to time by the Board of Selectmen is paid in advance by the licensee and a cash bond in an amount required by the Board of Selectmen is posted with the Chief, which shall be used to reimburse the Town for the cost of clean-up or the cost of police, fire or ambulance personnel that the Town incurs as the result of the event. The cash bond shall be returned to the licensee when the Chief of Police is satisfied the Town of Winchester has incurred no cost arising from the licensee's event.

**§ 240-25. Exceptions.**

This article shall not apply to any event organized by the Town of Winchester, or any nonprofit organization.

**§ 240-26. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any provision of this article shall be fined not more than \$100.

## ARTICLE VII

**Use of Motorized Ice Augers****[Adopted by the Board of Selectmen 11-15-1999 (§ 178 of the prior compilation)]****§ 240-27. Hours of operation.**

No person shall operate a motorized ice auger upon the frozen surface of Highland Lake except between the hours of 8:00 a.m. to 8:00 p.m. daily.

**§ 240-28. Auger defined.**

A "motorized ice auger" is defined as any motorized boring tool consisting of a rotating bit.

**§ 240-29. Penalties for offenses.**

Any person who violates any provision of this article shall be fined not more than \$100.

## Chapter 249

### JUNK DEALERS

#### § 249-1. Definitions.

#### § 249-3. Penalties for offenses.

#### § 249-2. License required; fee; term.

**[HISTORY: Adopted by the Town of Winchester effective 4-29-1940 (§ 27 of the prior compilation). Amendments noted where applicable.]**

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#### § 249-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**JUNK DEALER** — Any person who shall engage in business as a dealer and trader in junk, old metals, scrap, rags, wastepaper or other secondhand articles that are no longer serviceable for their original manufactured purpose. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

#### § 249-2. License required; fee; term. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person shall engage in the business of junk dealer without first having obtained a license so to do from the Chief of Police. The fee for such a license shall be \$10 per year for each team or vehicle used in connection with such business. The Chief of Police shall have authority to issue such license upon application therefor and upon payment of the license fee. Each license shall be for the term of one year from the date of issue.

#### § 249-3. Penalties for offenses. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall engage in the business of junk dealer without being duly licensed as herein provided shall be fined not more than \$100, and the Judge of the Town Court of Winchester may, in his discretion, revoke the license of any person convicted of a violation of any provision of the statutes of the State of Connecticut relating to junk dealers.



## Chapter 255

### LICENSES AND PERMITS

#### ARTICLE I Past-Due Taxes or Fees

**§ 255-1. Limitation on issuance of permits and certificates where property taxes or utility fees are past due.**

**§ 255-2. Limitation on issuance of permits and certificates where personal property taxes are past due.**

**§ 255-3. Exception for emergencies.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Past-Due Taxes or Fees

**[Adopted by the Board of Selectmen effective 11-17-1998; amended 10-21-2013 (§ 170 of the prior compilation)]**

**§ 255-1. Limitation on issuance of permits and certificates where property taxes or utility fees are past due.**

No building permit, certificate of occupancy, permit for excavation in a highway for purposes of installing a driveway or any other license or permit issued by the Town of Winchester shall be issued as to any real property on which there are past-due property taxes or water or sewer user fees.

**§ 255-2. Limitation on issuance of permits and certificates where personal property taxes are past due.**

No building permit, certificate of occupancy, permit for excavation in a highway for purposes of installing a driveway or any other license or permit issued by the Town of Winchester shall be issued to any person or entity who owes past-due personal property taxes to the Town of Winchester.

**§ 255-3. Exception for emergencies.**

The Building Official may grant an application without the satisfaction of the above certification if he certifies in writing, as part of the file, that an emergency exists affecting the health or safety of the occupants of a building upon which property the building application is sought.



## Chapter 258

### LITTERING

**§ 258-1. Definitions.**

**§ 258-2. Deposit on public ways restricted.**

**§ 258-3. Placement to prevent unauthorized deposits.**

**§ 258-4. Deposit of private waste in public receptacles prohibited.**

**§ 258-5. Deposits on public ways or places prohibited; property owner responsible for disposal.**

**§ 258-6. Deposits in parks restricted.**

**§ 258-7. Public receptacles.**

**§ 258-8. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester effective 11-19-1979 (§ 121 of the prior compilation). Amendments noted where applicable.]**

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**§ 258-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AUTHORIZED PRIVATE RECEPTACLE** — A litter storage and collection receptacle as required and authorized by this chapter.

**GARBAGE** — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**LITTER** — "Garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**PERSON** — Any person, firm, partnership, association, corporation, company or organization of any kind.

**PUBLIC RECEPTACLE** — A litter storage and collection receptacle owned and maintained by the Town of Winchester.

**REFUSE** — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**RUBBISH** — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, glass, crockery and similar materials.

**§ 258-2. Deposit on public ways restricted.**

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town of Winchester except in authorized public receptacles or in private receptacles for collection.

**§ 258-3. Placement to prevent unauthorized deposits.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

**§ 258-4. Deposit of private waste in public receptacles prohibited.**

No person shall deposit in a public receptacle litter which is generated from private domestic sources, and said litter shall only be deposited in authorized private receptacles.

**§ 258-5. Deposits on public ways or places prohibited; property owner responsible for disposal.**

No person, including persons owning or occupying a place of business, shall sweep into or deposit in any gutter, street or other public place within the Town of Winchester the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

**§ 258-6. Deposits in parks restricted.**

No person shall throw or deposit litter in any park within the Town of Winchester except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

**§ 258-7. Public receptacles.**

No person shall damage, deface or destroy in any way the public receptacles maintained by the Town of Winchester.

**§ 258-8. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates any of the provisions of this chapter shall be punishable by a fine of \$100. In addition thereto, in the discretion of the court, such person may be directed to pick up and remove from any public place or any private property, with prior permission of the legal owner, upon which it is established that such person has deposited litter, any or all litter deposited thereon by anyone prior to the execution of sentence.



## Chapter 270

### NOISE

§ 270-1. Purpose.

§ 270-2. Definitions.

§ 270-3. Noise levels and guidelines.

§ 270-4. High background noise areas.

§ 270-5. Exclusions.

§ 270-6. Motor vehicle noise.

§ 270-7. Enforcement; penalties for offenses.

§ 270-8. Appeal process.

§ 270-9. Variances.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 8-19-2013; amended in its entirety 8-16-2021 (§ 195 of the prior compilation). Subsequent amendments noted where applicable.]**

#### § 270-1. Purpose.

It is the intention of this chapter to carry out and effectuate the public policy of the State of Connecticut, the federal government and the Town of Winchester concerning the regulation of those activities causing measurably excessive noise and noise disturbance within the Town of Winchester. It is recognized that excessive noise is a serious hazard to health, welfare and quality of life for all citizens and that each person has a right to an environment free from noise that may jeopardize their health, safety or welfare.

#### § 270-2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

**BACKGROUND NOISE** — Noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time (L90) in which the measurement is taken.

**COMMERCIAL ZONE** — Those areas designated for commercial use in the Zoning Regulations of the Town of Winchester, also known as "Highland Lake Business District," "Town Center" and "Town Gateway" Zones.<sup>1</sup>

**DAYTIME HOURS** — The hours between 7:00 a.m. and 9:59 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 9:59 p.m. on Sundays and federal and state holidays.

**DECIBEL** — A unit of measurement of sound levels.

**EMERGENCY** — Any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action or any occurrence involving prolonged power outages.

1. Editor's Note: See Ch. 415, Zoning Regulations.

**EXCESSIVE NOISE** — Any sound, the intensity of which exceeds the standard set forth in § 270-3 of this chapter.

**IMPULSE NOISE** — Noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

**INDUSTRIAL ZONE** — Those areas designated for industrial use in the Zoning Regulations of the Town of Winchester, also known as "Production and Innovation" Zones.<sup>2</sup>

**INTRUSION ALARM** — A device with an audible signal which, when activated, indicates intrusion by an unauthorized person. Such alarm may be attached to, or within, a building, structure, property or vehicle.

**LAWN CARE AND MAINTENANCE EQUIPMENT** — All engine- or motor-powered garden or maintenance tools intended for occasional use in residential districts, typically capable of being used by a homeowner, including, but not limited to, lawn mowers, riding tractors, snowblowers, and including equipment intended for infrequent service work in inhabited areas, typically requiring skilled operators, including but not limited to chain saws, log chippers or paving rollers.

**MOTOR VEHICLE** — Shall be given that meaning which is provided for by C.G.S. § 14-1(a)(47).

**NIGHTTIME HOURS** — Any hours not designated as "daytime hours," as defined above.

**PERSON** — Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

**PREMISES** — Any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements owned or controlled by a person.

**PROPERTY LINE** — That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

**RESIDENTIAL ZONE** — Those areas designated for residential use in the Zoning Regulations of the Town of Winchester, also known as "Highland Lake District," "Rural Residential," "Town Center Residential" and "Town Single Family" Zones.<sup>3</sup>

**SOUND** — A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

**SOUND LEVEL METER** — An instrument including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to the ANSI Specifications for Sound Level Meters, S1.2-1971.

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2. Editor's Note: See Ch. 415, Zoning Regulations.

3. Editor's Note: See Ch. 415, Zoning Regulations.

**§ 270-3. Noise levels and guidelines.**

- A. Noise zones within the Town of Winchester shall be classified according to the zoning applicable to the parcel or tract of land from which noise is emitted and the surrounding parcels or tracts on which noise is received, provided that any parcel whose use is lawfully nonconforming to its zone at the time this chapter is enacted shall be classified for noise emission purposes according to the zone appropriate for the nonconforming use. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of their premises in excess of the noise levels established in this section. Measurements shall be taken at a point that is located approximately one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes their individual unit of land or ground or contiguous parcels under the same ownership, as indicated by the public land records.

| Zone in Which Emitter is Located                                                             | Zone in Which Receptor is Located<br>(all measurements in dBA) |                                                                |                                                                                              |                 |
|----------------------------------------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------|-----------------|
|                                                                                              | Production and Innovation                                      | Highland Lake Business District<br>Town Center<br>Town Gateway | Highland Lake District<br>Rural Residential<br>Town Center Residential<br>Town Single Family |                 |
|                                                                                              |                                                                |                                                                | Daytime Hours                                                                                | Nighttime Hours |
| Production and Innovation                                                                    | 70                                                             | 66                                                             | 61                                                                                           | 51              |
| Highland Lake Business District<br>Town Center<br>Town Gateway                               | 62                                                             | 62                                                             | 55                                                                                           | 45              |
| Highland Lake District<br>Rural Residential<br>Town Center Residential<br>Town Single Family | 62                                                             | 55                                                             | 55                                                                                           | 45              |

- B. No person shall cause or allow the emission of impulse noise in excess of 80 decibels' peak sound pressure level during nighttime hours to any residential zone. No person shall cause or allow the emission of impulse noise in excess of 100 decibels' peak sound pressure level at any time to any zone.
- C. A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation. Instruments used to determine sound level measurements shall be sound level meters as defined by this chapter.

**§ 270-4. High background noise areas.**

In those individual cases where the background noise levels caused by sources not subject to this chapter exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by five dBA, provided that no source subject to the provisions of § 270-3 of this chapter shall emit noise in excess of 80 dBA at any time, and provided that this section does not decrease the permissible levels set forth in any other section of this chapter.

**§ 270-5. Exclusions.**

Maximum noise levels established in § 270-3 of this chapter shall not apply to any noise emitted or related to:

- A. Natural phenomena.
- B. Any bell or chime from any building clock, school or church.
- C. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm system used in an emergency situation. This exclusion does not include, however, intrusion alarms attached to any building, structure or property that does not terminate within 30 minutes after being activated or any intrusion alarm attached to a vehicle not terminating within 10 minutes after being activated. The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance or lack of reasonable care should be considered excessive noise.
- D. Warning devices required by OSHA or other state or federal safety regulations.
- E. Noise created as a result of an emergency, including, but not limited to, the use of personal or commercial electrical generators.
- F. Noise created by lawn care and maintenance equipment utilized during daytime hours, as that term is defined in this chapter, provided that noise discharge from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.
- G. Activities specially licensed under permit from the Town of Winchester, including, but not limited to, parades, sporting events and firework displays. This exclusion applies only if noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noise therefrom. Moreover, patriotic or other public celebrations may not extend longer than one calendar day.
- H. Noise from snow removal equipment, provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- I. Utility maintenance, including, but not limited to, the removal of fallen trees and the installation and repair of utility wires and poles.
- J. Town of Winchester construction, road repair and tree removal operations.
- K. The repair of buildings owned by the Town of Winchester.

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- L. Activities conducted by the Town of Winchester in a governmental capacity or by the State of Connecticut or by the federal government of the United States of America.
- M. Properties that have a pending noise variance application under § 270-9 hereof.

**§ 270-6. Motor vehicle noise.**

- A. All motor vehicles operated on public roads within the limits of the Town of Winchester shall be subject to the noise standards and decibel levels act set forth by C.G.S. §§ 14-80 and 14-80a, and the regulations issued thereunder.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 270-3 hereof.

**§ 270-7. Enforcement; penalties for offenses.**

The Winchester Police Department shall enforce the provisions of this chapter pertaining to the measurement of noise levels and the issuance of notices of violation. Any person in violation of any section of any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$100. In lieu of arrest and issuance of a summons, the Winchester Police Department may serve upon a violator an infraction notice which shall be known as a "noise ticket." Payment of the fine prescribed by such noise ticket within the time limit and to the address specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited. Each day a violation continues after the time for correction of the violation has been given in a written order, or after the issuance of a summons or infraction notice, shall constitute a continuing, separate violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed \$400 per day. In the event payment of the fine is not made and an appeal has not been taken as provided herein, the violator shall be responsible for any and all costs of collection, including attorneys' fees. The imposition of any fine hereunder shall not prevent the enforced abatement of any unlawful condition by the Town and the Town shall have the right to pursue any remedy allowed under law.

**§ 270-8. Appeal process.**

- A. Whenever a fine is imposed under this chapter, the person fined may, within 10 days from the date of issuance of the noise ticket, appeal by filing a written notice of appeal with the Winchester Chief of Police. The filing of an appeal shall stay any fine imposed until such time as a decision is rendered by a Town Citation Hearing Board in accordance with the procedure for hearings set forth.
- B. The provisions of this chapter may be enforced by citation and hearing as permitted by C.G.S. § 7-152(c).<sup>4</sup>

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4. Editor's Note: See Ch. 215, Citations, Art. I, of the Town Code.

- C. In the event a decision on an appeal is rendered in favor of the Town, and if permitted by law, the Town shall be entitled to recover its costs incurred in defending such matter, including attorneys' fees.

**§ 270-9. Variances. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. Any person living or doing business in Winchester may apply to the Chief of Police for a variance from one or more of the provisions of this chapter which are more stringent than the Connecticut Department of Energy and Environmental Protection regulations for the control of noise, provided the applicant supplies all of the following information to the Chief of Police at least 20 days before the start of such activity:
- (1) The location and nature of the activity;
  - (2) The time period and hours of operation of such activity;
  - (3) The nature and intensity of the noise that will be generated; and
  - (4) Any other information required by the Chief of Police.
- B. No variance from this chapter shall be issued unless it has been demonstrated that:
- (1) The proposed activity will not violate any provisions of the Connecticut Department of Energy and Environmental Protection regulations;
  - (2) The noise levels generated by the proposed activity will not constitute a danger to the public health; and
  - (3) Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- C. The application for variance shall be reviewed and either approved or rejected at least five days before the proposed start of such activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- D. A variance granted to a business shall be considered void in the event that business changes the size, quantity, location or use of the noise-emitting equipment or machinery that it possesses, or in the event that the business changes its location or hours of operation.
- E. In the event a variance is voided, nothing in this chapter shall prohibit a resident or business owner from applying for a new variance. In the event a variance application is denied, the owner of the property in question may not apply for a new variance for that property for 90 days following the date of denial and, in the new variance application, must detail the substantive changes that have been made to reduce noise levels at that property since the previous application was submitted.

## Chapter 274

### NUISANCES

**§ 274-1. Nuisance buildings,  
encumbrances and trees;  
penalties for offenses.**

**§ 274-2. Street or sidewalk  
encumbrances or  
encroachments.**

**§ 274-3. Order to abate nuisance.**

**[HISTORY: Adopted by the Town of Winchester effective 4-17-1906 (§ 3 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]**

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**§ 274-1. Nuisance buildings, encumbrances and trees; penalties for offenses.**

If any person or corporation shall maintain or continue within the limits of the Town of Winchester any old or dilapidated structure or edifice, or part thereof, in such manner or place as to subject other property to danger from fire, or in any manner to endanger the public health or safety, or whoever shall place or suffer any encumbrance to exist upon any sidewalk or highway, or whoever shall encroach upon any sidewalk or highway by the erection of any structure or device upon or over the same, or whoever shall permit any tree, branches or roots thereof to incommode or endanger the public travel, or whoever shall cause any excavation to be dug in or so near to any sidewalk or highway as to endanger the public thereby, or whoever shall commit or maintain any public nuisance of any kind or character within the limits of said Town shall be fined not to exceed \$100, and in the case of any continuing nuisance upon second conviction shall be fined not to exceed \$100, and each day's continuance thereof shall constitute a separate and distinct offense.

**§ 274-2. Street or sidewalk encumbrances or encroachments.**

Any encumbrance upon or encroachment so near to any sidewalk or street as to inconvenience the public travel, or any structure above any sidewalk or street, shall be deemed a public nuisance and may be summarily abated by any Selectman or by the Director of Public Works.

**§ 274-3. Order to abate nuisance.**

The Board of Selectmen may at any time order the abatement of any public nuisance existing upon private property, and upon the neglect of the person or corporation to abate the same within the time limits in said order may cause the summary abatement thereof by the Director of Public Works or by any indifferent person at the expense of the person or corporation so maintaining said nuisance and neglecting or refusing to abate the same, and the amount thereof may be collected by civil action in the name of the Town of Winchester.





## **Chapter 281**

### **PARKS AND RECREATION**

#### **ARTICLE I**

##### **Conduct at Recreation Facilities**

**§ 281-1. Town beaches.**

**§ 281-2. Athletic fields.**

**§ 281-3. Town tennis court/pickleball court.**

**§ 281-4. Skate park and parking lot.**

**§ 281-5. Basketball courts.**

**§ 281-6. Playscapes.**

**§ 281-7. Tatros Pond.**

**§ 281-8. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Conduct at Recreation Facilities**

**[Adopted effective 8-9-1982; amended in its entirety 4-5-2021 (§ 128 of the prior compilation)]**

**§ 281-1. Town beaches.**

The following activities are prohibited on the Town beaches known as "Holland Beach" and "Resha Beach" located at Highland Lake:

- A. Possession of, or walking of, dogs or other animals.
- B. Possession or use of gasoline.
- C. Starting or maintaining a fire without a permit from the Recreation Board.
- D. Depositing or dumping garbage or refuse anywhere other than in trash receptacles.
- E. Use of motor vehicles or bicycles by any persons other than those utilizing an authorized Town vehicle.
- F. Launching of motorized or nonmotorized boats from the beach.
- G. Fishing within 50 feet of designated swimming areas.
- H. Indecent exposure and/or nudity.
- I. Use of inflatable toys and/or swimming devices.
- J. Swimming beyond the swim area buoys.
- K. No hanging on the lifeline or buoys.
- L. Feeding of birds.
- M. Possession or use of glass containers.

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- N. The possession of, and/or drinking of, alcoholic beverages.
- O. Smoking a cigarette or cigar, vaping or using other tobacco-related product, on or within any beach, and disposing of cigarette butts, cigar butts or tobacco-related waste.
- P. The use of beaches for private, paid lessons, unless given prior approval by the Recreation Director.

### **§ 281-2. Athletic fields.**

The following activities are prohibited on the Town athletic fields:

- A. Bicycle riding on infield areas of athletic fields, and bicycle riding while organized activities are in progress.
- B. Use of metal detector devices.
- C. Catching nightcrawlers or digging for worms.
- D. Practice of golfing.
- E. Use of fields one-half hour after sundown until one-half hour before sun-up, except for lighted activities approved by the Town Recreation Director.
- F. Use of motor vehicles by any persons other than those utilizing an authorized Town vehicle.
- G. Possession or use of glass containers.
- H. The possession of, and/or drinking of, alcoholic beverages.
- I. Smoking a cigarette or cigar, vaping or using other tobacco-related products, on or within any field, and disposing of cigarette butts, cigar butts or any tobacco-related waste.
- J. Use of snowmobiles, ATVs, quads or similar on any field or park.
- K. Unauthorized maintenance to the field, including, but not limited to, installing stakes, adding dirt, clay or sod, removing water from infield, mowing grass or similar.
- L. Unleashed dogs, and/or failing to clean up after one's dog.
- M. The use of Town fields for private, paid lessons, unless given prior approval by the Recreation Director.

### **§ 281-3. Town tennis court/pickleball court.**

The following activities are prohibited on the Town tennis courts:

- A. Any use other than tennis or pickleball.
- B. Playing of tennis in any shoes other than tennis sneakers or nonmarking shoes.

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- C. Intentional throwing of rackets or striking the tennis nets or court surfaces with the rackets.
- D. Use of bicycles, skateboards, roller blades, roller skates or similar.
- E. Possession of, or walking of, dogs or other animals.
- F. Possession or use of glass containers.
- G. The possession of, and/or drinking of, alcoholic beverages.
- H. Smoking a cigarette or cigar, vaping or using other tobacco-related products, and disposing of cigarette butts, cigar butts or any tobacco-related waste.
- I. The use of tennis courts for private, paid lessons, unless given prior approval by the Recreation Director.
- J. Marking and putting tape on lines, and/or marking the court surface.

**§ 281-4. Skate park and parking lot.**

- A. The skate park and parking lot are open from March 15 through November 14, weather permitting. The skate park is open from dusk to dawn. The skate park is open to the public. Children under the age of 13 must be accompanied by a parent or adult guardian. The skate park and parking lot, once closed off by the barrier, are closed for the winter. Entering is considered trespassing.
- B. The following activities are prohibited at the skate park:
  - (1) Possession or use of glass containers.
  - (2) The possession and/or drinking of alcoholic beverages.
  - (3) Smoking a cigarette or cigar, vaping or using other tobacco-related products, and disposing of cigarette butts, cigar butts or any tobacco-related waste.
  - (4) Dumping of refuse.
  - (5) The use of the skate park for private, paid lessons, unless given prior approval by the Recreation Director.

**§ 281-5. Basketball courts.**

Town basketball courts known as "Manor Park Court" and "Rowley Street Courts" are open to the public at no charge. They are open for play approximately April 1 to October 31 depending on weather conditions. Lighted, evening play will be available on a scheduled basis as determined by the Recreation Board. The policies are:

- A. Courts are to be used for intended sports only. The use of roller skates, skateboards, roller blades, roller skates or similar is prohibited. Street hockey is also prohibited.
- B. Recreation Department activities take preference over all other court usage.

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- C. Courts will be available on a first-come-first-served basis.
- D. Play is limited to one hour per playing group.
- E. The use of Town courts for private, paid lessons is prohibited unless given prior approval by the Recreation Director.
- F. Players must wear basketball shoes or other nonmarking athletic shoes.
- G. Possession of, or use of, glass containers is prohibited.
- H. The possession and/or drinking of alcoholic beverages is prohibited.
- I. No person shall smoke a cigarette, cigar, vape or other tobacco-related product, or dispose of cigarette butts, cigar butts or tobacco-related waste.

#### **§ 281-6. Playscapes.**

Playscape policies are as follows:

- A. Playscape is open at sunrise and closes at 10:00 p.m.
- B. Playscape is open to all children up to 13 years of age with a parent or adult guardian.
- C. The use of bicycles, skateboards, roller blades, roller skates or similar is prohibited.
- D. The use of equipment by an appropriate number of persons should always be observed.
- E. The gate must be kept open.
- F. Possession or use of glass containers is prohibited.
- G. The possession and/or drinking of alcoholic beverages is prohibited.
- H. No person shall smoke a cigarette, cigar, vape or other tobacco-related product, or dispose of cigarette butts, cigar butts or tobacco-related waste.

#### **§ 281-7. Tatros Pond.**

Tatros Pond is open from dusk to dawn. The following are prohibited:

- A. Dumping of refuse.
- B. Possession or use of glass containers.
- C. The possession and/or drinking of alcoholic beverages.
- D. Smoking a cigarette, cigar, vape or other tobacco-related product, or disposing of cigarette butts, cigar butts or tobacco-related waste.

#### **§ 281-8. Penalties for offenses.**

Any person in violation of this chapter shall be fined in the amount of \$99.

## **Chapter 285**

### **PEACE AND GOOD ORDER**

#### **ARTICLE I** **Coasting on Streets**

##### **§ 285-1. Restrictions.**

##### **§ 285-2. Penalties for offenses.**

#### **ARTICLE II** **Ball Playing in Streets**

##### **§ 285-3. Prohibited conduct.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I** **Coasting on Streets**

**[Adopted effective 2-18-1930 (§ 20 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

##### **§ 285-1. Restrictions.**

The sliding or coasting on a sled or sleds upon any highway or street within the limits of the Town of Winchester is prohibited, except upon such streets or highways as may hereafter be designated by an appropriate sign, issued by the Chief of Police of said Town, that such coasting and sliding may be had thereon.

##### **§ 285-2. Penalties for offenses.**

Any person who shall violate this article, or any part thereof, shall pay a fine of \$75.

#### **ARTICLE II** **Ball Playing in Streets**

**[Adopted as §§ 21 and 29 of the prior compilation; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

##### **§ 285-3. Prohibited conduct.**

No person shall play at ball, either by catching, throwing, rolling, kicking or striking the same, or shall play quoits in or upon any of the streets, highways or sidewalks in the Town of Winchester.

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**§ 285-4. Penalties for offenses.**

Every person who shall violate any of the provisions of this article shall, upon conviction, pay a fine of \$75.

## ARTICLE III

**Meddling with Waterworks**

**[Adopted as §§ 9 and 29 of the prior compilation; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 285-5. Prohibited conduct.**

No person shall open or shut any public fountain, hydrant, stop-cock, water-gate or blow-off attached to any water pipe belonging to the Town, or take, use or in any way meddle with the hose, hose carriages, pipes, wrenches or any tools or implements of the Fire Department, except upon the instruction or permission of the Board of Selectmen or Director of Public Works; provided, however, that this article shall not affect the members of the Fire Department when in the exercise of their duties as firefighters.

**§ 285-6. Penalties for offenses.**

Every person who shall violate any of the provisions of this article shall, upon conviction, pay a fine of not more than \$100.

## Chapter 288

### PEDDLERS, SOLICITORS, VENDORS AND AUCTIONEERS

#### ARTICLE I Display of Merchandise

- § 288-1. Placement on public ways prohibited.
- § 288-2. Penalties for offenses.

#### ARTICLE II Peddling

- § 288-3. Definitions.
- § 288-4. Operation at Town recreation facilities prohibited.
- § 288-5. License required; fee; term.
- § 288-6. Peddling at Highland Lake.
- § 288-7. Noise restrictions.
- § 288-8. Penalties for offenses.

#### ARTICLE III Soliciting Orders

- § 288-9. License required.

- § 288-10. Hours of operation.
- § 288-11. Posted premises.
- § 288-12. Penalties for offenses.

#### ARTICLE IV Itinerant Vendors and Auctioneers

- § 288-13. Definitions.
- § 288-14. License required.
- § 288-15. Fees.
- § 288-16. Endorsement of license.
- § 288-17. Term of license.
- § 288-18. Penalties for offenses.

#### ARTICLE V Peddling Food Near School Property

- § 288-19. Prohibited conduct.
- § 288-20. Penalties for offenses.

[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE I Display of Merchandise

[Adopted effective 6-1-1927 (§§ 13 and 29, of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- § 288-1. Placement on public ways prohibited.

The placing, exhibiting or maintaining of any fruit, vegetables, meats, merchandise or other wares, or other stands or tables, on any sidewalk, street or highway within the territorial limits of the Town of Winchester is hereby prohibited.

**§ 288-2. Penalties for offenses.**

Every person who shall violate any of the provisions of this article shall, upon conviction, pay a fine of not more than \$150.

## ARTICLE II

**Peddling**

**[Adopted by the Board of Selectmen effective 7-11-1938; amended 10-24-1983; 10-28-1987; 9-24-1993; 9-6-1994 (§ 12a of the prior compilation)]**

**§ 288-3. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**PEDDLER** — Any person, or corporation, other than nonprofit organizations located within the limits of the Town of Winchester engaged in fund-raising projects, and pupils in the Winchester school system soliciting or peddling in connection with fund-raising projects approved by the Board of Education or the principal of the school in which they are pupils, who shall carry or expose, for sale or barter, or sell, vend, hawk or barter any goods, wares or merchandise, including articles of food or otherwise, or engage in the business of photography, or assist in the doing of any of said acts, on foot or from any team or vehicle, upon any of the streets or sidewalks or highways or from place to place or from house to house within the limits of the Town of Winchester.

**PEDDLING** — The doing of any one or more of said acts by a peddler in pursuit of his said business.

**§ 288-4. Operation at Town recreation facilities prohibited.**

No peddler shall engage in peddling at any Town-owned recreational field or facility.

**§ 288-5. License required; fee; term. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person shall engage in peddling in or upon the streets, sidewalks or highways of the Town of Winchester without first having obtained a license so to do from the Chief of Police. This section shall not apply to persons exempted under the General Statutes of this state nor to children's lemonade stands. The Chief of Police shall have the authority to issue such license upon application therefor; provided, however, that a license fee as set from time to time by the Board of Selectmen is paid in advance by the licensee, and such license shall be issued for the period of one year from the date of issue.

**§ 288-6. Peddling at Highland Lake.**

- A. In addition to obtaining a license from the Chief of Police as provided in § 288-5 above, no person shall engage in peddling either upon streets, sidewalks, highways or parking lots adjacent to publicly owned beaches at Highland Lake without first having been awarded a license to do so from the Purchasing Agent of the Town of Winchester



after participation in a competitive bid process. This section shall not apply to persons exempted under the General Statutes of this state nor to children's lemonade stands.

- B. The Purchasing Agent shall have the authority to invite sealed bids or proposals for peddling at Highland Lake by giving 10 days' public notice thereof by publication at least once in a newspaper having substantial circulation in the Town. All such sealed bids or proposals shall be opened publicly. The Purchasing Agent may in his sole discretion waive any informalities, divide the award, accept any bona fide bid deemed in the best interest of the Town, regardless of cost, or reject all bids. Such license shall be issued for the period of one year from the date of issue. The Purchasing Agent may limit the license to specific locations at his sole discretion.

#### **§ 288-7. Noise restrictions.**

No peddler engaged in the business of peddling shall ring any bell or use any other noise-making device, mechanical or otherwise, for the purpose of attracting customers for his business between the hours of 8:00 p.m. and 8:00 a.m., Eastern Standard Time.

#### **§ 288-8. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall engage in peddling without being duly licensed as herein provided and any person who shall violate any other provision of this article shall be fined \$200 and the Purchasing Agent and/or Chief of Police shall revoke the license of any person convicted of violation of any of the provisions of this article; and each sale made in violation of the provisions and regulations herein contained shall constitute a separate offense.

### **ARTICLE III**

#### **Soliciting Orders**

**[Adopted by the Board of Selectmen effective 7-11-1938; amended 10-24-1983; 10-28-1987; 9-24-1993; 9-6-1994 (§ 12b of the prior compilation)]**

#### **§ 288-9. License required.**

It shall be unlawful for any person over 16 years of age to solicit orders of purchase for future delivery of any goods, wares or merchandise, including magazines and other printed matter, from door to door, or on any street or highway within, or by telephone from and within the Town, without first obtaining from the Chief of Police a solicitor's license to do so.

#### **§ 288-10. Hours of operation.**

It shall be unlawful to engage in the business of soliciting orders of purchase for future delivery between the hours of 8:00 p.m. and 8:00 a.m.

**§ 288-11. Posted premises. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. The occupant or occupants of each residence in the Town may determine whether solicitors shall or shall not be invited to their respective residences.
- B. Form of notice.
  - (1) Notice of an occupant's giving invitation to solicitors, or refusal to give such invitation, to any residence, shall be given by notice posted at the main entry door to the premises in the following manner:  
     "No Solicitors Invited, Winchester Code, Ch. 288, Art. II, § 288-11"
  - (2) The letters shall be easily visible to anyone seeking entry to the residence. Posting of this card shall constitute sufficient notice to any solicitor, hawker, peddler or canvasser of the determination by the occupant of the residence of the information contained on it.
- C. Each solicitor shall have the duty, upon going onto any premises in the Town on which a residence is located, to examine and look for the notice provided herein, if any is posted, and to be governed by the statements contained on the notice. If the notice states "No Solicitors Invited," then any solicitor, whether licensed or exempt from licensing, shall immediately and peacefully depart from the premises.
- D. Any solicitor, whether invited or not, who has gained entrance to any residence shall immediately and peacefully depart from the premises when requested to do so by an occupant therein.
- E. It shall be unlawful and shall constitute a nuisance for any person to go upon any premises and ring a doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of an occupant within a residence, for the purpose of gaining an audience with that occupant and engaging in soliciting, hawking, peddling or canvassing, in defiance of the notice exhibited at the residence entry in accordance with this article.
- F. For the purpose of this section, the term "solicitor" shall include hawkers, peddlers, vendors, canvassers, and solicitors and any sign so posted shall be notice to all such persons.

**§ 288-12. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall engage in soliciting orders without being duly licensed as herein provided and any person who shall violate any other provision of this article shall be fined \$200 and the Chief of Police shall revoke the license of any person convicted of violation of any of the provisions of this article; and each sale made in violation of the provisions and regulations herein contained shall constitute a separate offense.

ARTICLE IV

**Itinerant Vendors and Auctioneers**

**[Adopted by the Board of Selectmen effective 7-11-1938; amended 10-24-1983; 10-28-1987; 9-24-1993; 9-6-1994 (§ 12c of the prior compilation)]**

**§ 288-13. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AUCTIONEER** — Any person who exposes for sale by auction any goods or articles, except provisions, charcoal, wood, the products of a farm and secondhand household furniture, and who is not a resident of the Town.

**ITINERANT VENDOR** — Any person who engages in a temporary or transient business in the Town of Winchester selling goods, wares and merchandise and who, for the purpose of carrying on business, hires, leases or occupies a building or structure, or space, for the exhibition and sale of such goods, wares and merchandise. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 288-14. License required. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person shall engage in the business of "itinerant vendor" or "auctioneer" unless such person has a license to do so from the Chief of Police and has received any other required local or state permits or licenses.

**§ 288-15. Fees.**

The fee for such license shall be \$250.

**§ 288-16. Endorsement of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In the case of a license for an itinerant vendor, upon payment of such fee, the Town Clerk shall endorse thereon the words "local license fees paid" and shall affix thereto his official signature and the date of such endorsement.

**§ 288-17. Term of license.**

An auctioneer's license shall remain in force for one year from its date of issue. An itinerant vendor's license shall remain in force as long as the licensee continuously keeps and exposes for sale a stock of goods, wares and merchandise but not later than the first day of October following the issuance of the license.

**§ 288-18. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate any other provision of this article shall be fined \$150 and the Chief of Police shall revoke the license of any person convicted of violation of any of the provisions of this article; and each sale made in violation of the provisions and regulations herein contained shall constitute a separate offense.

ARTICLE V

**Peddling Food Near School Property**  
**[Adopted effective 7-1-1965 (§ 59 of the prior compilation)]**

**§ 288-19. Prohibited conduct.**

It shall be unlawful for any person, firm or corporation to peddle or sell soft drinks, candy, cakes, fruits, pastries, ice cream or food of any description to school children between the hours of 8:00 a.m. and 5:00 p.m. on school days upon any public street, sidewalk or any other public place in the Town of Winchester within 300 feet of any school property.

**§ 288-20. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$150 for each violation.

## Chapter 294

### POLYSTYRENE FOOD CONTAINERS AND PACKAGING

§ 294-1. Definitions.

§ 294-4. Severability.

§ 294-2. Operating restrictions.

§ 294-5. Effective date.

§ 294-3. Penalties for offenses.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 10-15-1990 (§ 157 of the prior compilation). Amendments noted where applicable.]**

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#### § 294-1. Definitions.

As used in this chapter, the following terms shall have the following meanings:

**COMPREHENSIVE EFFORT TO RECYCLE** — Means that the food vendor, food packager, nonprofit food provider, restaurant or retail food vendor shall source separate and remove the food packaging from the solid waste and shall cause the recycling of the packaging, in an organized manner, into another usable product, thus preventing the package from being disposed of in a landfill, by burning or littering. At a minimum, the food vendor, food packager, nonprofit food provider, restaurant or retail food vendor must monthly demonstrate that at least 50% from December 1, 1990 to November 30, 1991, 60% from December 1, 1991 to November 30, 1992, and 75% from December 1, 1992 and thereafter of said total packaging utilized is being recycled, including demonstration of an ongoing collection and delivery of such packaging materials to an established recycling facility. This includes in the total that packaging being used within the premises as well as that taken from the premises.

**CONSUMER** — Any person purchasing or being provided with food or beverages from a restaurant or retail food vendor or nonprofit food provider.

**FOOD PACKAGER** — Any person, located within the Town of Winchester, who places meat, eggs, bakery products, produce or other food in packaging materials for the purpose of retail sale of those products within the Town of Winchester.

**FOOD VENDOR** — Any restaurant or retail food vendor.

**NONPROFIT FOOD PROVIDER** — A recognized tax-exempt organization which provides food as part of its services.

**RESTAURANT** — Any establishment located within the Town of Winchester selling prepared food to be consumed, including sidewalk food vendors.

**RETAIL FOOD VENDOR** — Any store, shop, sales outlet, grocery store, delicatessen or other establishment located within the Town of Winchester which sells food.

#### § 294-2. Operating restrictions.

A. Prohibitions.

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- (1) No restaurant, retail food vendor or nonprofit food provider shall serve food, and no retail food vendor or food packager shall package food for sale, to consumers in polystyrene packaging unless such restaurant, retail food vendor, nonprofit food provider or food packager shall demonstrate to an official designated by the municipality that they are engaged in a comprehensive effort to recycle the polystyrene packaging materials which it generates.
- (2) No restaurant, retail food vendor or nonprofit food provider shall serve food, and no retail food vendor or food packager shall package food for display, storage or transportation within the Town of Winchester or sale to consumers in polyvinyl chloride packaging.
- (3) No restaurant, retail food vendor, nonprofit provider or food packager shall serve, sell, provide or give eating utensils or food containers which contain polyvinyl chloride to any consumer.

## B. Exceptions.

- (1) This section shall not apply to the use of polystyrene packaging for the display, storage or transportation of raw meat, poultry or fish.
- (2) This section shall not apply to any flexible transparent covering for uncooked or raw meat, poultry, raw fish, hard cheese, cold cuts, fruit and vegetable produce, baked goods or bread.

**§ 294-3. Penalties for offenses.**

Failure to comply with § 294-2 of this chapter shall be punishable by a fine of not more than \$100 for each day such violation continues to exist and such violator shall be prohibited from using polystyrene packaging in a manner consistent with other provisions of this chapter.<sup>1</sup>

**§ 294-4. Severability.**

If any part or provision of this chapter or the application thereof to any person, entity or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of the chapter or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons, entities or circumstances.

**§ 294-5. Effective date.**

This chapter shall take effect on December 1, 1990.

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1. Editor's Note: Original Section 4 of the 10-15-1990 ordinance adopting these provisions (§ 159 of the prior compilation), regarding the appointment of a temporary task force to promote and monitor the provisions of this ordinance, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

## Chapter 297

### PROPERTY MAINTENANCE

#### ARTICLE I Open Storage of Junk Vehicles

- § 297-1. Open storage prohibited.
- § 297-2. Definitions.
- § 297-3. Presumption of ownership.
- § 297-4. Penalties for offenses.
- § 297-5. Notice to remove vehicles in violation; removal by Town.

#### ARTICLE II Property Maintenance Code

- § 297-6. Adoption of Property Maintenance Code.
- § 297-7. Savings clause.
- § 297-8. Amendments to code.
- § 297-9. Penalties for offenses.

#### ARTICLE III Blighted Premises

- § 297-10. Authority and findings.
- § 297-11. Purpose.
- § 297-12. Definitions.
- § 297-13. Creation or maintaining of blighted premises prohibited.
- § 297-14. Complaints; action by Blight Official; appeals.
- § 297-15. Penalties for offenses; citations.
- § 297-16. Citation procedures.
- § 297-17. Remediation.
- § 297-18. Alternate remedies.
- § 297-19. Severability.
- § 297-20. Minimum standards.

[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE I Open Storage of Junk Vehicles [Adopted effective 7-1-1969; amended effective 10-30-1988 (§ 70 of the prior compilation)]

##### § 297-1. Open storage prohibited.

It shall be unlawful to abandon, store or permit the storage of a junk vehicle on private lots or yards or anywhere in the open within the Town of Winchester.

##### § 297-2. Definitions.

For the purposes of this article, the following definitions shall apply:

IN THE OPEN — A vehicle not housed in a structure or not completely shielded from view.

JUNK VEHICLE — Any unregistered motor vehicle, any uninspected motor vehicle, any vehicle which has been abandoned, any vehicle which is incapable of being lawfully operated on a public highway and any vehicle in the state of major disrepair.

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PRIVATE LOTS OR YARDS — Includes any land which is privately owned within the Town of Winchester and which is not properly licensed as a motor vehicle junkyard.

**§ 297-3. Presumption of ownership.**

In any prosecution charging a violation of this article, proof that the defendant named in the complaint was the last registered owner of such vehicle shall constitute a prima facie presumption that such person was the person who abandoned such vehicle at the point where and for the time during which such violation occurred.

**§ 297-4. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who violates this article shall, on conviction thereof, be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100.

**§ 297-5. Notice to remove vehicles in violation; removal by Town.**

The record owner of any property on which a junk vehicle is stored or located in the open and the owner of said vehicle, on the receipt of written notice from the Town of Winchester Police Department, shall within the time stated in such notice remove such junk vehicle or correct the condition stated in such notice. Should the owners, after such service, and the lapse of time therein stated, fail, refuse or neglect to remove said vehicle or correct such condition, the Police Department of the Town of Winchester shall have the authority to make a final determination as to the disposition of the vehicle. After the issuance of written order of removal, the Chief of Police, or any person or persons at his direction, is hereby authorized to go upon the property and remove said junk vehicle and charge the owner of either of them with the reasonable cost of said removal.

ARTICLE II

**Property Maintenance Code**

**[Adopted by the Board of Selectmen 3-1-1999; amended 2-17-2009 (§ 124 of the prior compilation)]**

**§ 297-6. Adoption of Property Maintenance Code.**

A certain document, three copies of which are on file in the office of the Town Clerk of the Town of Winchester, being marked and designated as the "International Property Maintenance Code, 2006 Edition" as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the Town of Winchester, in the State of Connecticut, for regulating and governing the conditions and maintenance of all property, buildings and structures as herein provided; and each and all of the regulations of the International Property Maintenance Code, 2006 Edition, and as amended, are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes prescribed in § 297-8 of this article.



**§ 297-7. Savings clause.**

Nothing in this article or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquitted, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

**§ 297-8. Amendments to code.**

The International Property Maintenance Code is amended and revised in the following respects:

- A. (Amend) **101.1 Title.** These regulations shall be known as the Property Maintenance Code of the Town of Winchester, herein referred to as "this code."
- B. (Amend) **102.3 Application of other Codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Connecticut State Building Codes, and the Connecticut State Fire Codes. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Winchester Zoning Regulations.<sup>1</sup>
- C. (Amend) **Section 103 DIVISION OF PROPERTY MAINTENANCE.**  
(Amend) **103.1 General.** The Division of Property Maintenance Inspection shall be part of the Town of Winchester's Building Department.
- D. (Amend) **302.4 Weeds.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches in height. All noxious weeds shall be prohibited. "Weeds" shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens.
- E. (Amend) **304.14 Insect Screens.** Every door, window and other outside opening required for ventilation of habitable rooms shall be supplied with an approved, tightly fitting screen.

**§ 297-9. Penalties for offenses. [Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation who violates this article shall, on conviction thereof, be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100.

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1. Editor's Note: See Ch. 415, Zoning Regulations.

## ARTICLE III

**Blighted Premises**

**[Adopted by the Board of Selectmen effective 9-25-2001; 10-18-2004; 8-20-2012;  
amended in its entirety 8-16-2021 (§ 180 of the prior compilation)]**

**§ 297-10. Authority and findings.**

This article is authorized pursuant to C.G.S. § 7-148(c)(7)(H)(XV). It is hereby found and declared that there exists within the Town of Winchester a number of taxable and tax-exempt real properties containing vacant, blighted buildings and that the existence of such vacant and blighted buildings contributes to the decline of neighborhoods. It is further found that the existence of vacant and blighted buildings adversely affects the economic well-being of the Town and is inimical to the health, safety and welfare of the residents of the Town. It is further found that many of the vacant and blighted buildings can be rehabilitated, reconstructed and reused so as to provide decent, safe and sanitary housing and ancillary commercial facilities, and that such rehabilitation, reconstruction and reuse would eliminate, remedy and prevent the adverse conditions described above.

**§ 297-11. Purpose.**

The purpose of this article is to protect the public health, safety and welfare as follows:

- A. By establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises.
- B. By authorizing and establishing procedures for enforcement, inspection and penalties, including a means by which the record owner of real property used as a dwelling may obtain relief from enforcement upon a showing of good faith efforts to take corrective measures or upon a showing that a certain hardship exists.

**§ 297-12. Definitions.**

For the purposes of this article, the following words and terms shall have meanings respectively described as follows:

**ABANDONED PROPERTY** — Any real property on which there is a vacant structure:

- A. On which real property taxes have been delinquent for one year or more;
- B. Which the owner has declared to be abandoned in writing to the Blight Official.

**BLIGHT** — Any building or structure or any parcel of land on which at least one of the following conditions exists shall be considered blighted:

- A. It is becoming dilapidated as defined herein.
- B. It is not being maintained as defined herein.
- C. It is a fire hazard as determined by the Fire Marshal or documented by the Fire Department or the Building Department.

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- D. It is unsanitary as determined by report of the Department of Health that existing conditions constitute a life-threatening hazard or a hazard that puts at risk the health or safety of the citizens of the Town.
- E. It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the neighborhood.
- F. It is a substantial factor causing serious depreciation of the property values in the neighborhood.
- G. There exist at the property conditions promoting rodent harborage and/or infestation.
- H. There exist at the property overgrown shrubs, brush or weeds.
- I. Parking lots/areas are left in a state of disrepair or abandonment and/or are used to store abandoned or unregistered vehicles.
- J. Chimneys and similar appurtenances are in a state of disrepair.
- K. Overhanging extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts, contain rust or other decay.
- L. It is factor creating the cancellation of insurance on proximate properties.
- M. Graffiti exists at the premises.
- N. Garbage on the property is not stored in standard containers and/or is scattered throughout the yard.
- O. The property contains dead, decayed, diseased or damaged trees that constitute a hazard or danger or are objectionable to adjacent premises or the occupants thereof or to public property or persons lawfully there.
- P. Noxious plants such as poison ivy, poison sumac, poison oak or ragweed are allowed to grow unchecked on the property.
- Q. There exists on the property stagnant or unsanitary water in which mosquitoes may breed; garbage, sewage, excrement, manure or other foul, decayed, putrid, unwholesome, deleterious or offensive thing or substance; animal carcasses or parts thereof; or trash, rubbish, rubble, tires, brush, used materials or discharged items of little or no value.
- R. Refuse or filth is discharged from the property into a stream, well, spring, brook, ditch, pond, river or other inland waters within the Town, or such substances are placed on the property in such position that high water or natural seepage will carry the same such waters.

BLIGHT OFFICIAL — The person designated by the Town Manager to enforce this article.

CITATION — A written statement of the relevant conditions and facts giving rise to the specified violation, including a reference to the specific section of this article which has been violated and the amount prescribed as a fine for the violation(s).

**DEBRIS** — Material which is incapable of immediately performing the function for which it was designed, including but not limited to abandoned, discarded or unused objects; junk or collections of equipment such as automobiles, boats and recreation vehicles which are missing parts, not complete in appearance and in an obvious state of disrepair; and parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers and garbage.

**DECAY** — A wasting or wearing away; a gradual decline in strength, soundness or quality; to become decomposed or rotten.

**DETERIORATION** — The condition of a building or part thereof characterized by substantial holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use as determined by the Blight Official.

**DILAPIDATED** — A building is considered dilapidated if any of the following conditions exists:

- A. The structure is unable to provide shelter or to serve the purpose for which it was constructed due to poor conditions.
- B. Any walls, supports, floors or foundations appear to be poorly maintained or in disrepair to an extent that presents a safety concern.
- C. Damage exists from fire, wind or other causes so that the building is unsightly and no longer provides shelter from the elements and has become dangerous to the life, safety or general health and welfare of the occupants or the residents of the Town.
- D. There are missing, broken or improperly boarded windows or doors.

**DWELLING UNIT** — Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and/or eating. Said dwelling unit shall be maintained clean and free of debris and secured against entry. All openings to the first floor and cellar basement shall be secured. All upper floors shall comply with all state and local fire safety codes, laws, ordinances and regulations.

**EQUIVALENT AMOUNT OF NONRESIDENTIAL SPACE** — Each increment of 1,500 square feet or less shall be the equivalent of a dwelling unit for purposes of this article of the Winchester Code of Ordinances.

**EXEMPT PROPERTY** — Land dedicated as a public or semipublic open space, land preserved in its natural state through conservation easements or areas designated as inland wetlands and watercourses shall be exempted from this article. Properties acquired by the Town of Winchester through foreclosure, etc., shall be exempted from this article for a period of nine months post-acquisition.

**EXPOSED TO PUBLIC VIEW** — Any premises or part thereof or any building or any part thereof which may be lawfully viewed by the public.

**EXTERIOR OF THE PREMISES** — Open space on the premises outside of any building thereon.

**GARBAGE** — Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, or the keeping of pets or other animals.

**LEGAL OCCUPANCY** — The human habitation of the dwelling unit that is legal by virtue of compliance with state and local building and fire safety codes, local zoning, state and local housing codes and all other pertinent codes, laws, statutes and regulations and the supplying of proof of occupancy evidenced through a bona fide lease agreement, rent receipt or utilities statement.

**LITTER** — Any discarded, used or unconsumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can; any unlighted cigarette, cigar, match or any flaming or glowing material; or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper containers or other packaging or construction material which has not been deposited in a receptacle.

**NEIGHBORHOOD** — An area of the Town of Winchester with characteristics that distinguish it from other areas of the Town of Winchester and which may include but not be limited to distinct ethnic and/or economic characteristics, schools and/or social clubs, and/or boundaries defined by physical barriers, including but not limited to major highways and/or railroads and/or natural features, including but not limited to rivers and/or streams.

**NOT BEING MAINTAINED** — A structure is not being maintained if any of the following conditions apply:

- A. Siding, roofing or gutters are damaged, missing or show signs of disrepair.
- B. Windows or doors are missing or improperly boarded over.
- C. Garbage, trash, litter, rubbish or debris is situated on the premises.
- D. Abandoned, wrecked or junked motor vehicles are stored on the premises.
- E. Lawns, landscaping or driveways are deteriorating or unkempt.
- F. Trees, shrubs, hedges, grass or plants block or interfere with any road sign or obstruct any walkway, driveway or street.

**PARCEL** — A unit of land.

**PREMISES** — Any parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure, and includes any such building, accessory structure or other structure thereon, or any part thereof. The term "premises," where the context requires, shall be deemed to include any buildings, dwellings, parcels of land or structures contained within the scope of this article.

**PUBLIC VIEW** — Visible from any public right-of-way or neighboring property.

**RUBBISH** — Any nonputrescible waste materials, except ashes, including but not limited to paper, cardboard, tin cans, wood, glass, bedding, furniture, crockery, appliances, junk automobiles, demolition material, tree limbs and industrial wastes.

**STRUCTURE** — Any building, dwelling, fence, swimming pool or similarly constructed object.

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UNIT — Any space within a building that is or can be rented by or to a single person or entity for his or its sole use and is intended to be a single and distinct space.

**§ 297-13. Creation or maintaining of blighted premises prohibited.**

No owner of any building or structure in the Town of Winchester shall cause blighted premises to be created or maintained.

**§ 297-14. Complaints; action by Blight Official; appeals.**

- A. Any individual affected by the action or inaction of an owner of a dwelling unit or other space subject to the provisions of this article, any civic organization and any appropriate municipal agency may file with the Blight Official, in writing, a complaint of violation of any of these sections.
- B. If the Blight Official has reason to believe that an owner has violated the provisions of this article, the Blight Official shall serve a notice of violation and an order to correct such violation on the owner of record of the property. The order shall require the owner to comply with the requirements of this article in the manner specified in said order within 14 days. A copy of the order shall be filed with the Town Clerk, and any subsequent purchaser of the property shall be subject to such order.
- C. The Blight Official shall submit to the Town Manager a monthly report listing the notices of violation served in the previous month.
- D. Any owner who is aggrieved as a result of being served with a notice of violation in accordance with this article may, within 10 days of receipt of the notice, appeal to the Board of Selectmen for revocation of the notice.
- E. The Board shall submit its decision to the Blight Official within 10 days of the hearing held on the notice of violation and order to correct issued by the Blight Official.

**§ 297-15. Penalties for offenses; citations.**

- A. Violation of the provisions of this article shall be punished by a penalty of not more than \$99 for each dwelling unit or for the equivalent amount of other space. Each day a dwelling unit or equivalent amount of other space is in violation of this article shall constitute a separate offense.
- B. Citation; lien on property.
  - (1) The provision of this article may be enforced by citation, in addition to other remedies, in accordance with C.G.S. § 7-152c. Town of Winchester code enforcement officials have authority to issue citations.
  - (2) Unpaid fine to constitute lien. Any unpaid fine imposed pursuant to the foregoing anti-blight citation hearing procedure shall constitute a lien upon the real property against which the fine was imposed from the date of such fine in accordance with C.G.S. § 7-148aa. Said lien shall be continued, recorded, released and enforced as provided for in C.G.S. § 7-148aa.

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- C. If any violation remains unabated after seven days, any police officer, the Zoning Enforcement Officer, Blight Officials, Fire Marshal or other person authorized by the Town Manager is hereby authorized to issue a citation to the violator in accordance with this article.
- D. A citation shall be in writing and include:
  - (1) A description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
  - (2) Detailed information regarding the contents of the notice letter (which may be a copy of such notice letter) and the failure of the owner/occupier to take the corrective actions specified therein;
  - (3) The amount of the fines, penalties, costs or fees due for noncompliance; and
  - (4) A statement that the owner/occupier may contest his liability and request a hearing before the Citation Hearing Board by delivering in person or by mail written notice of objection within 10 days of the date of the citation.
- E. Such penalty shall exist as a lien against the premises wherein said violation exists and may be recorded upon the land records of the Town of Winchester. Such lien shall be continued, recorded, released and enforced as provided in C.G.S. § 7-148aa, as amended. Each lien shall take precedence over all other liens and encumbrances except for taxes. Each lien may be enforced in the same manner as property tax liens, including the foreclosure of the real property.
- F. If, after the notice of violation has been issued or a lien placed on the property, the property is transferred to a bona fide purchaser, the new owner of the premises shall have a period of 30 days to bring the property into compliance with the notice of violation previously issued without penalty.

**§ 297-16. Citation procedures.**

- A. The procedures established in Chapter 215, Citations, Article I, of the Town Code will apply to citations issued under this article, as well as the provisions of C.G.S. § 7-152c.
- B. The final period for the uncontested payment of any citation under this article shall be 10 days from the date of the citation.

**§ 297-17. Remediation.**

- A. The Town Manager may, but shall not be required to, take such remedial action to secure and/or improve the premises to protect public health and safety and/or property values of the surrounding neighborhood by remediation as permitted under court order, other applicable law or this article.
- B. The Town Manager may, but shall not be required to, remediate blighted properties, which entry shall only be commenced after the provisions of § 297-14 have been followed without remedial action having been taken and the appeal period under § 297-14 shall have expired.

- C. Remediation shall only be authorized by the Town Manger if the estimated cost of such remediation is duly appropriated in the applicable fiscal year budget or by special appropriation.
- D. If a right of entry is authorized by the Town Manager, the Town Manager shall give notice of such authorization to the owner. Notice to the owner(s) shall be sufficient if sent by both regular and certified mail, return receipt requested, to the last known address for the owner and/or posted in a conspicuous place in or about the dwelling affected by the notice. Such notice shall be set forth in writing and shall contain the following:
  - (1) A statement that the Town Manager has authorized designated agents of the Town to enter the premises during reasonable hours for the purpose of remediating the blighted premises.
  - (2) A date by which the violation(s) must be corrected in order to avoid entry by designated agents of the Town pursuant to this article. Such compliance date shall not be less than 15 days from the date of the notice.
  - (3) A statement that the authorization may be appealed to the Board of Selectmen within 10 days from the date of the notice.
- E. No agent or agents of the Town shall enter any dwelling house or structure for the purposes of remediating blighted conditions. Entry and remediation shall only be during weekday daylight hours.
- F. The owner of the blighted premises shall be liable for the costs of remedial actions taken pursuant to this section. Such costs shall exist as a lien against said premises and may be recorded upon the land records of the Town of Winchester and may be enforced in the same manner as property tax liens.

#### **§ 297-18. Alternate remedies.**

In addition to all other remedies and any fines imposed herein, the provisions of this article may be enforced by civil proceedings in Superior Court, including injunctive relief. The Town may recover from such owner/occupier or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the Town in enforcing the provisions of this article.

#### **§ 297-19. Severability.**

In the event that any part or portion of this article is declared invalid for any reason, all the other provisions of this article shall remain in full force and effect.

#### **§ 297-20. Minimum standards.**

- A. The provisions in this article shall not be construed to prevent the enforcement of the other statutes, codes, ordinances or regulations which prescribe standards other than as are provided in this article.



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- B. This article is not intended to affect violations of any other ordinances, codes or regulations existing prior to the effective date of this article, and any such violations may be governed and continue to be punishable under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed as well as this article.
- C. In any case where a provision of this article is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other code of the Town or state, the provision which establishes the higher standard for the promotion and protection of the health and safety of the public and/or the property values in the Town of Winchester shall prevail.



## Chapter 305

### RENTAL PROPERTY

**§ 305-1. Maintenance; compliance with state and local standards.**

**§ 305-2. Certificate of occupancy required.**

**§ 305-3. Appeals.**

**§ 305-4. Restrictions on rent collection.**

**§ 305-5. Fees.**

**§ 305-6. False statements prohibited.**

**§ 305-7. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 5-23-1986; amended 8-4-1988; 4-1-2004; 10-1-2004; 8-7-2006; 9-5-2006 (§ 146 of the prior compilation). Subsequent amendments noted where applicable.]**

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**§ 305-1. Maintenance; compliance with state and local standards.**

No owner or other person shall rent to another, or permit the occupation by another, of any vacant dwelling unit unless it and the premises are clean, sanitary and fit for human occupancy, and comply with all the applicable legal requirements of the State of Connecticut and the Town of Winchester.

**§ 305-2. Certificate of occupancy required. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

An apartment or dwelling unit in any structure containing three or more housing units cannot be occupied for human habitation until a certificate of occupancy has been issued by the Building Official or his authorized representative, certifying that such apartment or dwelling unit conforms to the requirements of the Housing Code of the Town of Winchester and the Connecticut General Statutes. Such certificates shall be issued biennially. No provision of this section shall apply to any structure occupied by an owner thereof and containing two or less housing units. No provision of this section shall be construed to prohibit human occupancy of such apartment or dwelling unit during the pendency of an application for such a certificate.

**§ 305-3. Appeals.**

A person aggrieved by the refusal of a certificate of occupancy may appeal to the Superior Court for the Judicial District of Litchfield.

**§ 305-4. Restrictions on rent collection.**

The owner or lessor of such structure shall not recover, receive or collect rent for the occupancy of any apartment or dwelling unit for which a certificate of occupancy has not been obtained prior to the rental thereof.

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**§ 305-5. Fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. The Building Official shall charge a fee as set from time to time by the Board of Selectmen for each unit, which is to be paid prior to the issuance of the certificate of occupancy.
- B. The Building Official may charge an additional fee as set from time to time by the Board of Selectmen if a reinspection is necessary in order for the dwelling to comply with § 305-1.

**§ 305-6. False statements prohibited.**

No person filing an application for a certificate of occupancy shall knowingly make any false statement as to names, addresses, relation or number of persons who will occupy a dwelling unit.

**§ 305-7. Penalties for offenses.**

Any person who violates any of the provisions of this chapter shall be subject to a penalty in the amount of \$90 per violation.

## Chapter 310

### ROOMING HOUSES

**§ 310-1. Definitions.****§ 310-2. Scope.****§ 310-3. License required; inspection of premises.****§ 310-4. Annual inspections.****§ 310-5. Transfer of license.****§ 310-6. License renewal.****§ 310-7. Standards.****§ 310-8. License fee.****§ 310-9. Severability.****§ 310-10. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Winchester effective 4-1-1974 (§ 115 of the prior compilation). Amendments noted where applicable.]**

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**§ 310-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**APARTMENT OR RENTAL UNIT** — An apartment or rental unit consists of one or more rooms accessible by one or more private entrances. Each apartment or rental unit shall contain a private bathroom complete with flush water closet, lavatory and tub or shower with hot and cold running water, all in good working order. A stove and refrigerator supplied by either the landlord or tenant and a sink shall be present.

**BOARDINGHOUSE** — A rooming house where a meal or meals are provided to tenants. The same regulations applying to a rooming house shall apply to a boardinghouse.

**ROOMING HOUSE** — Any dwelling or that part of any dwelling containing one or more rooming units in which space is occupied by two or more persons who are not members of a single family.

**ROOMING UNIT** — Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

**§ 310-2. Scope.**

This chapter governs the use of rooming houses, rooming units, and boardinghouses, and does not govern apartments or rental units as defined above.

**§ 310-3. License required; inspection of premises.**

No person shall operate a rooming house unless he holds a rooming house license issued by the Town of Winchester Director of Health or his agent. Said license shall be issued only after an inspection of the premises by said Director of Health or his agent and the Fire Marshal. The inspection shall confirm compliance with the requirements of room size, lighting, ventilation, window size and general sanitation requirements of the State Health Department and local ordinances.

**§ 310-4. Annual inspections.**

Each rooming house or unit shall be inspected at least once a year by the Director of Health or his agent and the Fire Marshal, and said persons may revoke the license immediately if conditions so warrant.

**§ 310-5. Transfer of license.**

A license cannot be transferred without first notifying the Director of Health by registered mail.

**§ 310-6. License renewal.**

A rooming house license must be renewed on a yearly basis by making application at least two weeks prior to the expiration date. The Director of Health or his agent and the Fire Marshal shall inspect the premises before the license is renewed.

**§ 310-7. Standards.**

Each rooming house or rooming unit shall conform to the following:

- A. At least one flush water closet, lavatory basin and tub or shower, all in good working order with hot and cold running water, shall be available for each six persons or part thereof residing in a rooming house, including the family of the owner or operator. Such facility shall not be located in the basement or cellar and shall not be reached by passing through any other room.
- B. Linen supplied by the owner or operator shall be changed every week.
- C. The door of each sleeping room shall be equipped with an operating lock. No padlocks will be permitted.
- D. Rooming units must contain at least 80 square feet of floor area, excluding closet space, for the first occupant and not less than 60 additional square feet for each additional occupant of the same room, excluding closet space.
- E. The window area of each rooming unit shall not be less than 10% of the floor area except where adequate air-conditioning and lighting are provided.
- F. Access and egress to each unit shall not be through another unit.
- G. No basement or cellar area shall be used or converted to rooming units unless provision is made for at least two means of egress remote from each other, such as a hatchway door and a window of sufficient size for an adult to use as an escape route if necessary, in addition to any stairway from the cellar to the first floor.

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**§ 310-8. License fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The fee for a rooming house license shall be set from time to time by the Board of Selectmen.

**§ 310-9. Severability.**

If any section of this chapter is found to be unconstitutional, the remaining portions of the chapter shall remain in force.

**§ 310-10. Penalties for offenses.**

Any person who shall violate any provision of this chapter, or any order of the Director of Health in the enforcement of this chapter, shall be subject to a fine of not more than \$100. Each day's neglect or refusal to comply with an order of the Director of Health shall constitute a separate offense.





## Chapter 319

### SCENIC ROADS

**§ 319-1. Objective.**

**§ 319-2. Authority.**

**§ 319-3. Designation criteria.**

**§ 319-4. Application for scenic designation.**

**§ 319-5. Application to rescind designation.**

**§ 319-6. Appeals.**

**§ 319-7. Rights in abutting properties.**

**§ 319-8. Scenic road maintenance.**

**§ 319-9. Scenic road reconstruction.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 12-5-2005 (§ 184 of the prior compilation). Amendments noted where applicable.]**

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**§ 319-1. Objective. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The objective of this chapter is to preserve certain roads or portions of roads within the Town of Winchester that are scenic and/or have historic significance. This preservation effort shall balance the need to provide safe and convenient public transportation routes with the need to preserve scenic and historic areas within the Town of Winchester.

**§ 319-2. Authority.**

The Planning and Zoning Commission is hereby authorized, in accordance with C.G.S. § 7-149a, to designate any Town public highway, right-of-way or portion thereof as a scenic road. Such designation approval or denial shall then be submitted to the Town of Winchester Board of Selectmen for final action.

**§ 319-3. Designation criteria.**

- A. No road or portion thereof shall be designated "scenic" unless it is free of commercial development and intensive vehicular traffic and is at least 2,500 feet in length.
- B. To be designated "scenic," a road or portion thereof shall meet at least one of the following criteria:
  - (1) Unpaved.
  - (2) Bordered by mature trees or stone walls.
  - (3) Width of traveled portion shall not exceed 20 feet.
  - (4) Offer scenic views.
  - (5) Blends naturally into surrounding terrain.
  - (6) Parallels or crosses brook(s), stream(s), lake(s) or pond(s).

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- C. The Planning and Zoning Commission may also give consideration to the following:
- (1) Buildings, structures or places of historical significance.
  - (2) Recreational uses.
  - (3) Proximity to agricultural, open space or forestlands.
  - (4) Notable geologic or other natural features.
- D. Scenic designation affects only that area within the public right-of-way of a public highway or portion thereof.

**§ 319-4. Application for scenic designation. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. The Planning and Zoning Commission shall consider a road or portion thereof for designation as scenic upon receipt of an application provided by the Planning and Community Development Department of the Town of Winchester. The Planning and Zoning Commission may itself submit such an application in the prescribed format upon approval of a majority of its voting members.
- B. Scenic designation applications shall include signed/notarized statements of approval from a majority of lot frontage owners on the road or portion of road under designation consideration.
- C. Before designating a road or portion thereof as scenic, the Planning and Zoning Commission shall hold a public hearing in accordance with all applicable statutes, bylaws and regulations. Such public hearing shall commence within 65 days after receipt of a properly prepared application. Said public hearing shall be completed within 30 days after such hearing commences. The applicant and the Commission may consent to one or more extensions, provided that the total extension shall not be longer than the original period as specified in this section. The day of receipt of application shall be the day of the next regularly scheduled Planning and Zoning Commission meeting.

**§ 319-5. Application to rescind designation.**

- A. The Planning and Zoning Commission may rescind the designation of a road or portion thereof as scenic, provided that the owners of a majority of the lot frontage abutting the scenic road request such action. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Such request shall be made to the Commission and shall include names and addresses and lot frontage measurements along the scenic road or portion thereof and shall bear the notarized signatures of all requesting landowners.
- C. Roads or portions thereof designated as scenic shall not be subject to a request to rescind any portion less than the originally designated roadway length.

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- D. No request to rescind scenic road status shall be considered unless a minimum of seven years have elapsed since the date of scenic designation.

**§ 319-6. Appeals.**

Any person aggrieved by action of the Planning and Zoning Commission to approve or deny a scenic road application may appeal such action as provided for under C.G.S. § 8-8.

**§ 319-7. Rights in abutting properties.**

The lawful rights of all parties in property abutting a road or portion of road designated scenic shall not be diminished in any way.

**§ 319-8. Scenic road maintenance.**

- A. Scenic road designation shall not in any way relieve the Town of Winchester of its responsibility under state statutes to maintain such road or portion thereof in a safe and passable condition.
- B. The following maintenance work may be initiated by the Town of Winchester Director of Public Works or by any legally recognized public utility (i.e., CL and P, SBC, Yankeeegas) as they so determine the need for such work:
- (1) Tree pruning or brush cutting.
  - (2) Removal of dead or fallen trees.
  - (3) Resurfacing existing roadway width.
    - (a) Bituminous concrete pavement (including reclamation).
    - (b) Oil and/or chips.
    - (c) Gravel for unpaved roads.
  - (4) Drainage structure cleaning, repair or replacement.
    - (a) Culverts.
    - (b) Catch basins.
    - (c) Existing drainage ditches.

**§ 319-9. Scenic road reconstruction.**

- A. Scenic road reconstruction shall not be permitted without recorded written permission from the Town of Winchester Director of Public Works, Planning Director, Planning and Zoning Commission and the Board of Selectmen.
- B. No road which has been designated as a scenic road under this chapter shall be altered or improved, including, but not limited to, widening of the right-of-way or of the

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traveled portion of the highway, paving, changes in grade, straightening, removal of stone walls and removal of mature trees, streetlights, traffic signs, guard rails, painting lines, construction of curbs and catch basins and sidewalks, except for good cause as determined by the Planning and Zoning Commission. The Planning and Zoning Commission may hold a public hearing on the proposed alteration or improvement. The Planning and Zoning Commission shall state the reasons for such future alterations or improvements in its minutes.

- C. Nothing in this section shall be deemed to prohibit anyone owning or occupying land abutting a scenic road from maintaining and repairing the land which abuts the scenic road if the maintenance occurs on land not within the right-of-way, paved or unpaved, of the scenic road.

## Chapter 323

### SEWERS

§ 323-1. Purpose and intent.

§ 323-2. Definitions.

§ 323-3. Use of public sewers required.

§ 323-4. Private sewage disposal.

§ 323-5. Building sewers and connections.

§ 323-6. Use of public sewers.

§ 323-7. Protection from damage.

§ 323-8. Right of entry for inspection and enforcement.

§ 323-9. Penalties for offenses.

§ 323-10. Liens.

§ 323-11. Assessments, charges and rentals.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 1-1-1953; amended effective 6-1-1955; 8-1-1989 (§ 49 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### § 323-1. Purpose and intent.

There is hereby enacted an ordinance regulating the use of public and private sewers and drains, sewage disposal, the installation and connection of building and house sewers, the discharge of waters and wastes into the public sewer system and providing penalties for violation thereof; and for the establishment of rates and charges for the connection to and use of the public sewer system in the Town of Winchester, County of Litchfield and State of Connecticut.

#### § 323-2. Definitions.

Unless specifically indicated otherwise in the content, terms used in this chapter shall have the following meanings:

**BOD** (denoting BIOCHEMICAL OXYGEN DEMAND) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

**BUILDING CODE** — The Building Code of the Town of Winchester, including amendments or additions thereto, and shall include the Plumbing Code therein contained.

**BUILDING DRAIN** — Includes, where appropriate, the house drain, and shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

**BUILDING SEWER** — Includes the term "house sewer" where appropriate and shall mean the extension from the building drain to the public sewer or other place of disposal.

**GARBAGE** — Wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce; and shall include such wastes as defined above which

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have been shredded to such degree that all particles will be carried freely under normal flow conditions in the public sewer, with no particle greater than 1/2 inch in any dimension.

INDUSTRIAL WASTES — The liquid wastes from industrial processes as distinct from sanitary sewage.

PERSON — Any individual, firm, company, association, society, corporation or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

SANITARY SEWER — A sewer which carries sewage and to which storm-, surface and groundwaters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground-, surface and stormwaters as may be present.

SEWAGE WORKS — All facilities for collecting, pumping, treating and disposing of sewage, and shall include both public and private sewage facilities within the Town of Winchester.

SEWER COMMISSION — The Water and Sewer Commission of the Town of Winchester as defined in Section 605 of the Town Charter, as amended. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

SUPERINTENDENT — The Superintendent of Public Works of the Town of Winchester, or his authorized assistant, deputy, agent or representative.

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

### **§ 323-3. Use of public sewers required.**

- A. It shall be unlawful to discharge, from any source within the Town of Winchester, any sanitary sewage, garbage, industrial wastes or other polluted waters except in accordance with the provisions of this chapter.
- B. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- C. The owner of each house, building or property intended or used for human occupancy, employment, recreation or other purposes within the Town of Winchester bordering or abutting upon streets, roads and highways within said Town in which there is now constructed or in which there may hereafter be constructed a public sanitary sewer is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with this chapter within 90 days after official written notice to do so; provided, however, that no such connection to the public sewer shall be required where the building sewer would exceed 100 feet in length.

**§ 323-4. Private sewage disposal.**

Where no connection to any public sewer shall be required as set forth in § 323-3C, the building drain may be connected to a private disposal system, constructed and maintained in accordance with the provisions of the Building Code of the Town of Winchester; or at his own expense the owner may connect the building drain into the public sewer system.

**§ 323-5. Building sewers and connections.**

- A. No person shall uncover, make connection with, or opening into, use, alter or disturb any part of the public sewage works without first obtaining a written permit from the Superintendent of Public Works.
- B. There shall be two classes of building sewer permits: 1) for residential and commercial service, and 2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for a residential or commercial building sewer permit or for an industrial building sewer permit, in amounts set from time to time by the Water and Sewer Commission, shall be paid to the Town Treasurer at the time the application is filed. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**
- C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- E. Old house sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.
- F. The building sewer shall be cast iron soil pipe, current ASTM specification or equal; vitrified clay sewer pipe, current ASTM specification or equal; or other suitable material approved by the Superintendent. Joints shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipe with leaded joints may be required by the Superintendent where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent.
- G. The size and slope of the building sewer shall be subject to the approval of the Superintendent, but the diameter shall not be less than six inches; except that in

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connection with dwelling houses of not exceeding two families, four-inch heavy-duty cast iron pipe may be used. The slope of such pipe shall be not less than 1/8 inch per foot.

- H. Jointing materials and methods shall be approved by the Superintendent.
- I. The connection of the building sewer into the public sewer shall be made at a Y branch if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less and no properly located Y branch is available, the owner shall, at his expense, install a Y branch in the public sewer at the location specified by the Superintendent. Where the public sewer is greater than 12 inches in diameter and no properly located Y branch is available, a neat hole may be cut into the public sewer to receive the building sewer. Each such connection shall be made in a manner and with such fittings as shall be approved by the Superintendent, and no such connection shall be covered until inspected and approved by the Superintendent.
- J. A house trap shall be placed immediately within the building wall and connected to the building drain, except where the owner shall, for good cause shown, receive permission from the Superintendent to place said trap at another point along the building drain or sewer. The trap shall be of cast iron, with two hand-holes furnished with brass screw-top cleanouts. A fresh air inlet branch shall be placed on the house side of the trap, with a pipe of the same diameter and material as the trap and building drain extended to a point five feet outside the building and to a point not less than six feet distant from any door, window or other opening in the building. The pipe may finish in the wall of the building, with a suitable barred grating, or may be extended above the surface of the ground to a height of not less than one foot and finished with a bell top or return bend of the same diameter as the pipe.
- K. Where the building drain passes through the wall of the building to the connection to the building sewer it shall be cast iron. No tile or fabricated pipe will be permitted.

#### **§ 323-6. Use of public sewers.**

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.
- B. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
  - (1) Any liquid or vapor having a temperature higher than 150° F.
  - (2) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease.
  - (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (4) Any garbage that has not been properly shredded.
  - (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of



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causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

- (6) Any waters or wastes having a pH lower than 5.5 or higher than 9.0, or having other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (7) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.
- (8) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

C. Grease, oil and sand interceptors.

- (1) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
- (2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- (3) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

D. Discharges subject to review; required pretreatment.

- (1) The admission into the public sewers of any waters or wastes a) having a five-day biochemical oxygen demand greater than 300 parts per million by weight, or b) containing more than 350 parts per million by weight of suspended solids, or c) containing any quantity of substance having the characteristics described in Subsection B, or d) having an average daily flow greater than 2% of the average daily sewage flow of the Town shall be subject to the review and approval of the Superintendent.
- (2) Where necessary, in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:
  - (a) Reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to 350 parts per million by weight; or

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- (b) Reduce objectionable characteristics or constituents to within the maximum limits provided for in Subsection B; or
  - (c) Control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and of the State Water Commission and Department of Health of the State of Connecticut, and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- E. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- F. When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- G. All measurements, tests and analyses of the characteristics of water and waste to which reference is made in Subsections B and D shall be determined in accordance with Standard Methods for the Examination of Water and Sewage, and shall be determined at the control manhole provided for in Subsection F, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
- H. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern.

**§ 323-7. Protection from damage. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, and subject to the maximum fine permitted by state law for each violation.

**§ 323-8. Right of entry for inspection and enforcement.**

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

**§ 323-9. Penalties for offenses.**

- A. Any person who shall violate any provisions of this chapter shall be served with written notice setting forth the nature of the violation and requiring that the same be satisfactorily corrected within a time set forth in said notice, which time shall be reasonable considering the nature and circumstances of the violation. Any person so served shall, within the time stated in such notice, permanently cease all violations of this chapter.
- B. Any person who shall continue any violation beyond the time set forth in any notice served upon him in accordance with the provisions of Subsection A of this section shall forfeit to the Town and pay to the Treasurer thereof the maximum fine permitted by state law for each such violation, and may be prosecuted criminally for such violation and fined the maximum fine allowed by state law for each offense; provided, however, that each day in which any such violation shall continue shall be deemed a separate offense; and provided further that no person shall be sued in a civil action and prosecuted criminally by the Town for the same offense. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. Any person violating any of the provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

**§ 323-10. Liens.**

- A. Whenever any person shall be ordered to make any connection as set forth in § 323-3C of this chapter, and when any person shall have been ordered to discontinue any violation as set forth in § 323-9A and shall fail to do so within the time set forth in said notice, the Superintendent may cause the same to be done, and collect the expense thereof from such person; such expense shall become a lien against the property of such person until paid, and all provisions of the General Statutes relating to the recording, continuing and releasing of property tax liens shall apply.
- B. The provisions of Subsection A of this section shall be in addition to, and not in derogation of, the provisions of Section 1406 of the Charter of the Town of Winchester, as amended. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 323-11. Assessments, charges and rentals.**

The Sewer Commission shall have the authority to establish assessments, charges, rentals and connection fees in accordance with the provisions of the Connecticut General Statutes.



## Chapter 330

### SMOKING AND CANNABIS USE

- |                                                                                                                                                                                                             |                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| <p><b>§ 330-1. Smoking and vaping restricted.</b></p> <p><b>§ 330-2. Use of cannabis on Town land restricted.</b></p> <p><b>§ 330-3. Use of cannabis in outdoor sections of restaurants restricted.</b></p> | <p><b>§ 330-4. Penalties for offenses.</b></p> <p><b>§ 330-5. Enforcement.</b></p> <p><b>§ 330-6. When effective.</b></p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 6-6-2022. Amendments noted where applicable.]**

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**§ 330-1. Smoking and vaping restricted.**

No person shall use, light or smoke a lighted cigarette, cigar, cigarillo, vape product, pipe or other smoking or vaping paraphernalia, as defined in the Connecticut General Statutes, in any form in or upon any building, park, playground, recreation area, athletic facility, beach or area of assembly owned, leased or controlled by the Town of Winchester as may be specifically designated by the Winchester Board of Selectmen.

**§ 330-2. Use of cannabis on Town land restricted.**

No person shall use, light, smoke or otherwise consume cannabis products, including, but not limited to, vape pens, edibles, cigarettes and other related products, as defined in the Connecticut General Statutes, in any form in or upon any building, park, playground, recreation area, athletic facility, beach or area of assembly owned, leased or controlled by the Town of Winchester as may be specifically designated by the Winchester Board of Selectmen.

**§ 330-3. Use of cannabis in outdoor sections of restaurants restricted.**

No restaurant shall permit the use or consumption of cannabis products, including, but not limited to, vape pens, edibles, cigarettes and other related products, as defined in the Connecticut General Statutes, in any form at outdoor sections of its facility that it in any way owns, leases, or controls, and the restaurant shall be held responsible for infractions of this section.

**§ 330-4. Penalties for offenses.**

- A. Violation of § 330-1 of this chapter shall constitute an infraction as defined in C.G.S. § 51-164m and/or may be punishable by a municipal fine of \$50.
- B. Violation of § 330-2 of this chapter shall constitute an infraction as defined in C.G.S. § 51-164m and may be punishable by a fine of \$50.

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- C. Violation of § 330-3 of this chapter shall constitute an infraction as defined in C.G.S. § 51-164m and may be punishable by a fine of not more than \$1,000 for the restaurant at which the infraction occurred.

**§ 330-5. Enforcement.**

Members of the Winchester Police Department shall be charged with the enforcement of this chapter and may issue an infraction summons or a citation for infractions as defined herein. Additionally, agents and employees of the Town of Winchester, including coaches or officials participating in any athletic event in or upon any Town-owned athletic or recreation facility, are authorized to enforce this chapter through the exclusion of the violator from the athletic event or recreational facility.

**§ 330-6. When effective.**

This chapter shall be effective 15 calendar days following the Board of Selectmen's adoption of this chapter.

## Chapter 334

### SPECIAL EVENTS

- |                                                                                                                                                                                                        |                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>§ 334-1. Intent.</p> <p>§ 334-2. Definitions.</p> <p>§ 334-3. License required; application; hearing.</p> <p>§ 334-4. Application contents; fee.</p> <p>§ 334-5. Persons eligible for licenses.</p> | <p>§ 334-6. Transfer of license; operating restrictions.</p> <p>§ 334-7. Revocation of license.</p> <p>§ 334-8. Penalties for offenses.</p> <p>§ 334-9. Severability.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**[HISTORY: Adopted by the Town of Winchester effective 8-12-1974 (§ 116 of the prior compilation). Amendments noted where applicable.]**

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#### § 334-1. Intent.

The regulation of special events and the supervision of such events are hereby declared necessary for the protection of the health, property, safety and welfare of the public.

#### § 334-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**SPECIAL EVENT** — Any public gathering of more than 500 persons but less than 3,000 persons assembled at one time for one particular event held out of doors. The term "special event" shall not be interpreted to include the normal operation of existing enterprises.

#### § 334-3. License required; application; hearing.

No special event shall be held without a valid license. Application for a license for the holding of such a performance shall be made to the Board of Selectmen at least 30 days before the opening day of the proposed performance, except that the Board of Selectman may, for good cause, waive this thirty-day requirement. A public hearing may be held if the same is deemed necessary or advisable by the Board of Selectmen. Such public hearing shall be held not more than 10 days after receipt of the application after public notice in a newspaper having a circulation in said Town at least three days before the day of such hearing. The application shall be granted or denied within five days after such hearing; and if no hearing is held, the application shall be granted or denied within 15 days after receipt of the application.

#### § 334-4. Application contents; fee. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The application for such a license shall be made in the name of the person or persons, corporation, club or association responsible for the presentation. A fee as set from time to

time by the Board of Selectmen shall be paid at the time of the application, except that no fee shall be required of a charitable or nonprofit organization. The application shall contain the following information under oath:

- A. Names of applicants and, if a partnership, the names of all partners; if a corporation, club or association, the names of the officers thereof.
- B. The residence of the applicants.
- C. Age of all the applicants; if a corporation, club or association, the date incorporated or organized under the laws of what state.
- D. Type of business or activity.
- E. Whether the applicants, or if a corporation, club or association, the officers thereof, have ever been convicted of a crime.
- F. Description of the type of event to be held and dates and hours to be held. No license shall be valid for more than three consecutive days.
- G. Location where event will be held.
- H. That the proposed activity will comply with the Town's Zoning Regulations.<sup>1</sup>
- I. Anticipated maximum number of persons who will be assembled at one time for the event: No persons in excess of this number shall be permitted within the confines of the site of the event.
- J. Plot plan or sketch of facilities and description of plans to comply with local, state and other applicable standards for:
  - (1) Parking.
  - (2) Food services.
  - (3) Drinking water.
  - (4) Toilets.
  - (5) Lodging.
  - (6) Fire prevention.
  - (7) Fire protection.
  - (8) Refuse disposal.
  - (9) Law enforcement.
  - (10) Traffic control.
  - (11) First aid.

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1. Editor's Note: See Ch. 415, Zoning Regulations.



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- K. The facilities described shall be subject to review by the Fire Marshal, Building Official, Chief of Police and Director of Health of the Town within 48 hours of the time that the event is scheduled to begin.

**§ 334-5. Persons eligible for licenses.**

Licenses shall be granted by the Board of Selectman only to suitable persons over 18 years of age or corporations, clubs or associations whose officers are all over 18 years of age and upon a finding that the business or activity in such a location is a bona fide and otherwise lawful one and after ascertaining that adequate provision has been made to meet the requirements for the items specified in § 334-4J of this chapter and these items have been approved by the authorities designated in § 334-4K.

**§ 334-6. Transfer of license; operating restrictions.**

No license may be transferred by a licensee to any other person, corporation, partnership, club or association. The licensee shall maintain proper sanitary conditions and continue to provide adequate standards for all items covered by the application throughout the period of the activity and shall be responsible for payment of police officers needed and other expenses incurred to comply with this chapter for the period of the activity.

**§ 334-7. Revocation of license.**

The Board of Selectman shall have the power to revoke any license issued hereunder for cause, after due notice. Cause shall be deemed to include, but shall not be limited to, false information in the application for a license knowingly given, failure to show good intent to comply with the condition under which the license has been granted, any violation of this chapter or conviction of a crime involving moral turpitude subsequent to the issuance of the license.

**§ 334-8. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, corporation, partnership, club or association violating any of the provisions of this chapter shall be fined not more than \$100 for each offense. Each day on which any provision of this chapter is violated shall constitute a separate offense.

**§ 334-9. Severability.**

Each separate provision of this chapter shall be deemed independent of all other provisions herein and if any provision of this chapter shall be declared invalid, all other provisions thereof shall remain valid and enforceable.



## **Chapter 340**

### **STREETS AND SIDEWALKS**

#### **ARTICLE I** **Excavations**

- § 340-1. Permit required; fee; term.**
- § 340-2. Application for permit; indemnification of Town.**
- § 340-3. Construction standards.**
- § 340-4. Penalties for offenses.**
- § 340-5. Delegation of authority.**

#### **ARTICLE II** **Doors and Gates over Sidewalks**

- § 340-6. Door not to swing over sidewalk.**
- § 340-7. Penalties for offenses.**

#### **ARTICLE III** **Hatchway Entrance Through Sidewalks**

- § 340-8. Permit required; application.**
- § 340-9. Safety standards.**
- § 340-10. Inspection by Director of Public Works.**
- § 340-11. Penalties for offenses.**

#### **ARTICLE IV** **Supervision of Sidewalks**

- § 340-12. Duty of Director of Public Works.**

#### **ARTICLE V** **Removal of Snow, Ice and Debris on Sidewalks**

- § 340-13. Snow, plantings and debris removal.**
- § 340-14. Treatment of ice-covered sidewalks.**
- § 340-15. Penalties for offenses.**

#### **ARTICLE VI** **Liability for Snow and Ice on Sidewalks**

- § 340-16. Adoption of statutory provisions.**
- § 340-17. Limitations on Town liability.**
- § 340-18. Owner responsibilities and liability.**

#### **ARTICLE VII** **Naming of Streets**

- § 340-19. Authority of Selectmen; streets in subdivisions.**
- § 340-20. Authority to change names.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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## ARTICLE I

**Excavations**

**[Adopted as amended effective 7-1-1966 and 11-1-1988 (§ 4 of the prior compilation)]**

**§ 340-1. Permit required; fee; term. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person, firm or corporation shall make any opening or excavation in any street, highway, public right-of-way or sidewalk, except a state highway, for any purpose whatever except under the control and direction of the Board of Selectmen and only after receipt of a permit and except in conformity with this article. The fee for this permit shall be set from time to time by the Board of Selectmen, and all permits shall expire 30 days after issuance unless sooner revoked.

**§ 340-2. Application for permit; indemnification of Town. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Applications for such permit shall be made to the Director of Public Works or his designee, and the applicant shall furnish to the Director of Public Works or his designee evidence of insurance or shall furnish a bond with sufficient surety that the Town and its officers, agents and employees shall be saved harmless from all claims, suits, liability and actions for, or on account of, any injuries or damage received or sustained by any person or corporation in consequence of, or resulting from, any act done or work performed by said applicant, his servants or agents, including any injuries or damages received or sustained from the time of the commencement of the work to and including a period of one year after the opening shall have been repaved.

**§ 340-3. Construction standards.**

Whenever any opening or excavation shall be made in any street, highway, public right-of-way or sidewalk, the person, firm or corporation making such opening or excavation shall, as soon thereafter as possible, thoroughly and completely fill such opening or excavation and tamp and puddle the earth therein so that the same shall not settle and shall restore and repave the immediate area to the condition in which it existed before such opening or excavation was made and to the satisfaction of the Board of Selectmen and also, from time to time, for one year thereafter shall make such repairs as may be deemed necessary. If any such opening or excavation shall not be refilled, repaired and maintained safely and in repair, it shall be the duty of the Town to do such repairs and to charge the expenses thereof against the permittee making such opening or excavation, which expense shall be collected from the permittee by any proper action. In such proper action, it shall be the obligation of the permittee to pay all expenses of such legal action together with all reasonable attorney's fees of the Town. Any permittee may request that the excavation, when backfilled and tamped and puddled, shall be repaved by the Town of Winchester, and in the event of such request the applicant shall pay to said Town the estimated cost of said repaving as established by the Superintendent of Public Works.

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## STREETS AND SIDEWALKS

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**§ 340-4. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, or any member of a firm, or any officer of a corporation or firm violating any provision of this article shall be fined not more than \$100 per day for each offense. Each additional day of violation shall constitute an additional offense.

**§ 340-5. Delegation of authority.**

The Board of Selectmen of the Town may delegate its authority, but not its responsibility, in this matter to any qualified and competent person or persons selected by it.

## ARTICLE II

**Doors and Gates over Sidewalks****[Adopted as §§ 2 and 29 of the prior compilation]****§ 340-6. Door not to swing over sidewalk.**

No person shall place or keep any door or gate which swings over or upon any sidewalk in the Town.

**§ 340-7. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Every person who shall violate any of the provisions of this article shall, upon conviction, pay a fine of not more than \$100 per day. Each additional day of violation shall constitute an additional offense. In addition, the offender must pay to abate the nuisance.

## ARTICLE III

**Hatchway Entrance Through Sidewalks****[Adopted effective 10-1-1914 (§ 5 of the prior compilation)]****§ 340-8. Permit required; application. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person, firm or corporation, or officers or employees of any corporation, shall dig any hatchway entrance through or into a sidewalk or footpath in any highway in the Town of Winchester until he shall have applied for and secured from the Board of Selectmen a permit therefor, nor shall any person make any opening in, or tear up any sidewalk or portion thereof, except for the purpose of repairing such walk or footpath, without permission from the Board of Selectmen or the Director of Public Works or his designee. All application for permits to erect any hatchway must be in writing and must state the location of said hatchway, dimensions of the same, material of which the same is to be constructed and covered, and must be signed by the owner or person having control of the property into which said hatchway leads.

**§ 340-9. Safety standards.**

Any person, firm or corporation maintaining a hatchway through or so close to any sidewalk or footpath as to endanger the public thereby shall maintain the same in a safe condition by placing such covering over the entrance to such hatchway or such railing or guard around the same, of such material, within such time and according to the directions of the Board of Selectmen.

**§ 340-10. Inspection by Director of Public Works. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

It shall be the duty of the Director of Public Works or his designee to observe the condition of all hatchways which extend into the sidewalks or footpaths of the Town, or which extend so close to any sidewalk or footpath as to endanger the public thereby, and for that purpose he is hereby authorized to enter the basements or cellars of buildings where such hatchways or entrances exist and shall recommend to the Board of Selectmen, from time to time, such changes in or repairs of any hatchway as in his opinion public safety and convenience require.

**§ 340-11. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who shall violate any provisions of this article, or who shall fail to comply with any order of the Board of Selectmen concerning the maintenance and repair of any hatchway, shall be fined not more than \$100 per day. Each additional day of violation shall constitute an additional offense. In addition, the offender must pay to abate the nuisance.

## ARTICLE IV

**Supervision of Sidewalks**

**[Adopted as § 6 of the prior compilation; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 340-12. Duty of Director of Public Works.**

It shall be the duty of the Director of Public Works or his designee to keep strict supervision over all sidewalks and crosswalks of whatever material the same may be composed, which have been laid out or may hereafter be laid out in the Town, and see that said sidewalks and crosswalks are always kept in good repair, clean and free from dirt, snow, ice, rubbish or other material and obstructions; and it shall also be the duty of said Director to execute all orders of the Board of Selectmen in reference to the building, maintaining and repairing of sidewalks and crosswalks and railings, and to see that all ordinances of the Board of Selectmen in reference to the removal of dirt, snow, ice, rubbish or other material or obstructions from the sidewalks and crosswalks in the Town are complied with, and the due observance of all bylaws relating to sidewalks and crosswalks in the Town are complied with and the enforcement thereof.

## ARTICLE V

**Removal of Snow, Ice and Debris on Sidewalks**

**[Adopted by the Board of Selectmen as §§ 7, 8 and 29 of the prior compilation;  
amended in its entirety 1-6-2014]**

**§ 340-13. Snow, plantings and debris removal. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- A. It shall be the duty of the owners or occupants of the property adjoining sidewalks to clear the same from ice and snow within 24 hours after the depositing or accumulation thereof upon such sidewalks; and it shall also be the duty of any such owner or occupant, immediately after the ceasing of any snow or ice storm, to immediately remove all ice and snow from such sidewalk.
- B. It shall be the duty of the owners or occupants of the property adjoining sidewalks to clear and maintain the same free from plantings and debris, including grass, shrubs, leaves, branches and twigs, including branches and twigs overhanging the sidewalk at a distance of less than eight feet above the sidewalk.

**§ 340-14. Treatment of ice-covered sidewalks.**

It shall be the duty of every owner or occupant of real estate adjoining any sidewalk, in the event that ice upon such sidewalk cannot be removed, to immediately sprinkle and cover the surface of such ice with common ice safety materials, such as sand and/or salt, so as to make the same safe for public travel and prevent people using the same from falling or slipping down thereon.

**§ 340-15. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Except as otherwise provided in this article, every person who shall violate any of the provisions of this article shall, upon conviction, pay a fine of not more than \$100.

## ARTICLE VI

**Liability for Snow and Ice on Sidewalks**

**[Adopted effective 1-11-1982 (§ 123 of the prior compilation)]**

**§ 340-16. Adoption of statutory provisions.**

The provisions of Public Act No. 81-340<sup>1</sup> are hereby adopted, and are set forth in §§ 340-17 and 340-18 hereof.

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<sup>1</sup> Editor's Note: See C.G.S. § 7-163a.

**§ 340-17. Limitations on Town liability.**

Notwithstanding the provisions of C.G.S. § 13a-149 or any other statute or special act, the Town of Winchester shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the Town of Winchester is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or a street, provided the Town of Winchester shall be liable for its affirmative acts with respect to such sidewalk.

**§ 340-18. Owner responsibilities and liability.**

- A. The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of this article adopted pursuant to the provisions of Public Act No. 81-340<sup>2</sup> and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.
- B. No action to recover damages for injury to the person or to the property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

## ARTICLE VII

**Naming of Streets**

**[Adopted by the Board of Selectmen 10-4-1993 (§ 164 of the prior compilation)]**

**§ 340-19. Authority of Selectmen; streets in subdivisions.**

Any street in the Town of Winchester for which no name has been adopted shall, either upon its acceptance as a public street or after such acceptance, be named by the Board of Selectmen. However, the naming of streets in proposed subdivisions shall be governed by § 400-42 of the Town's Subdivision Regulations.

**§ 340-20. Authority to change names.**

The Board of Selectmen shall have authority to change the name of any street or highway or part thereof within the Town when it is of the opinion that public convenience and necessity requires such change of name. No such ordinance shall be adopted, however, until after a public hearing has been held by the Board of Selectmen on any proposed change in the name of a street or highway and public notice of such hearing has been published in a daily newspaper circulated in the Town at least five days prior to said hearing.

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2. Editor's Note: See C.G.S. § 7-163a.



## Chapter 345

### SWIMMING POOLS

**§ 345-1. Enclosure.****§ 345-2. Construction of enclosures.****§ 345-3. Pools with walls above ground.****§ 345-4. Enforcement; penalties for offenses; appeals.****§ 345-5. Inspections.****§ 345-6. Applicability of State Building Code.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 11-18-1991 (§ 159 of the prior compilation). Amendments noted where applicable.]**

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**§ 345-1. Enclosure.**

Any outdoor in-ground or above-ground swimming pool capable of holding two feet of water in depth at any point shall be completely enclosed by means of a secure fence or wall not less than four feet above the ground at any point. All openings in the fence or wall shall be secured by a gate or door equipped with a self-closing, self-latching mechanism placed at least four feet (1,219 mm) above the ground and made inaccessible from the outside to small children, except that this requirement shall not apply to any door leading from the dwelling to which the fence or wall is attached. A natural barrier, hedges or pool cover is not permitted as an enclosure.

**§ 345-2. Construction of enclosures.**

Enclosure fences shall be constructed so as to prohibit the passage of a sphere larger than four inches (102 mm) in diameter through any opening or under the fence. Fences shall be designed to withstand a horizontal concentrated load of 200 pounds (91 kg) applied on a one-square-foot (0.093 m<sup>2</sup>) area at any point of the fence.

**§ 345-3. Pools with walls above ground.**

Any outdoor swimming pool which is two feet in depth and the top of whose walls and surrounding deck are four feet or more above the ground at all points shall comply with the requirements of § 345-1 or, in lieu thereof, shall have removable swing-up ladders or steps at all points of access to the deck or pool. These steps or ladders shall be swung up or removed whenever the pool is not in use.

**§ 345-4. Enforcement; penalties for offenses; appeals. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Building Official shall be responsible for enforcement of the provisions of this chapter. Any owner of a swimming pool found to be in violation of the provisions of this chapter who, after written warning by certified mail, fails to correct the violation within 30 days shall

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be fined \$100 for each day thereafter that the violation is allowed to continue. Any person cited hereunder may appeal the enforcement officer's decision to the Town Manager within 10 days after receipt of written warning by the Building Official. The Town Manager is authorized to enforce the provisions of this chapter against any noncomplying owner of a swimming pool by obtaining a court-ordered injunction. Any expenses or costs incurred in obtaining a judicial order will be assessed against the owner.

**§ 345-5. Inspections.**

A final inspection shall be required for all new pool permits by the office of the Building Official.

**§ 345-6. Applicability of State Building Code.**

The requirements and penalties of this chapter shall be in addition to those contained in the Connecticut State Building Code and shall apply to any pool presently in existence and any future pools built in the Town of Winchester.

## **Chapter 350**

### **TAXATION**

#### **ARTICLE I Payment of Taxes**

**§ 350-1. Installment payments.**

#### **ARTICLE II Exemption for Solar Energy Systems**

**§ 350-2. Exemption granted; term.**

**§ 350-3. Definitions.**

**§ 350-4. Application for exemption.**

#### **ARTICLE III Waiver of Minimum Taxes**

**§ 350-5. Waiver amount.**

#### **ARTICLE IV Exemption for Blind Persons**

**§ 350-6. Adoption of statutory provisions.**

#### **ARTICLE V Exemption for Specially Adapted Motor Vehicles**

**§ 350-7. Exemption granted; application; determination by Assessor; annual filing.**

#### **ARTICLE VI Exemption for Veteran's Property With Specially Adapted Housing**

**§ 350-8. Exemption granted.**

#### **ARTICLE VII Exemption for Former Hospital Property**

**§ 350-9. Exemption granted; conditions.**

#### **ARTICLE VIII Tax-Exempt Property**

**§ 350-10. Effective date of exemptions.**

**§ 350-11. Reimbursement of tax-exempt organizations.**

#### **ARTICLE IX Tax Relief for Senior Citizens and Disabled Persons**

**§ 350-12. Eligibility.**

**§ 350-13. Tax deferral.**

**§ 350-14. Application for exemption; action on application; appeals.**

**§ 350-15. Curtilage.**

#### **ARTICLE X Senior Citizen Tax Freeze**

**§ 350-16. Authority.**

**§ 350-17. Eligibility.**

**§ 350-18. Application for tax relief.**

**§ 350-19. Property transfers.**

**§ 350-20. Authority to file lien.**

**§ 350-21. False statement penalties.**

**§ 350-22. Word usage.**

#### **ARTICLE XI Tax Abatement for Affordable Housing**

**§ 350-23. Authority.**

**§ 350-24. Contract requirements.**

**§ 350-25. State reimbursement or payment.**

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## ARTICLE XII

**Motor Vehicle Delinquency Fee**

§ 350-26. Fee for reported delinquencies.

## ARTICLE XIII

**Veterans Exemption**

§ 350-27. Purpose and authority.

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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## ARTICLE I

**Payment of Taxes**

**[Adopted 10-4-1965 ATM; amended 1-20-2009 (§ 61 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 350-1. Installment payments.

Taxes for fiscal years commencing on and after July 1, 2009, shall be payable in two installments, one-half on July 1 and the second half on the following January 1; unless the total tax payable on any list shall be not more than \$100, in which case the full amount shall be due and payable on July 1 in each year, commencing July 1, 2009.

## ARTICLE II

**Exemption for Solar Energy Systems**

**[Adopted effective 4-15-1978 (§ 118 of the prior compilation)]**

§ 350-2. Exemption granted; term. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any building or addition to a building, the construction of which is commenced on or after October 1, 1976, and before October 1, 1991, which is equipped with an active solar energy heating or cooling system, to the extent of the amount by which the assessed valuation of such real property equipped with such active solar heating or cooling system exceeds the assessed valuation of such real property equipped with the conventional portion of the heating or cooling system, exclusive of any portion of such system related to solar energy, is exempt from assessment. This exemption shall only apply to the first 15 assessment years following construction of such building or addition.

§ 350-3. Definitions. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

As used in this article, the following terms shall have the meanings indicated:

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ACTIVE SOLAR HEATING OR COOLING SYSTEM — Equipment, including windmills and waterwheels, which provides for the collection, transfer, storage and use of incident solar energy for water heating, space heating or cooling, which, absent such solar energy system, would require a conventional energy resource, such as petroleum products, natural gas or electricity, which employs mechanical means such as fans or pumps to transfer energy and which meets standards established by regulation by the Secretary of the Office of Policy and Management.

**§ 350-4. Application for exemption.**

Any person who desires to claim the exemption provided herein shall file with the Assessor, within 30 days following the annual assessment date, written application claiming such exemption on a form as prescribed by the Tax Commissioner. Failure to file such application in said manner and form within the time limit prescribed shall constitute a waiver of the right to such exemption for the assessment year.

## ARTICLE III

**Waiver of Minimum Taxes**

**[Adopted effective 3-15-1982 (§ 125 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 350-5. Waiver amount.**

In accordance with C.G.S. § 12-144c, as amended, the payment of any property tax due and owing the Town of Winchester in an amount less than \$5 shall be waived.

## ARTICLE IV

**Exemption for Blind Persons**

**[Adopted effective 8-12-1985 (§ 140 of the prior compilation)]**

**§ 350-6. Adoption of statutory provisions.**

The Town of Winchester hereby enacts the provisions of Public Act No. 85-165<sup>1</sup> authorizing an additional tax assessment exemption of up to \$2,000 to qualifying blind individuals.

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<sup>1</sup> Editor's Note: See C.G.S. § 12-81j.

## ARTICLE V

**Exemption for Specially Adapted Motor Vehicles**  
**[Adopted by the Board of Selectmen effective 10-21-1990 (§ 155 of the prior compilation)]**

**§ 350-7. Exemption granted; application; determination by Assessor; annual filing.**

Pursuant to C.G.S. § 12-81c, privately owned motor vehicles which are used for the purpose of transporting medically incapacitated individuals shall be exempt from personal property taxation in the Town of Winchester.

- A. This exemption shall not apply to any vehicle used to transport any such individual for payment.
- B. Any owner of such a vehicle desiring to claim the exemption provided by this article shall complete and file an application with the Assessor's office annually between September 1 and October 31.
- C. The Assessor's office shall inspect said vehicle and determine whether such vehicle is eligible for said tax exemption. In making his/her determination, the Assessor shall consider the extent to which said motor vehicle has been modified to accommodate medically incapacitated individuals, including, but not limited to, whether said vehicle is equipped with specially designed hand, foot or hand and foot controls, wheelchair lifts or hoists.
- D. Taking into consideration the permanent status of the client's disability, the Tax Assessor, at his/her discretion, may exempt said application from the requirement to file annually for renewal. However, if annual application renewal is not waived by the Assessor, failure to file an application for said exemption annually shall result in the loss of the tax exemption for said year.

## ARTICLE VI

**Exemption for Veteran's Property With Specially Adapted Housing**  
**[Adopted by the Board of Selectmen effective 10-21-1990 (§ 156 of the prior compilation)]**

**§ 350-8. Exemption granted. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Pursuant to Title 38 of the United States Code, the dwelling house and the lot whereupon the same is erected, belonging to or held in trust for any citizen and resident of this state, occupied as his domicile shall be fully exempt from local property taxation if he/she is a veteran who served in the Army, Navy, Marine Corps, Coast Guard or Air Force of the United States and has received financial assistance for specially adapted housing under the provisions of 38 U.S.C. § 2101 and has applied such assistance toward the acquisition of such dwelling house. The same exemption may also be allowed on such housing units owned by the unremarried surviving spouse of such veteran, or by such veteran and spouse while occupying such premises as a residence.

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## ARTICLE VII

**Exemption for Former Hospital Property****[Adopted by the Board of Selectmen effective 9-24-1997 (§ 174 of the prior compilation)]****§ 350-9. Exemption granted; conditions.**

Any portion of the real or personal property of the former Winsted Memorial Hospital leased to a hospital or health-care organization, exempt from taxation for federal income tax purposes, shall be exempt from municipal taxation, provided such property is used exclusively for tax-exempt purposes.

## ARTICLE VIII

**Tax-Exempt Property****[Adopted by the Board of Selectmen 10-4-1999 (§ 177 of the prior compilation)]****§ 350-10. Effective date of exemptions.**

Any property tax exemption authorized by C.G.S. § 12-81(7) to (16), inclusive, shall be effective as of the date of acquisition of the property to which the exemption applies.

**§ 350-11. Reimbursement of tax-exempt organizations.**

The Tax Collector is authorized to reimburse the tax-exempt organization which qualifies under the above statute for any taxes paid after the acquisition of the property, including taxes the tax-exempt organization reimbursed the prior owner for taxes owed after the date of acquisition.

## ARTICLE IX

**Tax Relief for Senior Citizens and Disabled Persons****[Adopted by the Board of Selectmen 11-7-2005; amended 3-17-2008 (§ 185 of the prior compilation)]****§ 350-12. Eligibility.**

Any person who owns real property in the Town or who is liable for the payment of taxes thereon under C.G.S. § 12-48, and occupies that property as his or her own principal residence, shall be eligible for the real property tax relief set forth herein, provided all of the conditions set forth below are met. For purposes of this article, the term "spouse" shall include parties to a civil union which is in compliance with Public Act No. 05-10.

**A. Age.**

- (1) Such person shall be 65 years of age or over; or the spouse of such person shall be 65 years of age or over; or such person shall be 60 years of age or over and the surviving spouse of a taxpayer who qualified in Winchester under this article at the time of his or her death. Said age 65 shall occur by the close of the preceding calendar year; or

- (2) Such person shall be under the age of 65 years and shall be eligible in accordance with applicable federal regulations to receive permanent total disability benefits under social security, or have not been engaged in employment covered by social security and accordingly have not qualified for benefits thereunder, but have become qualified for permanent total disability benefits under any federal, state or local government retirement or disability plan, including the Railroad Retirement Act and any government-related teacher's retirement plan, in which requirements with respect to qualifications for such permanent total disability benefits are comparable to such requirements under social security.

B. Income.

- (1) Such person shall have individually, if unmarried, or jointly, if married (whether or not separate federal income taxes were paid by him and/or his spouse), during the calendar year preceding the filing of his or her claim, adjusted gross income as defined in the Internal Revenue Code of 1954, as amended, plus tax-exempt interest as defined in Section 103 of the Internal Revenue Code of 1954, as amended, dividend exclusions as set forth in Section 116 of the Internal Revenue Code of 1956, as amended, social security benefits, railroad retirement benefits, income from other tax-exempt retirement and annuity sources in an amount not more than \$40,000.
  - (2) In any case where title to the real property is recorded in the name of the taxpayer or his spouse and/or any other person or persons, the tax relief granted herein shall be prorated to reflect the fractional share of such taxpayer or spouse; and, furthermore, if such property is occupied as a multiple-family dwelling, such relief shall be prorated to reflect the fractional portion of such property occupied by the taxpayer.
  - (3) Any person entitled to the tax relief pursuant to this article is required to file biennially for the benefit; however, if the taxpayer's income exceeds or changes under this section, said person shall be required to reapply.
- C. Such person has resided in a residence located in the Town for a period of three years per C.G.S. § 12-129n and has paid real estate taxes on a residence to the Town for a period of three years per C.G.S. § 12-129n prior to his or her application for tax relief.
- D. The real property for which the exemption is claimed must be the legal domicile of such person, and such person shall be in residence therein for at least 183 days in each grand list year for which the exemption is claimed. Such claim for exemption shall be for one residence only.
- E. Before any tax relief shall be given, such person must first have applied for tax relief under any other state statute under which he or she is eligible.
- F. No property tax relief under this article, together with any property tax relief received by such person under all applicable General Statutes of Connecticut, shall exceed, in the aggregate, 25% of the tax which would, except for the General Statutes and this article, have been laid against the person applying for property tax relief hereunder.
- G. The application for tax relief under this article shall have been made by such person after he or she has become eligible to apply therefor.



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- H. If any person entitled to tax relief sells the property on which the benefit was granted, the purchaser's tax bill for the current year will be increased by a pro-rata portion of the tax benefit; unless the purchaser is also receiving benefits in Winchester under this program, in which case the current benefit will be transferred to the new property and prorated accordingly. Such portion will be a fraction with the numerator representing the number of days between the closing and the next following June 30, and denominator of 365 days. The result of this provision is to advance the purchaser's repayment liability by approximately nine months as compared with the repayment prescribed for state-funded tax relief provided by C.G.S. § 12-81(a).
- I. If any person entitled to the tax credit pursuant to this article is no longer eligible due to the fact that his/her income exceeds or changes under Subsection B(2) as set forth under Subsection B(1), all benefits shall be reimbursed to the Town upon the death of the recipient or conveyance of the real property subject to taxation in accordance with this article.

**§ 350-13. Tax deferral.**

- A. The benefit shall be any percentage of tax due that any eligible taxpayer shall choose, less amounts received under state elderly tax relief programs, but in no event shall the benefit exceed 75% of the tax due.
- B. All benefits shall be reimbursed to the Town upon the death of the recipient or conveyance of the real property subject to taxation in accordance with this article.
- C. Total deferments for all years shall not exceed the assessed value of the real property.
- D. The recipient shall enter into a written agreement with the Town providing for reimbursement. The amount of such tax deferral benefit shall be recorded on the land records of the Town and shall constitute a lien on the property payable only upon death or conveyance; the fee for such recording to be waived.

**§ 350-14. Application for exemption; action on application; appeals.**

- A. Any eligible taxpayer, or his or her authorized agent, shall file an application for tax relief under this article with the Tax Assessor of the Town, between February 1 and through May 15, on a form prescribed and furnished by the Town. In making such application, the taxpayer shall present to the Tax Assessor a copy of their federal income tax return for the previous calendar year or, if not required to file a return, such other evidence of qualifying income which the Tax Assessor may reasonably require to establish compliance with the income qualifications provided in § 350-12 of this article. The applicant, or his or her authorized agent, shall sign a sworn affidavit, in the presence of the Tax Assessor or a member of the Tax Assessor's staff, affirming the accuracy of the statements in the application. After the first application, this requirement for the Town is waived if an approved application for tax credits from the State of Connecticut has been filed or is in effect on an every-other-year filing cycle. This waiver does not apply to taxpayers filing state freeze applications which have different income reporting requirements and those taxpayers opting for the Town's deferral program.

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- B. When the Tax Assessor is satisfied that the applying taxpayer is entitled to tax relief under this article, he shall compute the amount of such tax relief and cause a certificate of tax deferral to be issued in such form as to permit the Tax Collector to reduce the amount of tax levied against the taxpayer and make proper record thereof, and a copy thereof shall be delivered to the applicant. The tax deferral shall be applied proportionately to the tax payments.
- C. Any person aggrieved by the decision of the Tax Assessor may appeal to the Board of Assessment Appeals in accordance with the provisions of C.G.S. §§ 12-111 and 12-112.
- D. Affidavits, applications or other documents presented in support of the application for tax relief shall not be open for public inspection and shall not be disclosed except in case of an appeal or in connection with claims of fraud to the proper authorities.

**§ 350-15. Curtilage.**

The tax relief for real property as provided herein shall apply only to the residence itself, the lot on which the residence is located and the improvements thereon. Only that portion of the lot equal to the minimum zoning requirement where the lot is situated shall receive tax credit.

## ARTICLE X

**Senior Citizen Tax Freeze**

**[Adopted by the Board of Selectmen 3-5-2007 (§ 188 of the prior compilation)]**

**§ 350-16. Authority. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Pursuant to the authority granted under C.G.S. § 12-170v, the tax relief for elderly homeowners provided under said statute is hereby adopted as follows.

**§ 350-17. Eligibility.**

- A. Any person who owns real property in the Town or is liable for payment of tax thereon under C.G.S. § 12-48 shall be eligible to have their real estate taxes frozen at the level of the tax due for the assessment year beginning October 1 of the year immediately preceding the date the homeowner applies as provided herein. Once found eligible, the homeowner's real estate tax bill shall remain frozen for as long as the homeowner meets the eligibility requirements contained herein.
- B. To qualify for the tax freeze, a person must meet the following requirements:
  - (1) As of the prior December 31:
    - (a) Be at least age 70 or have a spouse living with him who is at least age 70;  
or

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- (b) Be at least age 62 and a surviving spouse of a taxpayer who was entitled to the tax freeze when he died, provided they were living together at the time of death.
- (2) Occupy the property as his home.
- (3) Have lived in Winchester, Connecticut for at least one year before filing the claim (this requirement will apply to either spouse).
- (4) Have qualifying income (both taxable and nontaxable) in the immediately preceding tax year at or below the limits for the so-called "circuit breaker" elderly/disabled tax relief program.
- (5) Submit evidence of his income and a signed affidavit to the Assessor.
- (6) Have assets of no more than \$125,000, excluding the residence for which relief is sought.
- C. Should the taxes on the subject property in subsequent years be lowered, the lower taxes will apply to the person who has qualified for the freeze.
- D. The following payments shall be exempt from calculating the person's income as provided above:
  - (1) Medicaid payments made on the person's or his spouse's behalf;
  - (2) A spouse's income if he resides in a health-care or nursing home facility in Connecticut that receives medicare payments for the spouse.
- E. All persons who receive this benefit must reapply every two years on a form prepared by the Town Assessor to maintain their eligibility.

**§ 350-18. Application for tax relief.**

- A. Any eligible person, or his or her authorized agent, shall file an application for tax relief under this article with the Tax Assessor of the Town, between February 1 and through May 15, on a form prescribed and furnished by the Town. In making such application, the applicant shall present to the Tax Assessor a copy of their federal income tax return for the previous calendar year or, if not required to file a return, such other evidence of qualifying income which the Tax Assessor may reasonably require to establish compliance with the income qualifications provided in § 350-17 of this article. The applicant, or his or her authorized agent, shall sign a sworn affidavit, in the presence of the Tax Assessor or a member of the Tax Assessor's staff, affirming the accuracy of the statements in the application.
- B. When the Tax Assessor is satisfied that the applicant is entitled to the tax relief under this article, he shall compute the amount of such tax freeze and cause a certificate of tax freeze to be issued in such form as to permit the Tax Collector to reduce the amount of tax levied against the applicant and make proper record thereof, and a copy thereof shall be delivered to the applicant.

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- C. Any person aggrieved by the decision of the Tax Assessor may appeal to the Board of Assessment Appeals in accordance with the provisions of C.G.S. §§ 12-111 and 12-112.
- D. Affidavits, applications or other documents presented in support of the application for tax relief shall not be open for public inspection and shall not be disclosed except in case of an appeal or in connection with claims of fraud to the proper authorities.

#### **§ 350-19. Property transfers.**

If a person benefiting from this tax freeze transfers his interest in the subject property between November 1 and August 1, either voluntarily or involuntarily, the tax freeze benefit for that year must be prorated. If the transfer occurs in the month of October, the person is disqualified from tax relief for that assessment year. If the transfer happens in August or September, no proration of the benefits shall occur and the person shall receive the full benefit for the assessment year. The person to whom the property is transferred must, within 10 days after the conveyance date, notify the Assessor. If the Assessor receives no notice or learns of the conveyance on her own, she can calculate the amount of tax relief to which the original homeowner is entitled, and notify the Tax Collector of the reduced benefit amount. When the Tax Collector receives the Assessor's notice after the Town's tax due date, she has 10 days to mail or hand a bill to the transferee containing the additional amounts of tax due. This additional tax is due, payable and collectable subject to the same liens and processes as other property taxes but must be paid in an initial or single installment within 30 days after the Tax Collector mails or hands the bill to the new owner and in equal amounts for any remaining regular installment.

#### **§ 350-20. Authority to file lien.**

The Town may file a lien on the person's property to ensure compliance with the requirements of this article.

#### **§ 350-21. False statement penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Anyone who knowingly makes a false application to claim the tax relief herein will be subject to a fine of \$250. Any person who fails to disclose all relevant matters or makes a false statement with the intention to defraud the Town must also refund any and all benefits obtained through this article to the Town.

#### **§ 350-22. Word usage.**

The use of either gender in this article shall be deemed to include the other, and the singular shall include the plural and vice versa, where the context would so require.

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## ARTICLE XI

**Tax Abatement for Affordable Housing****[Adopted by the Board of Selectmen 6-14-2010 (§ 192 of the prior compilation)]****§ 350-23. Authority.**

Pursuant to C.G.S. § 8-215, the Town of Winchester is hereby authorized and empowered to abate in part or in whole the real property taxes on "housing solely for low- or moderate-income persons or families," as that phrase is defined in C.G.S. § 8-202(c), as the same may be amended from time to time.

**§ 350-24. Contract requirements.**

Such abatement shall be made pursuant to a contract between the Town, acting by and through its Board of Selectmen, who are hereby authorized and empowered to negotiate and execute such contracts on behalf of the Town, and the owner of any such housing. The contract need not be conditioned upon state reimbursement to the Town for such abatement, but shall provide:

- A. The terms of such abatement;
- B. That such abatement shall terminate at any time when such housing is not solely for low- or moderate-income persons or families as defined in C.G.S. § 8-202(c); and
- C. That moneys equal to the amount of such abatement shall be used by said owner for one or more of the following purposes:
  - (1) To reduce rents below the levels which would be achieved in the absence of such abatement and to improve the quality and design of such housing;
  - (2) To effect occupancy of such housing by persons and families of varying income levels within limits determined by the Commissioner of the Connecticut Department of Housing by regulation; or
  - (3) To provide necessary related facilities or services in such housing.

**§ 350-25. State reimbursement or payment.**

The Town, acting by and through the Board of Selectmen, is hereby authorized and empowered to enter into agreements with respect to state reimbursement for tax abatements or state payment in lieu of taxes, as provided in C.G.S. § 8-216, as the same may be amended from time to time.

## ARTICLE XII

**Motor Vehicle Delinquency Fee****[Adopted by the Board of Selectmen 3-4-2013 (§ 196 of the prior compilation)]****§ 350-26. Fee for reported delinquencies.**

Each taxpayer who has been delinquent in the payment of any property tax or installment thereof on a motor vehicle and whose delinquency was reported to the Commissioner of Motor Vehicles pursuant to C.G.S. § 14-33, in addition to the delinquent taxes and all interest thereon, shall pay to the Tax Collector a fee of \$5 for each such reported delinquency.

## ARTICLE XIII

**Veterans Exemption****[Adopted by the Board of Selectmen 3-21-2022]****§ 350-27. Purpose and authority.**

The purpose of this article is to provide additional exemption respecting property tax for any veteran entitled to an exemption from property tax in accordance with C.G.S. § 12-81(19), provided such veteran's qualifying income does not exceed the applicable maximum amount as provided under C.G.S. § 12-81l. The exemption is enacted pursuant to the option provided to municipalities under C.G.S. § 12-81f.

**§ 350-28. Eligibility.**

To be eligible, a veteran and taxpayer must meet the eligibility requirements of C.G.S. § 12-81f, as it may be amended from time to time. The veteran and taxpayer must have been a taxpayer of the Town for two years immediately preceding the commencement of his/her receipt of this exemption. This exemption will only be given with respect to real property owned and occupied by the veteran and taxpayer as his/her principal residence. Additionally, all taxes relating to all real property owned by the veteran and taxpayer must have been paid in full for the two years immediately preceding the commencement of the receipt of property tax benefits during such period.

**§ 350-29. Maximum income requirements.**

The qualified income requirements are the same as those set forth in C.G.S. § 12-81l. For the purposes of this article, income shall include income or potential income that an applicant is entitled to receive but chooses to not request receive or accept, including but not limited to undistributed income from investment retirement accounts, trusts, annuities, stocks, bonds, certificates of deposit and other similar investments. In addition to federal income tax returns or other evidence of qualifying income required to be provided with the application, each applicant shall also provide a certification as to potential income that such applicant is entitled to receive, and all records or reports related thereto. The provision for determining potential income shall specifically exclude life insurance.

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**§ 350-30. Exemption.**

In accordance with the provisions of C.G.S. § 12-81f, an exemption from local property taxation in an amount not to exceed \$5,000 of assessed valuation is hereby granted to that veteran.

**§ 350-31. Administration.**

The Tax Assessor shall adopt such rules, regulations and procedures as deemed necessary or appropriate for the purpose of implementing and administering the program authorized by this article. All such rules, regulations and procedures shall be kept on file at the office of the Tax Assessor.

**§ 350-32. Effective date.**

The program authorized by this article shall first become effective for taxes due on the Grand List of October 1, 2022.





## Chapter 356

### TREES

#### § 356-1. Purpose.

#### § 356-2. Definitions.

#### § 356-3. Shade Tree Committee.

#### § 356-4. Street Tree Management Plan.

#### § 356-5. Street tree removal and replanting.

#### § 356-6. Public tree care.

#### § 356-7. Street tree species to be planted.

#### § 356-8. Spacing of street trees.

#### § 356-9. Penalties for offenses.

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 8-17-1992 (§ 160 of the prior compilation). Amendments noted where applicable.]**

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#### § 356-1. Purpose.

The purpose of this chapter is to provide a mechanism by which the Town of Winsted may protect and replenish its street trees in a sensible, economically viable and appropriate way. This chapter shall also establish a Shade Tree Committee.

#### § 356-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**STREET TREE** — Any tree with a diameter of two or more inches which lies within designated property lines on either side of all streets, avenues or ways within the Town of Winchester.

**STREET TREE MANAGEMENT PLAN** — Includes the Tree Inventory Maps, establishes the goals, objectives and guidelines of the planting and maintenance program of the Winsted Shade Tree Committee, a subcommittee of the Conservation Commission, and shall be updated annually.

#### § 356-3. Shade Tree Committee.

The Conservation Commission shall establish a Shade Tree Committee composed of five citizens of the Town appointed by the Commission, including two members of the Conservation Commission, who shall serve for a term of two years.

#### § 356-4. Street Tree Management Plan.

The Shade Tree Committee shall prepare for the Conservation Commission, and shall be responsible for, the annual update of the Street Tree Management Plan. The plan shall be annually approved by the Town Tree Warden.

**§ 356-5. Street tree removal and replanting.**

Any street trees removed by the Public Works Department must be replaced by the Shade Tree Committee on a one-for-one basis. The trees do not have to be replanted at the site of the removed tree nor at the time of the removal. The replacement street tree should be planted at the site and time of the next planting, which will be designated in the Street Tree Management Plan.

**§ 356-6. Public tree care.**

The Shade Tree Committee shall provide information on any changes in the Tree Inventory to the Conservation Commission and the Public Works Department. Conversely, the Public Works Department shall inform the Shade Tree Committee of any planned street tree removals. The Town shall retain the right to prune, plant and remove all trees, plants and shrubs within the lines of all public grounds, as may be necessary to ensure public safety.

**§ 356-7. Street tree species to be planted.**

No species other than those included in the Street Tree Management Plan shall be planted as street trees without written permission of the Shade Tree Committee, unless the planting is approved by the Tree Warden.

**§ 356-8. Spacing of street trees.**

The spacing of street trees shall be in accordance with the guidelines set forth in the Street Tree Management Plan, unless the Tree Warden has approved an alternate planting arrangement.

**§ 356-9. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person who violates the provisions of this chapter shall be assessed a fine not to exceed \$100. Each tree in violation of this chapter shall constitute a separate offense.

## **Chapter 367**

### **VEHICLES AND TRAFFIC**

#### **ARTICLE I**

##### **Parking in Municipal Parking Lots**

- § 367-1. Time limitations designated.**
- § 367-2. Beach parking permits required.**
- § 367-3. Parking in violation prohibited.**
- § 367-4. Penalties for offenses.**

#### **ARTICLE II**

##### **Traffic Near Fires**

- § 367-5. Following fire apparatus prohibited.**
- § 367-6. Driving over fire hose prohibited.**
- § 367-7. Penalties for offenses.**

#### **ARTICLE III**

##### **Parking Bans**

- § 367-8. Findings and intent.**
- § 367-9. Definition.**
- § 367-10. Declaration of ban; timeframe.**
- § 367-11. Prohibited parking.**
- § 367-12. Penalties for offenses.**
- § 367-13. Redemption of impounded vehicles.**

#### **ARTICLE IV**

##### **Parking on Sidewalks**

- § 367-14. Parking on sidewalks prohibited.**
- § 367-15. Penalties for offenses.**

#### **ARTICLE V**

##### **Parking in Alleys and Private Roads**

- § 367-16. Prohibited parking, stopping or standing.**
- § 367-17. Penalties for offenses.**

#### **ARTICLE VI**

##### **Impoundment of Vehicles**

- § 367-18. Authority to remove and impound.**
- § 367-19. Recovery of impounded vehicles.**
- § 367-20. Notice of removal.**

#### **ARTICLE VII**

##### **Operation of Vehicles on Sidewalks**

- § 367-21. Definitions.**
- § 367-22. Operation on sidewalks prohibited.**
- § 367-23. Penalties for offenses.**

#### **ARTICLE VIII**

##### **Penalties for Parking Violations**

- § 367-24. Class 1 parking violations.**
- § 367-25. Class 2 parking violations.**
- § 367-26. Class 3 parking violations.**
- § 367-27. Penalties for offenses.**
- § 367-28. Payment of penalties.**
- § 367-29. Appeals.**
- § 367-30. Towing of motor vehicles with unpaid parking violations.**

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ARTICLE IX  
**Trucks on Case Avenue**

ARTICLE X  
**Motorized Recreation Vehicles**

**§ 367-31. Definition.****§ 367-34. Use restricted.****§ 367-32. Prohibited streets.****§ 367-35. Regulated use.****§ 367-33. Penalties for offenses.****§ 367-36. Annual permits.****§ 367-37. Exceptions.****§ 367-38. Penalties for offenses.****§ 367-39. Revocation of permits.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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ARTICLE I

**Parking in Municipal Parking Lots**

**[Adopted by the Board of Selectmen effective 3-1-1949; amended 12-20-1954; 8-1-1989; 5-18-1992; 4-7-2003; 4-5-2021 (§ 41 of the prior compilation)]**

**§ 367-1. Time limitations designated.**

When signs are erected giving notice thereof, no persons shall park a motor vehicle in any municipally owned parking lot within the limits of the Town of Winchester beyond the time limitations designated on said sign.

**§ 367-2. Beach parking permits required.**

Parking in designated public lots adjacent to Town beaches shall require a beach parking permit. A beach parking permit is required between Memorial Day through Labor Day, whenever lifeguards are on duty.

**§ 367-3. Parking in violation prohibited.**

No person shall allow, permit or suffer any vehicle registered in his/her name to stand or park in violation of this article.

**§ 367-4. Penalties for offenses.**

Any person in violation of this article shall be fined no more than \$25 and subject to tow at the owner's expense.

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## VEHICLES AND TRAFFIC

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## ARTICLE II

**Traffic Near Fires**

**[Adopted effective 3-15-1954 (§ 36 of the prior compilation); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 367-5. Following fire apparatus prohibited.**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

**§ 367-6. Driving over fire hose prohibited.**

No person will be allowed to drive over fire hose with any vehicle, in any street or highway, while it is in use for the purpose of extinguishing fires or for any other purpose. It shall be the duty of the Chief, his Deputies or any member of the Fire Department to rigidly enforce this section, and any violation thereof shall be punished or fined as allowed by Connecticut General Statutes.

**§ 367-7. Penalties for offenses.**

Any person who shall violate any provision of this article shall be subject to a fine of not more than \$90 for each violation.

## ARTICLE III

**Parking Bans**

**[Adopted by the Board of Selectmen effective 9-1-1954; amended effective 9-1-1977; 3-3-2014; 11-2-2015 (§ 40 of the prior compilation)]**

**§ 367-8. Findings and intent.**

It is hereby declared to be in the best interest of the public safety, convenience and welfare of the Town to regulate and restrict the parking of vehicles and equipment on public roadways within the control and limits of the Town (this includes state roads) so as not to impede the transportation and movement of vehicles, food, fuel, medical care, fire, health, police protection and other vital functions of the Town.

**§ 367-9. Definition.**

A "parking ban" is defined as a period of time before, during or after an event where vehicular and/or pedestrian traffic is expected to be hazardous or congested.

**§ 367-10. Declaration of ban; timeframe.**

A parking ban shall be declared by the Town Manager or his designee before, during or after an event when, in his judgment and discretion, the circumstances warrant. The parking ban

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declaration shall occur at least two hours prior to enforcement actions and remain in effect until cancelled by the Town Manager or his designee.

**§ 367-11. Prohibited parking.**

It shall be unlawful at any time during the parking ban for the owner of a vehicle or person in whose name it is registered to allow, permit or suffer such vehicle to stand or park in any Town-controlled roadway or municipal parking lots, except for 85 to 123 Prospect Street, in such a manner as to constitute a hazard or obstruction to vehicular and/or pedestrian traffic, or to hamper and interfere with the duties and responsibilities of Public Works or other emergency services.

**§ 367-12. Penalties for offenses.**

Any person who shall violate any provisions of this article shall be subject to a fine of \$75 for each violation, and may be subject to towing of any vehicle to a private storage facility and payment of all associated costs.

**§ 367-13. Redemption of impounded vehicles.**

Before the owner or person in charge of any vehicle is allowed to remove such vehicle from the place where it is impounded, the owner or responsible person shall furnish evidence of their ownership, sign a receipt for such vehicle and shall pay the fine, the fee for towing and charges for storage, if any.

ARTICLE IV

**Parking on Sidewalks**

**[Adopted effective 7-10-1961 (§ 50 of the prior compilation)]**

**§ 367-14. Parking on sidewalks prohibited.**

It shall be unlawful for any person to park a motor vehicle on any of the sidewalks of the Town.

**§ 367-15. Penalties for offenses.**

Any person convicted of a violation of this article shall be punished by a fine of not more than \$20.

## ARTICLE V

**Parking in Alleys and Private Roads****[Adopted effective 1-15-1963 (§ 51 of the prior compilation)]****§ 367-16. Prohibited parking, stopping or standing.**

No person shall park a vehicle within an alley or road in private ownership and used for vehicular traffic by the owner and those having express or implied permission in such manner or under such conditions as to leave available less than 10 feet of the width of the alley or road for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley or such private road in such position to block the driveway entrance to any abutting property.

**§ 367-17. Penalties for offenses.**

Any person who violates any provision of this article shall be subject to a fine of not more than \$50 for each violation.

## ARTICLE VI

**Impoundment of Vehicles****[Adopted effective 1-15-1963; amended effective 3-15-1968; 9-1-1977 (§ 52 of the prior compilation)]****§ 367-18. Authority to remove and impound.**

Members of the Police Department of the Town are hereby authorized to remove or cause to be removed any vehicle from a street or highway, or from an alley or road in private ownership and used for vehicular traffic by the owner and those having express or implied permission, to the nearest garage or other place of safety, or to a garage or other place of safety designated or maintained by the Town, when such vehicle is left unattended and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic, or is so parked illegally as to impede snow removal operations for the Town, or is parked within 10 feet of a fire hydrant in violation of the Connecticut General Statutes. Members of the Police Department of the Town are also hereby authorized to remove or cause to be removed any vehicle from a street or highway when such vehicle is parked overtime and beyond the period of legal parking time established by the Traffic Authority, when signs are posted that vehicles so parked will be removed.

**§ 367-19. Recovery of impounded vehicles.**

Such vehicle so removed may be recovered by the owner or his agent upon presentation of sufficient proof of ownership or authorization to obtain possession thereof and upon full payment of all removal and storage charges.

**§ 367-20. Notice of removal. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Whenever an officer causes the removal of a vehicle and the officer determines from available registration information the name and address of the owner thereof, such officer shall promptly give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

**ARTICLE VII**

**Operation of Vehicles on Sidewalks**

**[Adopted effective 2-1-1966 (§§ 10 and 29 of the prior compilation)]**

**§ 367-21. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**VEHICLE** — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power.

**§ 367-22. Operation on sidewalks prohibited.**

No person shall drive, lead or back any vehicle on or along any sidewalk in any public place except for the purpose of necessarily crossing the same; provided, however, that the provisions of this article shall not apply while the vehicle is being used for purposes of snow or ice removal or for the repair of the walk.

**§ 367-23. Penalties for offenses.**

Any person convicted of a violation of this article shall be punished by a fine of not more than \$50.

**ARTICLE VIII**

**Penalties for Parking Violations**

**[Adopted by the Board of Selectmen as amended 1-22-1979; 6-12-1992; 8-19-2002; 6-2-2003 (§ 127 of the prior compilation)]**

**§ 367-24. Class 1 parking violations.**

The following shall be Class 1 parking violations:

- A. Parking vehicle on crosswalk.
- B. Parking over 12 inches from curb.
- C. Parking on wrong side of street.
- D. Double parking.



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- E. Parking too near corner.
- F. Parking in a posted restricted place.
- G. Overtime violation of posted regulation.
- H. Overnight restriction.
- I. Obstructing driveway.
- J. Overtime meter.

**§ 367-25. Class 2 parking violations.**

The following shall be Class 2 parking violations:

- A. Parking too close to hydrant.

**§ 367-26. Class 3 parking violations.**

The following shall be Class 3 parking violations:

- A. Parking in a posted handicapped area.
- B. Parking in a fire lane.

**§ 367-27. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Penalties for violations of this parking regulation are as follows:

- A. A fine of \$30 for a Class 1 violation.
- B. A fine of \$75 for a Class 2 violation.
- C. A fine of \$100 for a Class 3 violation.
- D. All fines shall double if the penalty is not paid within seven days.

**§ 367-28. Payment of penalties.**

Payment of penalties provided for herein shall be made to the Town of Winchester Finance Department, 338 Main Street, Winsted, Connecticut.

**§ 367-29. Appeals.**

Appeals from this penalty may be made to the Chief of Police within seven days of the date of the notice.

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**§ 367-30. Towing of motor vehicles with unpaid parking violations.**

- A. When any motor vehicle is found to be in arrears of \$100 or more for unpaid parking violations, the Police Department may remove, or cause to be removed by towing, the motor vehicle to a public or private garage or to a lot maintained for such purpose or may use a vehicle immobilization device upon the motor vehicle. Such removal shall be at the risk of and cost to the owner of the vehicle.
- B. The Police Department, pursuant to the General Statutes, shall notify the owner of the fact of the vehicle's towing. Such notification shall inform the owner where the vehicle may be recovered and the conditions under which it will be released.
- C. The owner or person in charge of such vehicle shall not be permitted to remove the vehicle from the custody of the Police Department until he shall furnish evidence of his identity and ownership, and right of possession to such vehicle and:
  - (1) Shall pay to the Police Department any and all sums legally due for the Town of Winchester parking violations issued and/or penalties accrued and outstanding against said vehicle. Such payment will be made by way of cash, certified check or money order.
  - (2) Must pay all the towing and storage charges for said vehicle.
  - (3) Shall sign a receipt for such a vehicle.

## ARTICLE IX

**Trucks on Case Avenue****[Adopted effective 9-10-1985 (§ 141 of the prior compilation)]****§ 367-31. Definition.**

As used in this article, the following terms shall have the meanings indicated:

TRUCK — Every commercial motor vehicle, other than public safety, municipal and municipal purpose vehicles, having a gross weight of 6,000 pounds and/or over, and designed, used and maintained primarily for the transportation of property, and includes a motor vehicle designed and used for the purpose of drawing a semi-trailer as well as the vehicle drawing the semi-trailer.

**§ 367-32. Prohibited streets.**

No person shall operate a truck, as herein defined, in a northerly direction on Case Avenue from Main Street north to Gay Street.

**§ 367-33. Penalties for offenses.**

Any person violating the terms of this article shall be fined not more than \$100 for each offense.

## ARTICLE X

**Motorized Recreation Vehicles****[Adopted by the Board of Selectmen 10-4-1993 (§ 163 of the prior compilation)]****§ 367-34. Use restricted.**

No person shall park, operate or cause or allow the parking or operation of any registered or unregistered snowmobile, mini-bike, moped, all-terrain vehicle or other motorized recreation vehicle on property owned or leased by the Town of Winchester without the written authorization of the Town Manager or his duly authorized agent or on the property of another person, business or corporation without the written authorization of the owner of said property or his agent.

**§ 367-35. Regulated use. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Town Manager or his duly authorized agent, upon approval of the Board of Selectmen, is hereby authorized to determine which parks or other lands owned or leased by the Town may be used for snowmobiling or other motorized recreation vehicles and shall promulgate rules and regulations for the use of snowmobiles and other motorized recreational vehicles. Said rules and regulations shall provide the time and manner of the operation of snowmobiles and other motorized recreation vehicles for the purpose of protecting the public land and persons using same. A copy of said rules and regulations shall be available in the Town Hall and shall be given to all permittees upon issuance of the permit required in § 367-34.

**§ 367-36. Annual permits.**

Permits issued pursuant to this article shall be issued annually.

**§ 367-37. Exceptions.**

None of the provisions of this article shall apply to any Town-owned vehicles or to Town-hired vehicles used for Town-related purposes and activities, nor shall this article apply to any use of Highland Lake.

**§ 367-38. Penalties for offenses.**

- A. Any person operating or allowing or causing the operation of any snowmobile or other motorized recreation vehicle in violation of this article shall be fined \$90 for each offense.
- B. Any person parking or allowing or causing the parking of any snowmobile or other motorized recreation vehicle in violation of this article shall be fined \$25 for each offense.
- C. Any snowmobile or other motorized recreation vehicle which is operated or parked in violation of this article may be removed and stored by the Town or its agents at the owner's expense.

**§ 367-39. Revocation of permits.**

In addition to the penalties provided for in § 367-38, permits issued pursuant to this article may be revoked for violation of the rules and regulations promulgated hereunder.

## **Chapter 373**

### **WASTE MANAGEMENT**

#### **ARTICLE I** **Garbage Collection and Transportation**

- § 373-1. Covering during hauling required.**
- § 373-2. Container requirements.**
- § 373-3. Penalties for offenses.**

#### **ARTICLE II** **Regional Refuse District 1**

- § 373-4. Formation of district.**

**[HISTORY: Adopted by the Town of Winchester as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I** **Garbage Collection and Transportation** **[Adopted effective 6-3-1957 (§ 42 of the prior compilation)]**

- § 373-1. Covering during hauling required. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person, firm or corporation engaged in the business of collecting garbage, refuse or rubbish, and no person acting as employee, servant or agent of such person, firm or corporation, shall haul garbage, refuse or rubbish over the streets of the Town unless the garbage, refuse or rubbish is properly covered at all times except while actually loading and unloading.

- § 373-2. Container requirements.**

No person shall transport by vehicle any refuse on the streets of the Town unless such refuse is properly contained or restrained in the vehicle used so as to prevent it from being blown, dropped or spilled.

- § 373-3. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, firm or corporation violating any provision of this article shall be punished by a fine of not more than \$100 for each violation.

## ARTICLE II

**Regional Refuse District 1****[Adopted 5-25-1970 STM (§ 75 of the prior compilation)]****§ 373-4. Formation of district.**

The Town of Winchester join with the Towns of Barkhamsted, New Hartford and Colebrook, or any two of them, to form the Regional Refuse District One for the purpose of collection and disposal of refuse. The officers of said District shall be governed by the charter attached to this resolution.<sup>1</sup>

## ARTICLE III

**Dumpsters****[Adopted effective 1-15-1983 (§ 130 of the prior compilation)]****§ 373-5. Intent.**

The regulation of the use of rubbish dumpsters is hereby declared necessary for the protection of the health, property, safety and welfare of the public.

**§ 373-6. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**DUMPSTER** — Any receptacle used for the storage of trash, rubbish and garbage, which receptacle is placed out of doors and which is emptied by means of a garbage truck picking it up and dumping same.

**§ 373-7. Location; covering required.**

Any person or establishment owning or maintaining a dumpster on his or its premises shall locate said dumpster a minimum of 15 feet from any building, overhang or structure. All dumpsters shall be kept covered at all times, except when being filled or emptied.

**§ 373-8. Variations.**

The Fire Marshal shall have the power to vary the terms of this article by written permit when, due to circumstances peculiar to an individual situation, a strict application of the provisions herein would cause undue hardship and where the public safety and welfare are properly protected.<sup>2</sup>

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1. Editor's Note: The charter is on file in the Town offices.

2. Editor's Note: Original Section 5, regarding variations, of the prior ordinance compilation, which immediately followed this section, duplicated the provisions of this section and was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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**§ 373-9. Penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person, corporation, partnership or association violating any of the provisions of this article shall be fined not more than \$100 for each offense. Each day on which any provision of this article is violated shall constitute a separate offense.





## Chapter 377

### WATER

- |                                                                      |                                                                             |
|----------------------------------------------------------------------|-----------------------------------------------------------------------------|
| § 377-1. Due date for water rents; penalties for nonpayment.         | § 377-8. Opening and shutting off hydrants and other facilities prohibited. |
| § 377-2. Water rent charged unless notice of disuse is provided.     | § 377-9. Shut-off for repairs.                                              |
| § 377-3. Application for water use.                                  | § 377-10. Notice of abandonment of service pipe.                            |
| § 377-4. Plumber to make connection.                                 | § 377-11. Taking water from premises of another prohibited.                 |
| § 377-5. Facilities furnished by Water Works; excavations in street. | § 377-12. Excess use prohibited.                                            |
| § 377-6. Owner to keep pipes in repair and prevent waste.            | § 377-13. Penalties for offenses.                                           |
| § 377-7. Inspection by Superintendent, penalties for offenses.       | § 377-14. Meters.                                                           |
|                                                                      | § 377-15. Extensions of service.                                            |

**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester effective 7-15-1978; amended 5-15-1989 (§§ 85 to 99 and 101 of the prior compilation). Amendments noted where applicable.]**

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#### **§ 377-1. Due date for water rents; penalties for nonpayment.**

All water rents shall be due and payable at the office of the Collector of Taxes and Water Rents on the first days of January and July of each year. All rents or charges, if not paid when due, shall constitute a lien on the premises served, and the Water Department shall have all remedies available to it under the Connecticut General Statutes, and specifically but not limited to those under C.G.S. § 7-239 with respect to interest, costs, attorney's fees and other charges, all as allowed by said statutes, as they may be amended from time to time. The right of the municipality to terminate services to individual customers shall also be in accordance with said Connecticut General Statutes, all as may be amended from time to time.

#### **§ 377-2. Water rent charged unless notice of disuse is provided. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In all occupied premises, every private fountain, hydrant, bath, water closet, sink or other fixture, whether used or not, will be deemed and held as used, and will be charged for so long as such fountain, hydrant, bath, water closet, sink or other fixture shall remain connected with the pipes of the water works, unless the owner or occupier of the premises shall have given written notice to the Director of Public Works or designee of its disuse, when a disconnection will be made at the expense of the owner and the use of the water charged for to the time of the Superintendent receiving such notice. The charge to the owner for shutting off said water shall be set from time to time by the Water and Sewer Commission.

**§ 377-3. Application for water use.**

Any person desiring to have the water introduced upon premises owned by him, or desiring to use an additional quantity or to use it for a purpose different from that for which it has been previously used by him, shall make written application to the Superintendent of said water works, specifying the premises to be supplied and stating fully the purpose for which it is to be used, and no person shall make connection with any water main without written permission from said Superintendent.

**§ 377-4. Plumber to make connection. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

When an application has been granted, the applicant shall choose a good and responsible plumber and receive from said Superintendent a written order for said plumber to make connection to the service pipe or make other additions, but no service pipe will be permitted or allowed to remain on any premises where the rent is less than the appropriate annual base rate.

**§ 377-5. Facilities furnished by Water Works; excavations in street. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Water Works will furnish for each service one corporation cock and connection, service pipe to the sidewalk, one stop cock, box and cover, and will tap and connect with the main pipe and the stop cock at the sidewalk. The Water Works only shall do the excavating from the street main to the sidewalk or curblin at the expense of the owner of the premises, payable in advance, at rates set from time to time by the Water and Sewer Commission.

**§ 377-6. Owner to keep pipes in repair and prevent waste.**

The owner of any premises must keep the service pipe leading from the stop cock at the sidewalk to his premises and the pipe and fixtures on his premises in good repair, protected from frost, and must prevent unnecessary waste of water.

**§ 377-7. Inspection by Superintendent, penalties for offenses. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Superintendent shall be permitted during all proper hours to visit all places where water is introduced and shall have the right at all times without previous notice to shut off the water for violation of these rules. The water will not again be supplied until all arrears of rent, expenses of shutting off and letting on are paid by the owner of the premises, and the charge for shutting off said water and for letting on the same shall be set from time to time by the Water and Sewer Commission.<sup>1</sup>

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1. Editor's Note: Original § 92, Monthly report of connections by plumbers, of the prior ordinance compilation, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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**§ 377-8. Opening and shutting off hydrants and other facilities prohibited. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

No person shall open or shut any public fountain, hydrant, stop cock, water gate or blow-off attached to any water pipe belonging to the Fire Department, except upon the instruction or permission of the Water and Sewer Commission or Director of Public Works or designee; provided, however, that this section shall not affect members of the Fire Department when in the exercise of their duty as firemen.

**§ 377-9. Shut-off for repairs. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Water Works and said Superintendent, and other officers and employees who are duly authorized, reserve the right at all times without previous notice to shut off the water for necessary repairs, extending or other necessary purposes of the Works, and neither the Town nor the Water and Sewer Commission nor said Superintendent nor any of said employees shall be responsible or liable to water-takers for damages done thereby, or in any other manner.

**§ 377-10. Notice of abandonment of service pipe.**

Whenever a service pipe is abandoned, it shall be the duty of the owner of property to notify the Superintendent.

**§ 377-11. Taking water from premises of another prohibited.**

No person shall supply himself or herself or his or her family with water from the premises of a water-taker, or from a street hydrant, and in the event that any person does so take water, he or she, as the case may be, shall be liable to be charged with not less than a year's rent for water so taken in addition to the criminal punishment hereinafter provided.

**§ 377-12. Excess use prohibited.**

No water-taker shall supply water to any other tenant, family or person, or use it in excess or for the purposes not contemplated in his or their application or for which they have not paid; and in the event that they do so supply, take or use water, they will be liable to be charged with not less than a year's rent for such water and to have the water shut off from the premises at the discretion of the Superintendent, and also be liable to criminal prosecution and such punishment as hereinafter provided.

**§ 377-13. Penalties for offenses. [Amended 7-27-2000; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Every person who shall violate any of the provisions of §§ 377-1 through 377-12 shall, upon conviction, pay a fine equal to the maximum permitted by state law.

**§ 377-14. Meters. [Amended effective 7-27-2000]**

- A. Water meters shall be required on all service connections to the Winchester Water System.
- B. Plumbers shall install such meter settings furnished by the Water Works in a horizontal position in the house piping immediately after the main shut-off and as near to where the service pipe enters the building as practicable.
- C. The Water Works reserves the right to designate the size of meter to be installed on any service and will furnish and maintain the meter without charge. In case of loss, misuse or damage by frost, hot water or external cause, the expense of replacement or repair will be collected from the owner of the premises.
- D. One meter, and one meter only, will be allowed on a service pipe, and all water supplied to the premises through that pipe, except that used for fire protection only, must pass through that meter.
- E. The owner of the premises shall, to the satisfaction of the Superintendent, furnish a proper place for the installation of the meter where it will be accessible for reading and repairing during regular working hours. In the event that such location cannot be provided just inside the building wall and of easy access at all times for reading and other attention, the meter will be placed at the street line near the curb cock in a suitable housing or pit at the expense of the owner of the premises.
- F. If the owner of the premises has reason to believe that a meter is not registering accurately, the Water Works will test the meter if requested by the owner of the premises so to do. If the meter so tested is found to be registering without error exceeding the limits of error specified by the Public Utilities Commission of Connecticut, the owner of the premises will be charged for the expense of testing the meter. If, however, the meter is found to be registering in excess of the limits specified above, there will be no charge for testing, and the owner of the premises will be given a rebate on the basis of the excess error in registration in accordance with the rules of the Public Utilities Commission for the period subsequent to the meter reading for the last quarterly bill. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- G. Any owner who refuses to allow access to their premises to the Water Works for purposes of the installation of a meter shall be subject to a discontinuance of the water service. The discontinuance shall continue until the meter is installed and the owner has paid for the cost of the meter, its installation and a service charge in an amount set from time to time by the Water and Sewer Commission. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 377-15. Extensions of service. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Any person desiring to have water service extended to his premises shall make written application therefor to the Superintendent of the water works, which application shall be accompanied by a fee as set from time to time by the Water and Sewer Commission, and shall state the nature and extent of the service and usage and shall describe the location of the

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premises with respect to the existing terminus of the service nearest the premises. In the event the Board of Selectmen shall decide not to extend the service, the fee shall be returned to the applicant; otherwise, it shall be applied to the cost of the extension, its maintenance and repair.



## Chapter 380

### WATER BODIES, PUBLIC

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| <p>§ 380-1. Definitions.</p> <p>§ 380-2. Governing authority.</p> <p>§ 380-3. Restricted structures.</p> <p>§ 380-4. Permit application requirements.</p> <p>§ 380-5. Property requirements.</p> <p>§ 380-6. Scope of authorization.</p> <p>§ 380-7. New structures or objects.</p> <p>§ 380-8. Preexisting structures and objects.</p> <p>§ 380-9. Docks.</p> | <p>§ 380-10. Swim floats.</p> <p>§ 380-11. Mooring buoys.</p> <p>§ 380-12. Markers.</p> <p>§ 380-13. Boat lifts and walkways.</p> <p>§ 380-14. Personal watercraft (jet ski) lifts and floats.</p> <p>§ 380-15. Prohibited anchoring.</p> <p>§ 380-16. Marinas.</p> <p>§ 380-17. Revocation of permit.</p> <p>§ 380-18. Penalties for offenses.</p> <p>§ 380-19. Severability.</p> |
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**[HISTORY: Adopted by the Board of Selectmen of the Town of Winchester 8-5-2002; amended 9-5-2007; 8-21-2017 (§ 162 of the prior compilation). Subsequent amendments noted where applicable.]**

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#### § 380-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**AUTHORIZED** — Any activity, structure or object in, on or over a public watercourse within the Town of Winchester which is subject to regulation by the Town of Winchester for which.

A. An application was made and a permit granted; or

B. There is an existing structure or object deemed authorized pursuant to § 380-8 herein.

**BOAT LIFT** — A structure in the watercourse or attached to a dock, or shore, designed to lift a vessel out of the water and/or provide a platform for a vessel.

**DOCK** — A structure, other than a walkway, boat lift, personal watercraft lift/float or swim float, projecting over a watercourse which is attached or adjacent to the shore.

**LITTORAL BOUNDARY** — An imaginary extension of the landward property line into the water or property line perpendicular to the shoreline. When the shoreline is concave, the "cove method" will be employed to establish the littoral boundary. The "cove method" involves drawing a line, called the "base line," between points of land on either side of the concavity and then drawing a line perpendicular to the base line from the base line to the boundary between the properties at high water mark.

**LITTORAL RIGHTS** — Rights concerning properties abutting a watercourse, as defined by Connecticut law.

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MARINA — Any area that provides for a fee or compensation items such as, but not limited to, dockage, mooring, supplies, maintenance and repair of vessels, and/or rentals or commercial sale of vessels (including demonstration of vessels for purposes of such rental or sale).

MARKER — Buoy (other than a mooring buoy) which has been duly authorized by the Connecticut Department of Energy and Environmental Protection ("DEEP"), placed in the watercourse for purposes including, but not limited to, marking a restricted area, a danger to navigation, a swim area or a sudden change in water depth.

MOORING BUOY — A buoy placed in the watercourse to which a vessel is moored.

PERSONAL WATERCRAFT LIFT/FLOAT — A device specifically designed to lift and/or hold personal watercraft (jet skis).

SWIM FLOAT — A freestanding solid or inflatable platform (including objects also known as "trampolines"), other than a dock, walkway, personal watercraft lift/float or boat lift, attached to the bed of a watercourse by lines, cables or chains.

VESSEL — Every type of watercraft, motorized and nonmotorized, other than a seaplane on water, used or capable of being used as a means of transportation on water.

WALKWAY — A structure other than a dock, adjacent to or attached to a boat lift for the sole purpose of providing access to the vessel stored in the boat lift.

**§ 380-2. Governing authority. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

The Town of Winchester Inland Wetlands Commission, or any other body created or designated by the Board of Selectmen, shall be the body responsible for administering this chapter (hereinafter the "Commission").

**§ 380-3. Restricted structures.**

No structure, whether solid or inflatable, shall be installed in, on or over a watercourse without first obtaining a permit for such installation pursuant to this chapter, unless otherwise exempted herein.

**§ 380-4. Permit application requirements.**

- A. Anyone proposing to conduct or cause to be conducted an activity regulated by this chapter shall apply to the Commission for a permit on a form designated by the Commission.
- B. A complete application for a permit shall be in writing by the property owner or property owner's designated agent as prescribed by the Commission.
- C. Considerations.
  - (1) In carrying out the intent of this chapter to reduce congestion around the lakeshore, eliminate littoral boundary disputes among neighbors, avoid



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navigational hazards and impediments, and impediments to ingress and egress to the shore, the Commission shall take into consideration all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to:

- (a) Size and configuration of the structure or object;
- (b) Type of construction;
- (c) Impact to the watercourse;
- (d) The littoral rights of adjacent properties;
- (e) Amount and type of shorefront;
- (f) Water depth;
- (g) Effect on navigation; and
- (h) Effect on ingress to and egress from the shore.

- (2) The above considerations shall not limit the prohibitions set forth in this chapter.

**§ 380-5. Property requirements.**

To qualify for a permit, a property must abut the watercourse or have legal access to the watercourse. The applicant shall certify to the Commission that the property has no restriction that expressly prohibits the use or activity the applicant is seeking.

**§ 380-6. Scope of authorization.**

- A. An application pending before the Commission under this chapter shall be deemed to have been withdrawn upon the transfer or conveyance of the property.
- B. Authorization granted by the Commission under this or prior regulations for which the authorized activity has not been completed shall transfer to the new owner with the conveyance of the property for the balance of the time remaining on the existing permit.
- C. A structure/object currently existing in, on or over the watercourse having been constructed or placed by permit of the Commission after May 11, 1993, to the date of this revision of Chapter 380 shall be deemed authorized.

**§ 380-7. New structures or objects.**

- A. Only authorized docks, walkways, swim floats, boat lifts, personal watercraft lift/floats, mooring buoys and markers may be installed in, on or over a watercourse. Any other structure or object shall not be allowed in, on or over the watercourse. Pursuant to Section 15-121-A5 of the Regulations of Connecticut State Agencies, before any markers may be placed, authorization from the Commissioner of Energy and

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Environmental Protection is required. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- B. A structure or object shall not be located so as to be a navigational hazard, impede navigation or impede ingress to or egress from the shore.
- C. A structure or object shall not have any part of it located within 10 feet of the littoral boundary of an abutting property.
- D. The aggregate width, as measured parallel to the shorefront, of all structures/objects together per property (including those not attached to shore) shall not exceed 50% of the property's shorefront or a maximum of 50 linear feet, whichever is less. A property having a shorefront of 250 feet or more may be allowed a maximum coverage of 70 linear feet.
- E. Should an applicant not own sufficient shorefront to meet the ten-foot buffer requirement from the littoral boundary of an abutting property, the applicant may apply to the Commission for a waiver.
  - (1) In making the decision whether or not to grant a waiver, the Commission shall consider:
    - (a) All those criteria set forth in § 380-4C;
    - (b) Whether the waiver will be in harmony with the general purpose and intent of this chapter; and
    - (c) Whether giving due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the zoning district in which it is situated, a literal enforcement of this chapter would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured by granting a waiver.
  - (2) If the Commission grants a waiver, the reasons for such waiver and any conditions or limitations the Commission may require shall be noted on the permit.
  - (3) The applicant must notify abutting property owners not less than 15 days before the first Commission meeting, by registered mail, return receipt requested, of a pending application for the exception to the ten-foot buffer.
- F. In no event shall a permit be granted that will result in a crossing of a littoral boundary.

#### **§ 380-8. Preexisting structures and objects.**

- A. A structure/object currently existing in, on or over the watercourse that was located on Highland Lake on May 11, 1993 (the original date of this chapter), or the date of the adoption of this chapter for all other bodies of water, shall be deemed authorized without regard to provisions of this chapter.

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- (1) A preexisting mooring buoy must conform with all current state regulations.
- (2) A preexisting marker must have been placed pursuant to a state permit and must conform with all current state regulations.
- B. Notwithstanding the provisions of Subsection A, the location, configuration or dimensions of any such structure/object may not be changed without applying for and obtaining a new permit from the Commission.
- C. The Inland Wetlands Agent/Enforcement Officer shall be informed of any proposed maintenance on an existing structure to determine whether the scope of such maintenance constitutes routine maintenance or requires application for a new permit.
- D. If two or more properties have been merged into one property, currently existing structures which existed at the time of the property merger will be allowed to remain at their present size, configuration and location, without regard to restrictions in this chapter.

**§ 380-9. Docks.**

- A. Only one dock shall be permitted per property, unless it is permitted under the merged properties provision § 380-8D, or unless a property has more than 150 contiguous linear feet of shorefront (see Subsection C below).
- B. The maximum total square footage surface area for a dock shall be 320 square feet. Maximum length of a dock shall be 40 feet extended perpendicular from the shorefront into the watercourse. Maximum width of a dock at any point into the watercourse shall be 10 feet measured parallel to the shorefront, and minimum width of a dock shall be three feet measured parallel to the shorefront.
- C. If a property has more than 150 contiguous linear feet of shorefront, application may be made for a second dock, provided that it must comply with the maximum linear shorefront coverage provisions contained in § 380-7D of this chapter. Maximum total square footage surface area for a second dock shall be 160 square feet. Maximum length of a second dock shall be 30 feet extended perpendicular from the shorefront into the watercourse. Maximum width of a second dock at any point into the watercourse shall be 10 feet measured parallel to the shorefront. Minimum width of a second dock shall be three feet measured parallel to the shorefront.
- D. A dock must be single-story and shall not have a roof, canopy, raised platform or deck. A dock may have certain appurtenances common to docks, such as mooring hardware, bumpers, lines, railings, carpeting, benches, steps, swim ladder, diving board and slide. No part of any such appurtenance shall extend beyond the maximum dock length or width, nor within 10 feet of the littoral boundary of an abutting property. A boat lift may be attached to a dock pursuant to § 380-13. A personal watercraft lift/float may be attached to a dock pursuant to § 380-14.
- E. A maximum of three vessels shall be allowed to be berthed per property, regardless of how and where they are berthed (such as at a dock, moored at a buoy, anchored, held in a boat lift or a personal watercraft lift/float). Except for the marina permitted herein, each vessel must be owned and registered to the holder of the permit, or to a tenant of a

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dwelling owned by the holder of the permit. Personal watercraft count toward the three-vessel maximum allowed per property. This restriction shall not apply to kayaks, canoes or any other vessels which are removed from the water after use. No part of a vessel moored to a dock shall extend beyond the littoral boundary of an abutting property.

- F. Docks shall be for private, noncommercial use (except for the one existing marina at Highland Lake and existing camps at other public bodies of water).
- G. Reflectors shall be affixed to the ends of a dock. The street number of the property (in numerals at least three inches high) shall be affixed to the end of a dock so as to be visible from the watercourse.

#### **§ 380-10. Swim floats.**

- A. Only one swim float shall be permitted per property.
- B. No part of a swim float shall be located more than 50 feet from the shorefront.
- C. The maximum dimensions for a noninflatable swim float are 10 feet by 10 feet. The maximum dimension for a circular inflatable swim float is 15 feet in diameter.
- D. A swim float shall be single-story and shall not include any appurtenance except a swim ladder.
- E. A swim float shall not be attached to any other structure or object, or to the shore. A swim float shall be securely anchored to the bed of the watercourse, and all cables, lines or chains attached to a swim float must be sunk into the bed of the watercourse so as not to be a navigational hazard.
- F. A reflector shall be affixed to each side of a noninflatable swim float.
- G. The width of a swim float shall count toward the aggregate percentage of allowable shorefront coverage.

#### **§ 380-11. Mooring buoys.**

- A. Only one mooring buoy shall be authorized per property, except if a property has no dock. In lieu of a dock, an applicant may apply for a second mooring buoy. If a dock is subsequently put in, the second mooring buoy must be removed.
- B. A mooring buoy shall not be attached to any other structure or object or to the shore. A mooring buoy shall be securely anchored to the bed of the watercourse, and all cables, lines or chains attached to a mooring buoy must be sunk into the bed of the watercourse so as not to be a navigational hazard.
- C. A mooring buoy must be located so that no part of a vessel moored to it shall at the full swing of its mooring be more than 50 feet out from the shorefront, nor be beyond the littoral boundary of an abutting property.
- D. No more than one vessel may be moored to a buoy.

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- E. The Commission shall determine the size, color, reflective quality, configuration, location and anchoring method of a mooring buoy. Standards regarding the color and shape of mooring buoys are required to comply with Subsection (a) of Section 15-121-A3 of the Regulations of Connecticut State Agencies.
- F. A mooring buoy shall not be used as a marker.
- G. The width of a mooring buoy shall count toward the aggregate percentage of allowable shorefront coverage.

**§ 380-12. Markers.**

- A. Pursuant to the Regulations of Connecticut State Agencies, no marker of any kind may be placed in a watercourse without a permit from the DEEP Boating Division. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. A marker shall not be located more than 50 feet out from the shorefront unless the permit specifies that it marks a navigational hazard (such as a rock) which exceeds the fifty-foot limit.
- C. A marker shall not be placed within 10 feet of the littoral boundary of an abutting property, and the measurement from the first to the last marker (including connecting lines) shall count toward the aggregate allowable shorefront coverage.
- D. Markers may be temporarily placed in connection with a special marine event such as a regatta, tournament, procession or exhibition, provided that they are part of an approved marine event permit issued by the DEEP.

**§ 380-13. Boat lifts and walkways.**

- A. Only one boat lift shall be allowed per property.
- B. A boat lift shall be used for the storage of only one boat, or two personal watercraft.
- C. A boat lift may be attached to a dock or stand alone. Except for a walkway, no extension or other structure or object may be attached to or upon a boat lift.
- D. If a boat lift is not adjacent to a dock, the Commission may authorize a walkway (maximum of three feet in width) to extend at one side of the boat lift solely for the purpose of accessing the stored vessel. The walkway may be attached to the boat lift or be freestanding alongside the boat lift. The walkway shall not extend beyond the boat lift, nor shall it have any accessory attached to it.
- E. A boat lift shall not have solid side walls, raised platform, deck or a nonremovable roof or canopy.
- F. The width of a boat lift and walkway measured parallel to the shorefront shall count toward the aggregate percentage of allowable shorefront coverage.

**§ 380-14. Personal watercraft (jet ski) lifts and floats.**

- A. One personal watercraft lift/float shall be allowed per property.
- B. A personal watercraft lift/float shall hold a maximum of two personal watercraft.
- C. A personal watercraft float must be attached to a dock or a retaining wall.
- D. The width of a personal watercraft float(s) measured parallel to the shorefront shall count toward the aggregate percentage of allowable shorefront coverage requirements (§ 380-7D) of this chapter.
- E. A personal watercraft lift/float shall not have solid walls, accessories, a deck, a roof or a canopy.

**§ 380-15. Prohibited anchoring.**

A vessel shall not remain on a watercourse overnight unless it is docked at an authorized dock, moored to an authorized mooring buoy, or stored in an authorized boat lift or personal watercraft lift/float.

**§ 380-16. Marinas.**

Except for the one existing marina at Highland Lake, which shall be deemed authorized, no additional marinas shall be permitted. The existing marina shall require a permit from the Commission for modifications to the existing facility. This chapter shall not apply to any municipal or state facilities.

**§ 380-17. Revocation of permit.**

Notwithstanding anything contained herein, the Commission may revoke or modify a permit for any structure or object that it deems a navigational hazard, threat to public safety or conflicts with any state or federal regulations.

**§ 380-18. Penalties for offenses.**

- A. Every person, partnership or corporation, whether acting as an owner or agent, who violates any of the provisions of this chapter shall be fined \$100 for each such violation.
- B. Each violation shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.
- C. This chapter shall not preclude any additional enforcement action taken by any appropriate municipal, state or federal official conducted pursuant to any applicable ordinance, regulation and/or law of the Town of Winchester and/or the State of Connecticut and/or the United States of America.

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- D. The hearing procedure for any citations issued for violations of this chapter shall be the procedures as set forth in Chapter 215, Citations, Article I, of the Code of the Town of Winchester.
- E. In addition to any fines or penalties imposed herein, this chapter may be enforced by injunctive relief in the Superior Court.

**§ 380-19. Severability.**

Should any court of competent jurisdiction declare any section or clause or provision of this chapter to be invalid, such decision shall affect only such section, clause or provision so declared invalid and shall not affect any other section, clause or provision of this chapter.





# **DIVISION 2**

# **REGULATIONS**



## Chapter 390

### INLAND WETLANDS AND WATERCOURSES REGULATIONS

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>§ 390-1. Purpose, title and authority.</p> <p>§ 390-2. Definitions.</p> <p>§ 390-3. Inventory of regulated areas.</p> <p>§ 390-4. Permitted uses as of right and nonregulated uses.</p> <p>§ 390-5. Activities regulated by state.</p> <p>§ 390-6. Regulated activities to be licensed.</p> <p>§ 390-7. Application requirements.</p> <p>§ 390-8. Application procedures.</p> <p>§ 390-9. Public hearings.</p> <p>§ 390-10. Considerations for decision.</p> <p>§ 390-11. Decision process and permit.</p> | <p>§ 390-12. Action by duly authorized agent.</p> <p>§ 390-13. Bond and insurance.</p> <p>§ 390-14. Enforcement; penalties for offenses.</p> <p>§ 390-15. Amendments.</p> <p>§ 390-16. Appeals.</p> <p>§ 390-17. Conflicts and severability.</p> <p>§ 390-18. Other permits.</p> <p>§ 390-19. Application fees.</p> <p>§ 390-20. Records retention and disposition.</p> <p>§ 390-21. Effective date of regulations.</p> |
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**[HISTORY: Adopted by the Inland Wetlands Commission of the Town of Winchester 10-3-1989; amended 11-17-1993; 3-17-1999; 1-19-2000; 3-23-2006; 6-20-2007. Subsequent amendments noted where applicable.]**

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#### § 390-1. Purpose, title and authority.

- A. The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water, to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment, thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forevermore. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their

disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable freshwater supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

- B. These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Winchester."
- C. The Inland Wetlands Commission of the Town of Winchester was established in accordance with the Charter of the Town and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Winchester.
- D. These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- E. The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Winchester pursuant to C.G.S. §§ 22a-36 to 22a-45, inclusive, as amended.

#### **§ 390-2. Definitions.**

As used in these regulations, the following terms shall have the meanings indicated:

ACT — The Inland Wetland and Watercourses Act, C.G.S. §§ 22a-36 through 22a-45, inclusive, as amended.

AGENCY — The Inland Wetlands Commission of the Town of Winchester. **[Amended at time of adoption of Code]**

ALTER — The same as "disturbing the natural and indigenous character of the wetland or watercourse," as defined below.

BOGS — Areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage and highly acidic conditions.

CLEAR-CUTTING — The harvest of timber in a fashion which removes all trees down to a two-inch diameter at breast height.

COMMISSION MEMBER — A member of the Inland Wetlands Commission of the Town of Winchester. **[Amended at time of adoption of Code]**

COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION — The Commissioner of the State of Connecticut Department of Energy and Environmental Protection. **[Amended at time of adoption of Code]**

CONTINUAL FLOW — A flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low-flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

DEPOSIT — Includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.

DESIGNATED AGENT — An individual(s) designated by the Agency to carry out its functions and purposes.

DISCHARGE — Emission of any water, substance or material into wetlands or watercourses, whether or not such substance causes pollution.

DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE WETLAND OR WATERCOURSE — To alter the inland wetlands or watercourses by reason of removal or deposition of material, clearing the land, clear-cutting of trees, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

ESSENTIAL TO THE FARMING OPERATION — That the activity proposed is necessary and indispensable to sustain farming activities on an existing farm.

FARMING — Use of land for the growing of crops, raising of livestock or other agricultural use.

FEASIBLE — Able to be constructed or implemented consistent with sound engineering principles.

FOREST PRACTICE — Any activity which may alter the physical or vegetative characteristics of any forest land which is undertaken in connection with the harvest of commercial forest products, unless such harvest is undertaken pursuant to the conversion of forest land to other uses and such conversion has been approved by:

- A. The Planning and Zoning Commission; and **[Amended at time of adoption of Code]**
- B. If the forest land includes any wetlands or if the municipality within which the land is located regulates forest practices under C.G.S. § 23-65k, the inland wetlands agency of the municipality.

INTERMITTENT WATERCOURSES — Delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

- A. Evidence of scour or deposits of recent alluvium or detritus;
- B. The presence of standing or flowing water for a duration longer than a particular storm incident; and
- C. The presence of hydrophytic vegetation.

LICENSE — The whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetlands Commission.

**MANAGEMENT PRACTICE** — A practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous streams flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

**MARSHES** — Areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year, but seasonal water table fluctuations are encountered and areas of open water six inches or more in depth are common.

**MATERIAL** — Any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse and waste.<sup>1</sup>

**NURSERIES** — Land used for propagating trees, shrubs or other plants for transplanting, sale or for use as stock for grafting.

**ORDINARY HIGH WATER MARK** — A mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years as to mark upon the land a distinction between the abutting upland and the watercourse. Such mark may be found by examining the bed and bank of any watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land.

**PERMIT** — The whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Agency and the Act or other municipal, state and federal law.

**PERMITTEE** — The person to whom such permit has been issued.

**PERSON** — Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

**POLLUTION** — Harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion resulting from any filling, land clearing or excavation activity.

**PRUDENT** — Economically or otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity, provided cost may be considered in deciding

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1. Editor's Note: The definition of "municipality," which immediately followed this definition, was repealed at time of adoption of Code.

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what is prudent, and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

**REGULATED ACTIVITY** — Any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses, and any earth-moving, filling, construction or clear-cutting of trees within 75 feet of wetlands or 100 feet of watercourses, but shall not include the specified permitted activities in § 390-4 of these regulations. The location of any portion of any subsurface waste disposal system within 150 feet of the mean waterline of any watercourses and 75 feet of all wetlands is deemed a regulated activity. The activities specified in § 390-4 of these regulations will or can require an uplands review if they are likely to impact or affect wetlands or watercourses. The Agency may also rule that any other activity located within the above-described regulated areas, or any non-wetland or non-watercourse area, is likely to impact or affect wetlands or watercourses and is a regulated activity.

**REGULATED AREA** — That area within 75 feet of any inland wetland or within 100 feet of any watercourse as defined in these regulations.

**REMOVE** — Includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.

**RENDERING UNCLEAN OR IMPURE** — Any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

**SIGNIFICANT IMPACT ACTIVITY** — Any activity, including but not limited to the following activities, which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

- A. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system; or
- B. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
- C. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife or any other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
- D. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
- E. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater;
- F. Any activity likely to have or having the potential to cause pollution of a wetland or watercourse; or

- G. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

SOIL SCIENTIST — An individual duly qualified in accordance with standards set by the Federal Office of Personnel Management (formerly the U.S. Civil Service Commission).

SUBMERGED LANDS — Those lands which are inundated by water on a seasonal or more frequent basis.

SWAMPS — Areas with soils that exhibit aquic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

TOWN — The Town of Winchester, Litchfield County, Connecticut.

VERNAL POOLS — Small bodies of standing freshwater that are most obvious during the spring or fall of the year. They are usually temporary in nature, lacking permanent surface water connections with other wetlands or watercourses. They lack a permanent fish population but may support breeding and development of amphibian or invertebrate species such as, but not limited to, frogs and salamanders. (The presence of such amphibians or invertebrate species is not required for identification of a vernal pool under Connecticut Statutes.) Vernal pools must have the following physical characteristics:

- A. Contain water for approximately two months during the growing season.
- B. Occur within a confined depression or basin that lacks a permanent outlet stream.
- C. Dries out most years, usually in late summer.

WASTE — Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town. **[Amended at time of adoption of Code]**

WATERCOURSES — Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof, not regulated pursuant to C.G.S. §§ 22a-28 through 22a-35, inclusive. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

- A. Evidence of scour or deposits of recent alluvium or detritus;
- B. The presence of standing or flowing water for a duration longer than a particular storm incident; and
- C. The presence of hydrophytic vegetation.

WETLANDS — Land, including submerged land as defined in this section, not regulated pursuant to C.G.S. §§ 22a-28 through 22a-35, inclusive, which consists of any of the soil types designated as "poorly drained," "very poorly drained," "alluvial" and "floodplain" by the National Cooperative Soil Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey. **[Amended at time of adoption of Code]**



**§ 390-3. Inventory of regulated areas.**

- A. The most current map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Winchester, Connecticut," to be found in the Town Inland Wetlands office, delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Inland Wetlands Commission. In all cases, the precise location of a regulated area shall be determined by the actual character of the land, the distribution of wetland soil types and locations of watercourses, regardless of whether the regulated area is shown on the map of regulated areas. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations, field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by any qualified individuals.
- B. Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map may petition the Agency to change the designation in accordance with § 390-14 of these regulations. All petitions for a map shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with § 390-14 of these regulations may be required of the property owner when the Agency requires an accurate delineation of regulated areas.
- C. The Agency or its designated agent(s) shall inventory and maintain current records of all regulated areas within the Town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. Such map amendments are subject to the public hearing process outlined in § 390-14 of these regulations.

**§ 390-4. Permitted uses as of right and nonregulated uses.**

- A. The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
  - (1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Energy and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber, except for the expansion of agricultural cropland, the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale. **[Amended at time of adoption of Code]**

- (2) A residential home a) for which a building permit has been issued or b) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission as of July 1, 1974, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information. **[Amended at time of adoption of Code]**
  - (3) Boat anchorage or mooring, not to include dredging or dock construction.
  - (4) Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include cutting of trees, removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse. **[Amended at time of adoption of Code]**
  - (5) Construction and operation, by water companies as defined by C.G.S. § 16-1 or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in C.G.S. §§ 22a-401 and 22a-410.
  - (6) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to C.G.S. §§ 22a-401 through 22a-410 or July 1, 1994, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil and other debris, whether by hand or machine, while the pipe remains in place.
  - (7) Withdrawals of water for fire emergency purposes. **[Added at time of adoption of Code]**
- B. The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- (1) Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
  - (2) Outdoor recreation, including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated. **[Amended at time of adoption of Code]**

- (3) The installation of a dry hydrant by or under the authority of the Fire Department, provided such dry hydrant is only used for fire-fighting purposes and there is no alternative access to a public water supply. For purposes of this subsection, "dry hydrant" means a nonpressurized pipe system that: **[Added at time of adoption of Code]**
  - (a) Is readily accessible to Fire Department apparatus from a proximate public road;
  - (b) Provides for the withdrawal of water by suction to such Fire Department apparatus; and
  - (c) Is permanently installed into an existing lake, pond or stream that is a dependable source of water.
- C. All activities in wetlands or watercourses involving filling, excavation, dredging, clear-cutting, clearing, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with § 390-6 of these regulations.
- D. To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, that may disturb the natural and indigenous character of the wetland or watercourse, shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

**§ 390-5. Activities regulated by state. [Amended at time of adoption of Code]**

- A. In addition to any permit or approval required by the Agency, the Commissioner of Energy and Environmental Protection shall regulate activities in or affecting wetlands or watercourses, subject to the following jurisdiction:
  - (1) Construction or modification of any dam pursuant to C.G.S. §§ 22a-401 through 22a-411, as amended;
  - (2) Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to C.G.S. §§ 22a-342 through 22a-349a, as amended;
  - (3) Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to C.G.S. §§ 22a-359 through 22a-363 or in designated tidal wetlands pursuant to C.G.S. §§ 22a-28 through 22a-35, as amended;

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- (4) Diversion of water, including withdrawals of surface or ground water in excess of 50,000 gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of such alteration is 100 acres or larger, pursuant to C.G.S. §§ 22a-365 through 22a-378a, as amended;
  - (5) Discharges into the waters of the state pursuant to C.G.S. § 22a-430, as amended;
  - (6) Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- B. The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities in or affecting wetlands or watercourses undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to C.G.S. § 22a-39 or 22a-45a.
  - C. The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to C.G.S. §§ 22a-28 through 22a-35, as amended.
  - D. The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under C.G.S. § 22a-402 or a dam construction permit issued by the Commissioner of Energy and Environmental Protection under C.G.S. §§ 22a-403 or 22a-41. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order to carry out the activities authorized by said dam permit.

**§ 390-6. Regulated activities to be licensed.**

- A. No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Winchester.
- B. The Agency shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or nonregulated pursuant to § 390-4 of these regulations.
- C. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Winchester Inland Wetlands Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in § 390-14 of these regulations and any other remedies as provided by law.

**§ 390-7. Application requirements.**

- A. Any person proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, or renew or amend a permit to conduct such activity, shall apply for a permit on a form entitled "Town of Winchester Inland Wetlands and Watercourses Agency - Application for Permit." The application shall be filed with the Town Inland Wetlands Commission. An application shall include an application form and such information as prescribed by Subsection E and, in the case of a significant activity, by Subsection F of this section, and any other information the Agency may reasonably require. Application forms may be obtained in the office of the Winchester Planning and Community Development Department. **[Amended at time of adoption of Code]**
- B. If an application to the Town of Winchester Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with C.G.S. § 8-3(g), 8-3c or 8-26, as applicable, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such Planning and Zoning Commission.
- C. All applications shall contain such information as is necessary for a fair and informed determination thereon by the Agency.
- D. A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- E. All applications shall include the following information in writing or on maps or drawings:
  - (1) The applicant's name, home and business mailing addresses and telephone numbers;
  - (2) The owner's name, mailing address and telephone number and written consent of the landowner(s) if the applicant is not the owner of the land upon which the subject activity is proposed;
  - (3) Applicant's interest in the land;
  - (4) The geographical location of the land which is to be affected by the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation; at the option of Agency, this information shall be shown on a site map prepared by a licensed soils scientist;
  - (5) The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity, including, but not limited to, measures to:
    - (a) Prevent or minimize pollution or other environmental damage;
    - (b) Maintain or enhance existing environmental quality; or

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- (c) In the following order of priority: restore, enhance and create productive wetland or watercourse resources;
  - (6) Alternatives considered and subsequently rejected by the applicant and why the alternative to alter wetlands set forth in the application was chosen. All such alternatives shall be diagrammed on a site plan or drawing;
  - (7) A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses and off-site wetlands or watercourses;
  - (8) Names and mailing addresses of property owners within 300 feet;
  - (9) Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
  - (10) Authorization for the Commissioners and agents of the Agency to inspect the property at reasonable times, both before and after a final decision has been issued;
  - (11) A completed DEEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
  - (12) Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
  - (13) Submission of the appropriate filing fee based on the fee schedule established in § 390-19 of these regulations;
  - (14) At any time during the hearing process, the Agency may require an applicant to pay a fee for reasonable costs and expenses for expert engineering and other consultant services such as, but not limited to, performing or verifying the accuracy of a resource area survey and delineation, analysis or resource area functions and characteristics, wildlife evaluations, hydrogeologic and drainage analysis and environmental or land use law, deemed necessary to come to a final decision on the application. See Chapter 58, Article II, of the Town Code. **[Amended at time of adoption of Code]**
- F. If the proposed activity involves a significant impact activity as determined by the Agency and defined in § 390-2 of these regulations, additional information, based on the nature and anticipated effects of the activity, including, but not limited, to the following is required:
- (1) Site plans for the proposed activity or operation and the land which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of landownership, proposed alterations and use of wetlands and watercourses, and other pertinent features of the land and

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proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;

- (2) Engineering reports and analyses and additional drawings that fully describe the proposed activity, including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- (3) Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- (4) Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
- (5) Description of how the applicant will change, diminish or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
- (6) Analysis of chemical or physical characteristics of any fill material;
- (7) Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which prevent or minimize pollution or other environmental damage, maintain or enhance existing environmental resources, or in the following order of priority, restore, enhance and create productive wetland or watercourses resources.

G. The applicant shall certify whether:

- (1) Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- (2) Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- (3) Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
- (4) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

H. A reporting form shall be completed during the application process which provides the Commissioner of the Department of Energy and Environmental Protection with information necessary to properly monitor the inventory of state wetlands. The reporting form shall be part of the application and the following information shall be provided by the applicant: name of applicant; location of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The agency shall be responsible for the remaining information and any corrections on the form and for the filing it in accordance with Section 22A-39-14 of the inland

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wetlands and watercourses regulations of the Department of Energy and Environmental Protection. **[Amended at time of adoption of Code]**

- I. To comprise a complete application, the original and copies of all application materials shall be submitted as directed, in writing, by the Agency.
- J. Any application to renew or amend an existing permit shall be filed with the Agency in accordance with § 390-8 of these regulations at least 65 days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under § 390-7 of these regulations, provided:
  - (1) The application may incorporate the documentation and record of the original application;
  - (2) The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
  - (3) The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
  - (4) The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;
  - (5) The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.
- K. Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no permit may be valid for more than 10 years.

#### **§ 390-8. Application procedures.**

- A. All applications, petitions, requests or appeals shall be submitted to the Inland Wetlands Commission of the Town of Winchester.
- B. When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of Norfolk, Colebrook, New Hartford, Goshen, Barkhamsted or Torrington, the applicant shall give written notice of the proposed activity, certified mail, return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Winchester Inland Wetlands Commission. Documentation of such notice shall be provided to the Winchester Inland Wetlands Commission in accordance with C.G.S. § 8-7d. **[Amended at time of adoption of Code]**
- C. Agency notification of adjoining municipalities.



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- (1) The Agency shall, in accordance with C.G.S. § 8-7d, Subsection (f), notify the Clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when: **[Amended at time of adoption of Code]**
    - (a) Any portion of the property affected by a decision of the agency is within 500 feet of the boundary of an adjoining municipality;
    - (b) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
    - (c) A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
    - (d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
  - (2) Notice of the pendency of such application shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application.
- D. When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in C.G.S. § 16-1, the applicant shall provide written notice of the application to the water company and to the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company has filed a map showing the boundaries of the watershed on the land records of the Town and with the Inland Wetlands Commission. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency. **[Amended at time of adoption of Code]**
- E. The date of receipt of any application, petition, request or appeal shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission of such application, petition or appeal to such Agency or its agent, or 35 days after such submission, whichever is sooner.
- F. At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in § 390-11B of these regulations.
- G. All applications shall be open for public inspection.
- H. Incomplete applications may be denied.

**§ 390-9. Public hearings.**

- A. The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or

watercourses or a petition signed by at least 25 persons who are 18 years of age or older and who reside in the Town, requesting a hearing, is filed with the Agency not later than 14 days after the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without holding a public hearing, provided no petition provided for in this section is filed with the Agency on or before the 14th day after the date of receipt of the application. Such hearing shall be held in accordance with C.G.S. § 8-7d. **[Amended at time of adoption of Code]**

- B. Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than 15 days and not fewer than 10 days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- C. Notice of the public hearing shall be sent by certified mail to all owners of record of land within 300 feet, no less than 15 days prior to the day of the hearing.
- D. In the case of any application which is subject to the notification provisions of § 390-8C of these regulations, a public hearing shall not be conducted until the Clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

#### **§ 390-10. Considerations for decision.**

- A. The Agency may consider the following in making its decision on an application:
  - (1) The application and its supporting documentation.
  - (2) Public comments, evidence and testimony.
  - (3) Reports from other agencies and commissions, including but not limited to the Town of Winchester:
    - (a) Conservation Commission.
    - (b) Planning and Zoning Commission.
    - (c) Building Official.
    - (d) Health Officer.
  - (4) The Agency may also consider comments on any application from the Northwest Conservation District, the Northwest Hills Council of Governments or other regional organizations; agencies in adjacent municipalities which may be affected by the proposed activity; or other technical agencies or organizations which may undertake additional studies or investigations. **[Amended at time of adoption of Code]**
  - (5) Nonreceipt of comments from agencies and commissions listed in Subsection A(3) and (4) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

- B. Criteria for decision. In carrying out the purposes and policies of C.G.S. §§ 22a-36 to 22a-45, inclusive, including matters relating to regulating, licensing and enforcing the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:
- (1) The environmental impact of the proposed regulated activity on wetlands or watercourses;
  - (2) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity, which alternatives would cause less or no environmental impact to wetlands or watercourses;
  - (3) The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
  - (4) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition for issuing a permit for such activity, including, but not limited to, measures to:
    - (a) Prevent or minimize pollution or other environmental damage;
    - (b) Maintain or enhance existing environmental quality; or
    - (c) In the following order of priority: restore, enhance and create productive wetland or watercourse resources;
  - (5) The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
  - (6) Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- C. In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a less environmentally damaging feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in Subsection B of this section. This finding and the reasons therefor shall be stated in the record of the decision, in writing, by the Agency.
- D. In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate, provided this

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subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

- E. In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and C.G.S. §§ 22a-36 to 22a-45, inclusive.
- F. For purposes of this section: **[Added at time of adoption of Code]**
  - (1) "Wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses; and
  - (2) "Habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- G. The Inland Wetlands Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses. **[Added at time of adoption of Code]**

#### **§ 390-11. Decision process and permit.**

- A. The Agency, or its duly authorized agent acting pursuant to § 390-12 of these regulations, may, in accordance with § 390-10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would:
  - (1) Prevent or minimize pollution or other environmental damage;
  - (2) Maintain or enhance existing environmental quality; or
  - (3) In the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- B. The Agency may hold a hearing on an application in accordance with C.G.S. § 8-7d. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. The Agency does not have the authority to table or reject an application for incompleteness. An application deemed incomplete by the Agency must either be withdrawn by the applicant or denied by the Agency. The Agency may, in its discretion, for one occasion only, waive the application fee for a resubmitted application. **[Amended at time of adoption of Code]**
- C. The Agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such

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hearing and shall be in writing and shall, as applicable and in accordance with § 390-10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.

- D. The Agency shall notify the applicant and any person entitled to such notice of its decision within 15 days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order, in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within 10 days thereafter.
- E. If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, variance or special exception, under C.G.S. § 8-3(g), 8-3c or 8-26, the Agency shall file a copy of the decision and report on the application with the Town of Winchester Planning and Zoning Commission within 15 days of the date of the decision thereon.
- F. If the Agency denies the permit, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.
- G. If the Agency denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- H. Any permit issued by the Agency for the development of land for which an approval is required under C.G.S. § 8-3, 8-25 or 8-26 shall be valid for five years, provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.
- I. If a bond or insurance is required in accordance with § 390-13 of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.
- J. General provisions in the issuance of all permits.
  - (1) If the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
  - (2) All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Winchester, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state and municipal laws or regulations pertinent to the property or activity.
  - (3) If the activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special

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exception, under C.G.S. § 8.3(g), 8-3c or 8-26, no work pursuant to the wetland permit may begin until such approval is obtained.

- (4) In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- (5) No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- (6) The permittee shall be required to flag all wetlands and maintain siltation barriers to define the location of wetlands and watercourses for the duration of the permit.

**§ 390-12. Action by duly authorized agent.**

- A. The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses, provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to C.G.S. § 22a-39. Requests for such approval shall be made on a form provided by the Agency and shall contain the information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing of applications prescribed in §§ 390-8, 390-9 and 390-11 of these regulations, such agent may approve or extend such an activity at any time. **[Amended at time of adoption of Code]**
- B. Any person receiving such approval from such agent shall, within 10 days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within 15 days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting, provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. The Agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with § 390-7 of these regulations. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal.

**§ 390-13. Bond and insurance.**

- A. Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with a surety, rated at least A- by A.M. Best Co., in such amount and in a form approved by the Agency.
- B. The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

- C. The Agency may require the applicant to submit written evidence that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which may occur within two years of completion of such operations, in an amount commensurate with the regulated activity.

**§ 390-14. Enforcement; penalties for offenses.**

- A. The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease-and-desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under § 390-10B of these regulations.
- B. The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.
- C. If the Agency or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
  - (1) Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within 10 calendar days of the issuance of such order, the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within 10 days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the Town. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to C.G.S. § 22a-44(b), as amended. **[Amended at time of adoption of Code]**
  - (2) Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke or maintain a permit by certified mail within 15 days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

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- (3) Issue a notice of violation to such person or agent conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency and prescribing the necessary action and steps to correct the violation, including, without limitation, halting work in wetlands or watercourses and/or restoring, to the extent possible, any disturbed area to the condition in which it was immediately prior to the violation. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection C(1) or other enforcement proceedings as provided by law. The penalty for violation of these regulations includes but is not limited to issuance of a citation by the enforcement officer in the amount of \$150 for each violation, for each day such violation continues, as authorized under C.G.S. § 22a-42g; or, ultimately, fines of \$1,000 for each violation for each day such violation continues, plus court costs and Town expenses in accordance with C.G.S. § 22a-44, as amended.

**§ 390-15. Amendments.**

- A. These regulations and the Inland Wetlands and Watercourses Map for the Town of Winchester shall be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available. **[Amended at time of adoption of Code]**
- B. An application filed with an Inland Wetlands Agency which is in conformance with the applicable Inland Wetlands Regulations as of the date of decision of such agency with respect to such application shall not be required thereafter to comply with any change in Inland Wetlands Regulations, including changes to setbacks and buffers, taking effect on or after the date of such decision, and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such decision. The provisions of this subsection shall not be construed to apply:
- (1) To the establishment, amendment or change of boundaries of inland wetlands or watercourses; or
  - (2) To any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- C. These regulations and the Town of Winchester Inland Wetlands and Watercourses Map shall be amended in the manner specified in C.G.S. § 22a-42a, as amended. The Agency shall provide the Commissioner of Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least 35 days before the public hearing on their adoption. Application forms and fee schedule shall be considered part of the Agency regulations. **[Amended at time of adoption of Code]**



- D. Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map of Winchester, Connecticut shall contain at least the following information:
- (1) The petitioner's name, mailing address and telephone number;
  - (2) The address, or location, of the land affected by the petition;
  - (3) The petitioner's interest in the land affected by the petition;
  - (4) Map(s) showing the geographic location of the land involved in the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail, together with the documentation supporting such proposed boundary locations;
  - (5) The reasons for the requested action; and
  - (6) The names and addresses of adjacent property owners.
- E. Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Winchester, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in Subsection D, the petition shall include:
- (1) The name, mailing address and telephone number of the owner(s) of such land and owner's(s') agent or other representative;
  - (2) The names and mailing addresses of the owners of abutting land;
  - (3) Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
  - (4) Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- F. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- G. A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two days, the first not more than 15 days nor less than 10 days, and the last not less than two days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the Town Clerk for public inspection at least 10 days before such hearing.
- H. Within 90 days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition.

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The Agency shall act upon the changes requested in such petition within 60 days after the close of the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the Inland Wetland Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

- I. The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

#### **§ 390-16. Appeals.**

- A. Appeal on actions of the Agency shall be made in accordance with the provisions of C.G.S. § 22a-43, as amended.
- B. Notice of such appeal shall be served upon the Agency and the Commissioner of Energy and Environmental Protection. **[Amended at time of adoption of Code]**

#### **§ 390-17. Conflicts and severability.**

- A. If there is a conflict among the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- B. If there is a conflict between any provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

#### **§ 390-18. Other permits. [Amended at time of adoption of Code]**

Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Winchester, State of Connecticut and the Government of the United States, including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

#### **§ 390-19. Application fees.**

- A. Method of payment. All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of Winchester at the time the application is filed with the Agency.

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B. No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection G of this section.

C. The application fee is not refundable.

D. Definitions. As used in this section, the following terms shall have the meanings indicated:

COMMERCIAL USES — Activities carried out on property developed for industry, commerce, trade, recreation or business or being developed to be occupied for such purposes, for-profit or nonprofit.

OTHER USES — Activities other than residential uses or commercial uses.

RESIDENTIAL USES — Activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

E. Application fee schedule.

(1) Fee schedule.

(a) Application fees (which include a \$30 state surcharge) shall be based on the following schedule:

[1] Basic filing fee: \$155.

[2] Permit extension and/or transfer fee: \$85.

[3] Residential subdivision: \$155, plus \$45 per lot.

[4] Each after-the-fact activity: \$655.

[5] Multifamily development: \$155, plus \$30 per unit.

[6] Commercial and industrial sites: \$155, plus \$0.01 per square foot of newly created impervious area proposed to be created. (Gravel accessways, storage areas and parking lots are to be included in the calculation.)

[7] Public hearing fee: \$300.

[8] Agent determinations per § 390-12A of these regulations: \$155.

[9] Petition for map change: \$200, plus \$0.02 per linear foot of wetland boundary line, plus \$300 public hearing fee.

(b) Regulated uses (§ 390-6).

[1] Residential uses: \$60, plus \$40/lot; plus fee from Schedule A; plus \$30 state surcharge.

[2] Commercial uses and all other uses: \$100; plus fee from Schedule A; plus \$30 state surcharge.

(c) Permitted and nonregulated uses (§ 390-4).

- [1] Permitted uses as of right (§ 390-4A): no charge.
- [2] Nonregulated uses (§ 390-4B): \$50, plus \$30 state surcharge.
- (d) Significant activity fee (§ 390-2): \$50, plus \$30 state surcharge.
- (e) Map amendment petitions (§ 390-15D): \$200, plus fee from Schedule B; plus \$30 state surcharge.
- (f) Modification of previous approval (§ 390-7J): \$30, plus \$30 state surcharge.
- (g) Special permit (applicant requiring both IWC and P&Z permit): \$35, plus \$30 state surcharge.

(There shall be no fee for correcting typographical or other errors)

- (2) Schedule A. For the purpose of calculating the permit application fee, the regulated area in Schedule A is the total area of wetlands and watercourses upon which a regulated activity is proposed.

| <b>Regulated Area<br/>(square feet)</b> | <b>Fee per 1,000 Square Feet</b> |
|-----------------------------------------|----------------------------------|
| Less than 2,500                         | \$20                             |
| 2,500 to 50,000 "A" plus                | \$15                             |
| More than 50,000 "B" plus               | \$10                             |

- (3) Schedule B. For the purpose of calculating the map amendment petition fee, the regulated area in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

| <b>Regulated Area<br/>(linear feet)</b> | <b>Fee per 1,000 Linear Feet</b> |
|-----------------------------------------|----------------------------------|
| Less than 500                           | \$50                             |
| 500 to 1,000 "A" plus                   | \$20                             |
| More than 1,000 "B" plus                | \$10                             |

- F. Exemption. Boards, commissions, councils and departments of the Town of Winchester are exempt from all fee requirements, as well as properties located within the Winchester Industrial Parks.

- G. Waiver.

- (1) The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

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- (a) The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee; or
  - (b) The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- (2) The Agency shall state upon its record the basis for all actions under this subsection.

**§ 390-20. Records retention and disposition.**

- A. The Agency and the Town Clerk for the Town of Winchester shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in Subsection B.
- B. Records shall be retained in accordance with the current records retention schedule adopted by the Connecticut State Library. **[Amended at time of adoption of Code]**

**§ 390-21. Effective date of regulations.**

These regulations shall become effective April 17, 2006, upon filing in the office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Winchester.



## **Chapter 400**

### **SUBDIVISION REGULATIONS**

#### **ARTICLE I** **General Provisions**

- § 400-1. Purpose.**
- § 400-2. Authority.**
- § 400-3. Applicability.**
- § 400-4. Conformity to Zoning Regulations.**

#### **ARTICLE II** **Definitions**

- § 400-5. General terms.**
- § 400-6. Specific definitions.**

#### **ARTICLE III** **Procedures**

- § 400-7. Informal review.**
- § 400-8. Application for subdivision.**
- § 400-9. Review of plans.**
- § 400-10. Public hearings.**
- § 400-11. Waivers.**
- § 400-12. Action on applications.**
- § 400-13. Performance bonds.**
- § 400-14. Easements and deeds.**
- § 400-15. Procedure in lieu of performance bonds, easements and deeds.**
- § 400-16. Filing of approved plans.**
- § 400-17. Modification of approved plans.**

#### **ARTICLE IV** **Information Required for Subdivision Applications**

- § 400-18. General.**

- § 400-19. Basic requirements for all maps and plans.**
- § 400-20. Subdivision map.**
- § 400-21. Site development plan.**
- § 400-22. Construction plans.**
- § 400-23. Sediment and erosion control plan.**

#### **ARTICLE V** **Design Standards**

- § 400-24. General.**
- § 400-25. Character of land and plan of conservation and development.**
- § 400-26. Reserve strips.**
- § 400-27. Future subdivisions.**
- § 400-28. Plats straddling municipal boundaries.**
- § 400-29. Open space and recreation areas.**
- § 400-30. Street trees.**
- § 400-31. Preservation of natural features.**
- § 400-32. Viewshed regulated area.**

#### **ARTICLE VI** **Design Standards for Roads**

- § 400-33. General.**
- § 400-34. Street hierarchy.**
- § 400-35. Design standards by road type.**
- § 400-36. Intersections.**
- § 400-37. Culs-de-sac, turnarounds, dead-ends and loop roads.**
- § 400-38. Curbing.**
- § 400-39. Sidewalks and walkways.**

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§ 400-40. Guide rails.

§ 400-53. Fire ponds.

§ 400-41. Telephone, cable and electrical utilities.

## ARTICLE X

§ 400-42. Road names.

### Sewage Disposal

§ 400-43. Side slopes.

§ 400-54. Acceptable means of disposal required.

§ 400-44. Monuments.

§ 400-55. Public sewer systems.

§ 400-45. Traffic control.

§ 400-56. On-site sewage disposal.

§ 400-46. Road lights.

## ARTICLE VII Stormwater Drainage

## ARTICLE XI Solar and Renewable Energy

§ 400-47. General.

§ 400-57. Site design.

§ 400-48. Drainage design.

§ 400-58. Passive solar energy.

§ 400-49. Detention basins.

§ 400-59. Passive solar energy techniques.

## ARTICLE VIII Water Supply

## ARTICLE XII Enforcement; Amendments; Validity

§ 400-50. Public water supply.

§ 400-60. Penalties for offenses.

§ 400-51. Private water supply.

§ 400-61. Identification of restrictions on subdivision map.

## ARTICLE IX Fire Protection

§ 400-62. Amendments.

§ 400-52. Fire hydrants.

§ 400-63. Severability.

[HISTORY: Adopted by the Planning and Zoning Commission of the Town of Winchester 8-28-2006. Amendments noted where applicable.]

## ARTICLE I General Provisions

### § 400-1. Purpose.

The purpose of these regulations is:

- A. To provide for the orderly development of Town of Winchester in accordance with the Town's Plan of Conservation and Development;
- B. To ensure that the land can be used for buildings without causing a danger to the public health or safety;
- C. To provide for protection from flood and flood damage;



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- D. To provide for the conservation of natural and cultural resources and the preservation of land for open space, parks, recreation and the community's rural character (where applicable);
- E. To provide for the proper provision of water, sewerage, drainage, fire protection, electricity, telephone, cable and other utilities;
- F. To provide for a safe and convenient system of roads for existing and future traffic;
- G. To provide for the control of soil erosion and sedimentation;
- H. To encourage energy-efficient patterns of development and the use of solar and other renewable forms of energy.

**§ 400-2. Authority.**

These regulations are adopted in accordance with the Chapter 126, as amended, of the Connecticut General Statutes.

**§ 400-3. Applicability.**

No subdivision of land shall be made and no lot in a subdivision shall be sold, or offered for sale, until a subdivision plan, prepared in accordance with these regulations, has been approved by the Planning and Zoning Commission and the approved map has been endorsed by the Commission Chairman and filed in the Winchester Land Records.

**§ 400-4. Conformity to Zoning Regulations.**

All subdivision plans shall conform to the Town's Zoning Regulations in effect at the time of the receipt of the subdivision application.<sup>1</sup>

## ARTICLE II

**Definitions****§ 400-5. General terms.**

The following words and phrases shall be construed throughout these regulations to have the meanings indicated in this section.

- A. Words used in the present tense include the future.
- B. Words used in the singular include the plural; the plural includes the singular.
- C. The word "Town" means the Town of Winchester, Connecticut.
- D. The word "state" means the State of Connecticut.
- E. The word "regulation" means the Town of Winchester Subdivision Regulations.

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<sup>1</sup> Editor's Note: See Ch. 415, Zoning Regulations.

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- F. The word "Commission" means the Town of Winchester Planning and Zoning Commission.
- G. The word "shall" is mandatory; the word "may" is permissive.
- H. The term "Town Planner" means the Town of Winchester Town Planner or his or her designee.
- I. The term "Town Engineer" means the Town of Winchester Town Engineer or his or her designee.
- J. The term "Inland Wetlands Officer" means the Town of Winchester Inland Wetlands Officer or his or her designee.
- K. The term "Standard Details" means the Town of Winchester Standard Specifications and Details for the Design and Construction of Public Improvements.

**§ 400-6. Specific definitions.**

As used in these regulations, the following terms shall have the meanings indicated:

**APPLICANT** — The owner of the property that is the subject of the subdivision or resubdivision. The owner may be represented before the Commission by an agent duly appointed in writing by the owner of record.

**APPLICATION** — The completed official form by which a subdivision or resubdivision is proposed to the Commission in accordance with these regulations, along with all required data, maps, reports, plans and other information.

**AQUIFER** — A geologic formation, group of formations or part of a formation that contains sufficient saturated, permeable materials to yield significant quantities of water to wells and springs.<sup>2</sup>

**AQUIFER RECHARGE AREA** — The surface area from which groundwater flows directly to areas of contribution.

**BUILDING LOT** — A lot approved for construction of a structure.

**CALIPER** — Diameter of a tree trunk as measured at 4.5 feet above the ground.

**CUL-DE-SAC** — A road(s) with a single means of entry and exit.

**DETENTION BASIN** — A facility for the temporary storage of stormwater runoff.

**DEVELOPER** — The owner of an approved subdivision.

**DRIP LINE** — The ground line around a tree that marks the limits of the tree canopy.

**DRY HYDRANT** — A hydrant used to draw water from a cistern or a pond.

**FINAL APPROVAL** — In referring to a subdivision, means that:

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2. Editor's Note: The definition of "aquifer area of contribution," which immediately followed this definition, was repealed at time of adoption of Code.

- A. All required municipal improvements have been bonded;
- B. All modifications deemed necessary by the Commission to bring the proposed subdivision into compliance with these regulations have been satisfied or bonded; and
- C. The approved subdivision map has been endorsed by the Commission's Chairman or Secretary.

FORESTRY — The selective harvesting of timber from wooded areas.

LOOP ROAD — A road that has its only ingress and egress at two points on the same road.

LOT — A contiguous piece of land described by plat, subdivision or deed in the Winchester Land Records of the Town Clerk's office. The lot can be used, developed, sold or rented as a single piece. The term "parcel" is synonymous with "lot."

NATURAL — As applied to land, it is land in an undeveloped, unbuilt condition, including agricultural land, forest land, meadows, wetlands and other rural landscapes.

NATURAL FEATURES — Rock outcrops, glacial erratics, specimen trees, streams, ponds, watercourses, wetlands, meadows, native shrubs and other features typical of a natural landscape.

OPEN SPACE — Land that is dedicated or reserved in perpetuity for public or private use and enjoyment and on which development is limited or prohibited. The parcel may be used for agricultural purposes or forestry, or nonprofit, noncommercial activities such as active or passive recreation, wildlife habitat, natural resource conservation or scenic preservation.

PARCEL — See "lot."

PROFESSIONAL ENGINEER — A person licensed by the State of Connecticut to practice as a professional engineer in civil engineering.

RECREATION, ACTIVE — Leisure-time activities, usually of an organized nature and usually performed with others and requiring equipment and a dedicated playing area. Baseball, soccer, tennis, golf and basketball are examples of active recreation.

RECREATION, PASSIVE — Activities that are less energetic than active recreation and require little, if any, equipment or playing fields. Examples include walking, fishing, jogging, unmotorized biking, picnicking and bird watching.

RESERVE STRIP — A lot, or part of a lot, used to limit access to another lot.

#### RESUBDIVISION

- A. A change in a map of an approved or recorded subdivision or resubdivision if such change:
  - (1) Affects any street layout shown on such map;
  - (2) Affects any area reserved thereon for public use; or
  - (3) Diminishes the size of any lot thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

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B. Resubdivision is included in the term "subdivision."

ROAD — Any vehicular thoroughfare which is:

- A. Accepted by the Town or state; or
- B. Shown on a subdivision plan approved by the Planning and Zoning Commission as a private thoroughfare.

SPECIMEN TREE — A tree with a trunk measuring 30 inches or greater in diameter at 4.5 feet above the ground.

SUBDIVISION — The division of a parcel of land into three or more lots made subsequent to the adoption of subdivision regulations by the Commission, for the purpose, whether immediate or future, of sale or building development, expressly excluding development for municipal, conservation or agricultural purposes. Subdivision includes resubdivision. Winchester first adopted subdivision regulations on December 23, 1968.

SURVEYOR — A person licensed by the State of Connecticut to practice as a land surveyor.

WALKWAYS — Pedestrian paths up to four feet wide. Materials used are site-specific and environmentally suitable. Walkways are different from "sidewalks" as defined in the Town Road Specifications Ordinance.

### ARTICLE III

#### **Procedures**

#### **§ 400-7. Informal review.**

- A. To expedite the technical review of proposed subdivision applications, the Commission recommends that, prior to filing a formal subdivision application, a potential applicant review the proposed subdivision with the Town Planner and staff from other relevant governmental agencies.
- B. The applicant may request, to the Town Planner, a preliminary review by the Commission. A preliminary subdivision map showing existing conditions, including contour lines, soil types, natural features, proposed lot lines and proposed roads and open space, must be provided. The preliminary map shall be a tentative proposal to be used for the sole purpose of clarifying and guiding the design of a subdivision map to be submitted at a later date with a formal subdivision application. The preliminary application shall not be construed to constitute an application for approval within the meaning of the Connecticut General Statutes. Any suggestions and/or comments made by the Commission shall be purely advisory in nature and shall not bind either the Commission or the prospective applicant. The Commission's comments and suggestions shall not imply approval or denial.
- C. The purpose of the informal review by the staff is to provide a potential applicant with comments and suggestions that may aid in the preparation of a formal application. Neither the staff nor the applicant is bound by comments and suggestions made during an informal review. An informal review does not constitute an application for subdivision.

**§ 400-8. Application for subdivision.**

- A. An applicant for subdivision shall submit to the Planning and Community Development Department the following:
  - (1) A completed application on a standard form prescribed by the Commission and endorsed by the owner of the property or, in the case of a regulation change, by the applicant;
  - (2) Sixteen copies of the subdivision plan with the information specified in Article IV; and
  - (3) The application fee as set by Town ordinance.
- B. A subdivision application which involves a regulated activity as defined in the regulations of the Winchester Inland Wetlands Commission shall be submitted after, or at the same time as, an application to the Inland Wetlands Commission.<sup>3</sup>
- C. The application shall be placed on the agenda of the Commission as specified in its annual schedule of meetings on file in the Town Clerk's office and available in the Planning and Community Development Department.

**§ 400-9. Review of plans.**

- A. The applicant holds the responsibility of obtaining all local, regional, state and federal approvals necessary. The Town Planner shall forward the application to the appropriate Town departments and agencies for their review and comment.
- B. The Commission may ask for comments on the plans from other agencies, including state and federal agencies, and may require review by outside experts at the applicant's expense.
- C. Upon the request of the Commission or the Town Planner, the applicant shall stake out lot boundaries and/or the center line of any proposed street or easement. The staking shall be done in such a manner that the Commission or the Town Planner can readily identify the location of the streets, easements or lots.
- D. The Commission may schedule a site visit to familiarize itself with the lay of the land.

**§ 400-10. Public hearings.**

- A. As required by the Connecticut General Statutes, the Commission shall hold a public hearing on all applications for resubdivision. The applicant is responsible for submitting sufficient evidence for the Commission to determine if the application is a subdivision or resubdivision.
- B. The Commission shall hold a public hearing on applications for subdivisions with five or more building lots. The Commission may hold a public hearing on an application for

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3. Editor's Note: See Ch. 390, Inland Wetlands and Watercourses Regulations.

a subdivision with less than five building lots when, in the opinion of the Commission, the application warrants a public hearing.

C. Notification requirements.

- (1) In addition to the notification requirements in the Connecticut General Statutes, the applicant shall send by certified mail, return receipt requested, a notice of the public hearing to all persons whose property is within 100 feet of the property affected by the application, including properties across the road, not less than seven days prior to the first scheduled public hearing. The notice shall consist of the notice of public hearing prepared by the Planning and Community Development Department. Evidence of the mailing shall be presented to the Planning and Community Development Department at or before the public hearing.
- (2) The applicant shall submit to the Commission a radius map showing all abutting properties with their owners' names and Assessor's map, block and lot number as well as a list of the names and addresses of all neighboring property owners and their addresses, based upon the Town of Winchester Tax Assessor's most recent information, and all certified mail receipts prior to the commencement of the public hearing. The Commission shall not consider the application complete, nor shall it approve such application, if the list and the receipts have not been submitted.

**§ 400-11. Waivers.**

The Commission may waive the requirements of these regulations by a three-fourths vote of the Commission members, provided all the following conditions are met:

- A. The applicant requests the waiver in writing. The request shall detail the waiver requested and shall provide sufficient information for the Commission to determine if any hardship is involved.
- B. The physical characteristics of the property are such that the strict application of these regulations would result in an impractical development or an unusual hardship.
- C. The waiver will not result in any significant adverse impact on adjacent property or on public health or safety.
- D. The Commission shall state on the record the reasons for granting the waiver.
- E. The waiver is not for the purpose of creating additional lots.

**§ 400-12. Action on applications.**

- A. The Commission may deny an application when the Commission determines that the application is incomplete.
- B. The Commission shall approve, approve with modifications or conditions or disapprove a subdivision application. If the Commission disapproves an application, the Commission shall state on the record the reasons for such disapproval.

- C. The Commission may approve or approve with modifications or conditions a subdivision to be developed in phases. The Commission shall consider whether or not each individual phase can stand alone if the remaining phases are not built.

**§ 400-13. Performance bonds.**

- A. Prior to the endorsement of an approved subdivision plan by the Commission Chairman or Secretary, the applicant shall post a performance bond with the Town. This bond shall be in an amount deemed sufficient to insure the satisfactory completion of all streets, utilities, soil and erosion control and other improvements that are to be provided in connection with the subdivision. The methodology for determining the bond amount is in Subsection C. In lieu of a performance bond, the Commission may permit the applicant to follow the procedure described in § 400-15 below.
- B. Form of bond.
- (1) The performance bond shall be in one or more of the following forms and shall cover a period at least six months greater than the period within which the streets, utilities and other improvements are to be completed:
    - (a) A certified check payable only to the Town of Winchester.
    - (b) A savings account passbook payable to the Town of Winchester.
    - (c) An irrevocable letter of credit, a money market account, an interest-bearing certificate of deposit or a bond from a company licensed by the State of Connecticut and listed on the State's Treasury List. Said bonding company shall have a minimum Moody's rating of Aa.
  - (2) At least 10% of the bond shall be in the form of a certified check payable only to the Town of Winchester, an interest-bearing certificate of deposit, a savings account passbook or a money market account. The account shall be federally insured. The names of the developer and the Town of Winchester shall be on the account and shall be accompanied by a withdrawal slip signed by the developer and the Town of Winchester Director of Finance.
- C. The amount of the performance bond shall be determined by the Town Planner in consultation with the Director of Public Works, the Commission and the applicant's and/or the Commission's engineer. In computing the amount of the performance bond, the Town shall increase the computed amount by 10% to cover contingencies.
- D. On an annual basis, the Town may require an increase in the amount of the performance bond to cover increased costs due to inflation.
- E. Prior to the acceptance of the improvements covered by the performance bond, the Commission may use all or part of the performance bond to keep the improvements constructed in good repair and/or to eliminate hazardous conditions. Prior to taking any action, the Commission or its designated agent shall notify the developer of its intent to take such action and its reasons for doing so.

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- F. If the Town uses all or part of the performance bond as described in Subsection E above, the developer shall be required to restore the performance bond to an amount deemed sufficient by the Town to complete the required improvements.
- G. The developer may apply for a partial release of the performance bond. After inspection of the completed improvements, the Commission and the Town Planner may release an amount equal to the costs of the completed improvements.
- H. If for some reason the performance bond is insufficient to pay for all costs associated with constructing the required improvements, the developer shall remain liable for such costs in excess of the performance bond, and such excess costs shall become a lien against the property.
- I. The final release of the performance bond shall not be done until after all improvements are accepted by the Town.
- J. Prior to final acceptance of all improvements by the Town, a maintenance bond equal to 10% of the original bond amount and in the form of a certified bank check made payable to the Town of Winchester, an interest-bearing certificate deposit, a money market account or a savings passbook account, as specified in Subsection B of this section, shall be submitted to the Commission.

#### **§ 400-14. Easements and deeds.**

Prior to the endorsement of an approved subdivision map by the Commission Chairman or Secretary, the applicant shall provide the Commission with all deeds, easements and restrictions required by the subdivision plan. This includes, but is not limited to, deeds for all new roads, rights-of-way, drainage areas and open space. These documents shall be in recordable form acceptable to the Commission and the Town Attorney.

#### **§ 400-15. Procedure in lieu of performance bonds, easements and deeds.**

The Commission may allow applicants to file an approved subdivision plan in the Winchester Land Records without providing a performance bond, easements or deeds, provided all the following conditions are met:

- A. The applicant places on the subdivision plan that is filed the following: "No grading, clearing, cutting of trees or other work shall be done until the performance bond is accepted by the Town and until the required easements and deeds are accepted by the Town. No individual lots shall be sold or transferred until the required performance bond is accepted by the Town and until the required deeds and easements are accepted by the Town."
- B. The applicant shall record a document in the Winchester Land Records, acceptable in format to the Commission, reiterating the note described in Subsection A above. This document is to be signed by the Commission Chairman or Secretary and the applicant.
- C. After all required performance bonds, easements and deeds are filed, the applicant shall file a revised subdivision plan without the note described in Subsection A above. This revised plan shall be signed by the Commission Chairperson or Secretary.



**§ 400-16. Filing of approved plans.**

- A. The signed subdivision plan shall be filed in the Winchester Land Records within 90 days of the expiration of the appeal period as specified in the Connecticut General Statutes. The Commission may extend the time for filing for up to an additional 120 days. Failure to file the subdivision plan within the prescribed time period shall cause the plan to become null and void. **[Amended at time of adoption of Code]**
- B. To provide the Town staff adequate time to review any modifications or changes to the approved plans, the Commission may require the applicant to deliver the revised plans, performance bonds and other required documents to the Planning and Community Development Department within 45 days of the date of approval or approval with conditions or modifications. The Commission, at its discretion, may extend this 45-day period up to the period specified in the Connecticut General Statutes.
- C. Within the time period specified by the Connecticut General Statutes, the applicant shall deliver the following to the Planning and Community Development Department for endorsement: five complete sets of paper prints of the final subdivision map, one reproducible Mylar and a digitized copy of the final subdivision map in a format acceptable to the Town (this requirement shall not apply in cases where the subdivision map was not produced using a computerized system), including construction plans, site development, erosion and sedimentation control plans, road profile plans and detail plans. **[Amended at time of adoption of Code]**

**§ 400-17. Modification of approved plans.**

- A. If an applicant determines that changes to an approved subdivision plan are needed because of unanticipated site conditions, the applicant shall request approval of those changes. The Town Planner may approve, in writing, minor changes of a technical nature. The Commission may request periodic reports from the Town Planner on changes that have been requested and the action taken on the requests.
- B. If the Town Planner determines a requested change to an approved plan is significant, the Town Planner shall refer the change to the Commission. The Commission shall either:
  - (1) Approve the change, with or without modifications and conditions, if the Commission determines the change is minor; or
  - (2) Deny the change; or
  - (3) Require the applicant to resubmit a new subdivision application according to § 400-8.

## ARTICLE IV

**Information Required for Subdivision Applications****§ 400-18. General.**

This article describes the detailed specifications and other information which must be shown on the various maps and plans required as part of the subdivision application. Each map or plan serves a different purpose. The subdivision map is meant to be suitable for filing in the Winchester Land Records. The site development plan shows existing conditions and proposed changes so that the Commission can evaluate the design of the proposed subdivision.

**§ 400-19. Basic requirements for all maps and plans.**

- A. The subdivision map, the site development plan and the sediment and erosion control plan shall be drawn at a scale of one inch equals 40 feet. The Commission, at its discretion, may allow other scales to be used.
- B. Maps and plans shall be drawn on sheets 24 inches by 36 inches unless otherwise allowed by the Commission.
- C. If more than one sheet is required, an index map showing the entire subdivision shall be provided. The index map shall show the outline of the property to be subdivided, proposed lots, existing and proposed streets and the identification and limits of each map and plan sheet. Match lines shall be shown on each sheet. The scale of the index sheet shall not exceed one inch equals 200 feet unless otherwise allowed by the Commission.
- D. Maps and plans shall include a Town of Winchester standard Planning and Zoning signature block. **[Amended at time of adoption of Code]**

**§ 400-20. Subdivision map.**

The following information, where applicable, shall be shown on the subdivision map:

- A. Name of the subdivision (if any). The name should not duplicate, or be similar to, the name of any previous subdivision in the Town.
- B. Name of the owner of the land to be subdivided.
- C. Name of the applicant if different from the owner.
- D. Scale of map.
- E. Date of original preparation and dates of all revisions.
- F. North arrow.
- G. Total area of the parcel in acres to three decimal places.
- H. Total area of proposed open space.
- I. Area of each proposed lot.

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- J. Existing and proposed lot lines and boundaries, including lot numbers, dimensions and bearings.
- K. Existing and proposed streets.
- L. Names for proposed streets, with appropriate signage.
- M. Boundaries of inland wetlands, regulated areas and watercourses as defined by the Winchester Inland Wetlands Commission or a certified soil scientist.
- N. Floodplains and base flood elevation data as defined by the federal government or a licensed professional civil engineer.
- O. Ponds, lakes and streams and their direction of flow.
- P. Dimensions and bearings of all existing and proposed easements, including information on the purpose of the easement (e.g., utilities, conservation, open space, right-of-way, etc.) and the proposed owner of the easement.
- Q. Existing structures and notes indicating their preservation or removal.
- R. Zoning district(s).
- S. Town boundaries, if applicable.
- T. Existing and proposed monuments and pins.
- U. Location map at a scale not to exceed one inch equals 2,000 feet showing the proposed streets and lots in relation to the surrounding streets within 500 feet of the proposed subdivision.
- V. Note indicating how the subdivision is to be provided with water and sanitary services.
- W. Dimensions on all lines are to be to the hundredth of a foot.
- X. All bearings or deflection angles, tangent distances and radius of all arcs.
- Y. State plane coordinates at not less than four points on the subdivision perimeter.
- Z. Certification by a surveyor that the map(s) meets the standards of a Class A-2 Survey.

**§ 400-21. Site development plan.**

- A. In addition to the information required in § 400-20, the following information, where applicable, shall be shown on the site development plan:
  - (1) Current A-2 survey reference on which the site development map is based.
  - (2) Existing and proposed contour lines at an interval of not more than two feet unless otherwise allowed by the Commission. The source of the topographic information shall be given.
  - (3) Boundaries of all soil types.

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- (4) Location of proposed structures and primary and reserve septic fields for each lot and required grading for each.
  - (5) Location of existing and proposed utility poles.
  - (6) Location of existing and proposed utilities for water, sanitary and stormwater drainage. This is to include manholes, catch basins, headwalls, detention areas and all related facilities.
  - (7) Walkways (existing and proposed).
  - (8) Proposed driveways for each lot, with proposed grades.
  - (9) Boundaries of wooded areas.
  - (10) Location of specimen trees within the area to be disturbed or affected by construction activities.
  - (11) Location of existing and proposed landscaping as required by § 400-30. The botanical and common name of all species to be planted shall be given as well as the size at time of planting.
  - (12) Sight lines for existing and proposed roads and driveways.
  - (13) Location of historic and archeological sites and stone walls.
  - (14) Location of the habitat of any threatened or endangered species or species of special concern as defined by the Connecticut Department of Energy and Environmental Protection. **[Amended at time of adoption of Code]**
  - (15) Location of existing and proposed electrical, cable, telephone, water and natural gas lines.
  - (16) Location of existing and proposed fire ponds, stand pipes and cisterns.
  - (17) Location and type of all traffic control devices, existing and proposed.
  - (18) Location of existing and proposed road lights, height of the poles and type of lighting.
  - (19) Any proposed disturbance of existing conditions between the subdivision boundaries and the paved or traveled way of any existing road.
  - (20) Limits of clearing and proposed tree lines.
  - (21) Other information as may be required by the Commission.
  - (22) Maps shall be sealed by a professional engineer.
- B. In preparing the site development plan, the applicant may use topographic and utility information provided by the Town. However, if the Commission determines it necessary, the Commission may require the topography and utility location to be verified in the field.

**§ 400-22. Construction plans.**

This section outlines the minimum construction information that must be submitted. The Commission may require additional information if, in the opinion of the Commission, that information is needed to determine that the improvements will be built in accordance with good engineering practice. The following information, where applicable, shall be shown on the site development plan:

- A. Plan and profile drawings shall be submitted for all public improvements and utilities, including, but not limited to, proposed streets, storm drains, sanitary sewers, catch basins, manholes, watercourses, headwalls, sidewalks, curbs, gutters, culverts, bridges, water lines and natural gas lines.
- B. Plan and profile drawings shall be at a horizontal scale of one inch equals 40 feet and at a vertical scale of one inch equals four feet.
- C. For streets, the following additional information shall be shown:
  - (1) Sample road cross-sections;
  - (2) Existing grades and proposed elevations at the center line and both street lines;
  - (3) Beginning, end, low or high point and length of vertical curve; and
  - (4) Points of curvature and points of tangency.
- D. The depth, invert, slope and size of all pipes, ditches, culverts, manholes and catch basins shall be shown.
- E. Detailed drawings of any bridges, culverts, manholes or other structures shall be submitted.
- F. All construction plans shall be sealed by a professional engineer.

**§ 400-23. Sediment and erosion control plan.**

A soil erosion and sediment control plan shall be submitted. This plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and to reduce the danger from stormwater runoff on the proposed site. Such principles, methods and practices shall follow the Connecticut Guidelines for Soil Erosion and Sediment Control (2002), as amended. Alternative principles, methods and practices may be used with prior approval of the Commission. The soil erosion and sediment control plan shall contain, at a minimum, the following information:

- A. A site-specific narrative describing:
  - (1) The development;
  - (2) The schedule for grading and construction activities, including:
    - (a) The start and completion dates;
    - (b) A site-specific sequence of grading and construction activities; e.g., construction of storm drains, drainage structures, streets, etc.;

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- (c) The sequence for installation of soil erosion and sediment control measures; and
  - (d) The sequence for final stabilization of the project site;
  - (3) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
  - (4) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
  - (5) The installation and application procedures for proposed soil erosion and sediment control measures and stormwater management facilities; and
  - (6) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities.
- B. A plan at a scale of one inch equals 40 feet showing the following:
- (1) The location of the proposed development and adjacent properties;
  - (2) The existing and proposed topography, including soil types, wetlands, watercourses and water bodies;
  - (3) The existing structures on the site;
  - (4) The proposed area alterations, including cleared, excavated, filled or graded areas, proposed structures, utilities, roads and new property lines where applicable; and
  - (5) The location of, and design details for, all proposed soil erosion and control measures and stormwater management facilities.

## ARTICLE V

**Design Standards****§ 400-24. General.**

All subdivisions, including roads, drainage and other improvements required by these regulations, shall be planned, designed and constructed in accordance with the standards specified in this article.

**§ 400-25. Character of land and plan of conservation and development.**

Proposed building lots shall be of such size, shape, location, topography and character that buildings can be constructed and used for the intended purposes without danger to the health and safety of the occupants or the public. Subdivisions shall be planned and designed in general conformity with Town's Plan of Conservation and Development.

**§ 400-26. Reserve strips.**

No privately owned reserve strips of land which allow a potential subdivider to control access to land intended for public or private use shall be allowed.

**§ 400-27. Future subdivisions.**

Where one or more parcels are created from a parcel with the potential for further subdivision, the initial subdivision shall not prevent or unduly restrict the convenient subdivision of the remaining land. Access to the remaining land shall allow for the extension or creation of streets. In reviewing this potential access, the Commission shall consider the location of wetlands, steep slopes, sight lines and all other factors associated with potential streets.

**§ 400-28. Plats straddling municipal boundaries.**

Whenever access to the subdivision is required across land in another local government, the Commission may request assurance that the access is legally established, and that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines. A performance bond, in addition to any other bonds required by these regulations, may be required to assure that access is provided and maintained.

**§ 400-29. Open space and recreation areas.**

A. Objectives. In reviewing proposed open space and recreation areas, the Commission shall consider the following objectives:

- (1) Preservation of wetlands, watercourses, floodplains, streams, ponds, lakes and adjacent regulated areas, as well as ridgelines, slopes, archeological and historic sites, distant open views visible from public roads and unusual natural areas;
- (2) Preservation of the habitat and the presence of any species listed by the state or federal government as threatened or endangered or of special concern;
- (3) Proposed open space and recreation areas should abut open space and recreation areas on adjoining properties. Scattered small areas of open space should be avoided in favor of larger cohesive areas;
- (4) Preservation of a rural environment and the Town's character;
- (5) Protection of aquifers, aquifer recharge areas and public water supply watersheds;
- (6) Protection of, or provision for, buffering and screening of development within the parcel from roads or adjacent properties; and
- (7) Provision of areas for active recreation, especially in subdivisions where high concentrations of children are expected.

B. Minimum requirements for open space and recreation.

- (1) The total area of open space shall be equal to or greater than 20% of the combined acreage of the lots proposed within the subdivision.
- (2) The total area of required open space may be broken up into separate areas of not less than one acre, provided the total of all areas is equal to or greater than the minimum requirement of Subsection B(1). The Commission may waive the one-acre minimum when the future development of adjoining land makes smaller areas feasible or where the area is a continuation of brook and stream protection areas or other natural features.
- (3) When a tract is to be developed in stages, the Commission may allow the reservation of open space to be included in any of the phases, provided the necessary total amount of open space is preserved as required by the Commission upon the completion of the development of the entire tract, and provided the open space meets all requirements of the Commission. The Commission shall require a bond as per § 400-13 to assure the preservation of the total area of the open space proposed for the subdivision.
- (4) All open space shall abut or have direct access to a street through a right-of-way dedicated to public use. The right-of-way shall not be included in the required open space area, shall be at least 15 feet wide and shall be suitable for foot and equestrian traffic. In acceptable circumstances, the Commission may reduce or waive this requirement. Open space land, such as conservation and development easements, that will not be open to the public or have limited public use need not abut or have a right-of-way to a public street.
- (5) When a property line of a subdivision abuts existing open space, the Commission may require the new open space lines to form a continuation of the existing area to provide a single, large, unified area.
- (6) No open space or recreation area required by Subsection B(1) above shall:
  - (a) Consist of soils classified as wetland soils; or
  - (b) Have slopes greater than 25%; or
  - (c) Be lands subject to flooding; or
  - (d) Be water bodies or watercourses.
- (7) Land covered by existing easements for utilities, conservation or other purposes shall not be counted towards meeting the open space required.
- (8) There shall be no depositing, dumping or storage of waste or other natural or man-made materials, supplies or equipment on any subdivision land designated as open space.
- (9) Land to be used as public or private open space shall be left in a condition for the purpose intended. Where directed by the Commission, undesirable growth and debris shall be removed by the developer; and open space to be used for recreation shall be graded to dispose of surface water and shall be seeded. In general, wooded and brook areas shall be left natural.



- (10) Any security as outlined in § 400-13 for the completion of public utilities and improvements shall also be available for completion of public or private open space requirements in the event of a default of performance by the subdivider or his successor.
  - (11) In the event that open space dedication and location is deferred, it shall be so stated on the filed Mylar.
  - (12) The open space area shall be one or more of the following:
    - (a) Deeded to the Town in the form of a conservation easement;
    - (b) Deeded to the Winchester Land Trust, or similar nonprofit organization;
    - (c) Deeded to a homeowners' association with a reversionary interest to the Town in the event the association is dissolved;
    - (d) Deeded to the State DEEP (with a conservation easement);
    - (e) In the form of a scenic easement.
  - (13) Easements and restrictive covenants shall be in the form provided by the Town and acceptable to the Town Attorney.
- C. Exceptions to open space and recreation area requirements. The Commission may reduce the open space requirements under the following conditions:
- (1) Where solar access and other energy conservation methods are employed;
  - (2) The transfer of all land in a subdivision of less than five lots is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration;
  - (3) Where the proposed average lot size is twice the minimum lot size required in the zone (or zones) in which the subdivision is located;
  - (4) Where commercial/industrial subdivision is proposed.
- D. Fee in lieu of open space or recreation area.
- (1) In lieu of providing all of the open space or recreation areas as required in Subsection B above, an applicant may, with the Commission's approval, provide 10% open space as required in Subsection B and pay a fee. This fee, or combination of fee and the fair market value of land reserved for open space or recreation areas, shall not exceed 10% of the fair market value of the land to be subdivided prior to the approval of the subdivision.
  - (2) The fair market value of the land to be subdivided shall be determined by an appraiser jointly selected by the applicant and the Commission. The cost of the appraisal shall be paid by the applicant. The appraisal shall be completed prior to the filing of the subdivision plan on the Winchester Land Records.
  - (3) A fraction of the total fee shall be paid to the Town at the time each lot is first sold or transferred. The numerator of this fraction is one; the denominator is the number of approved building lots in the approved subdivision.

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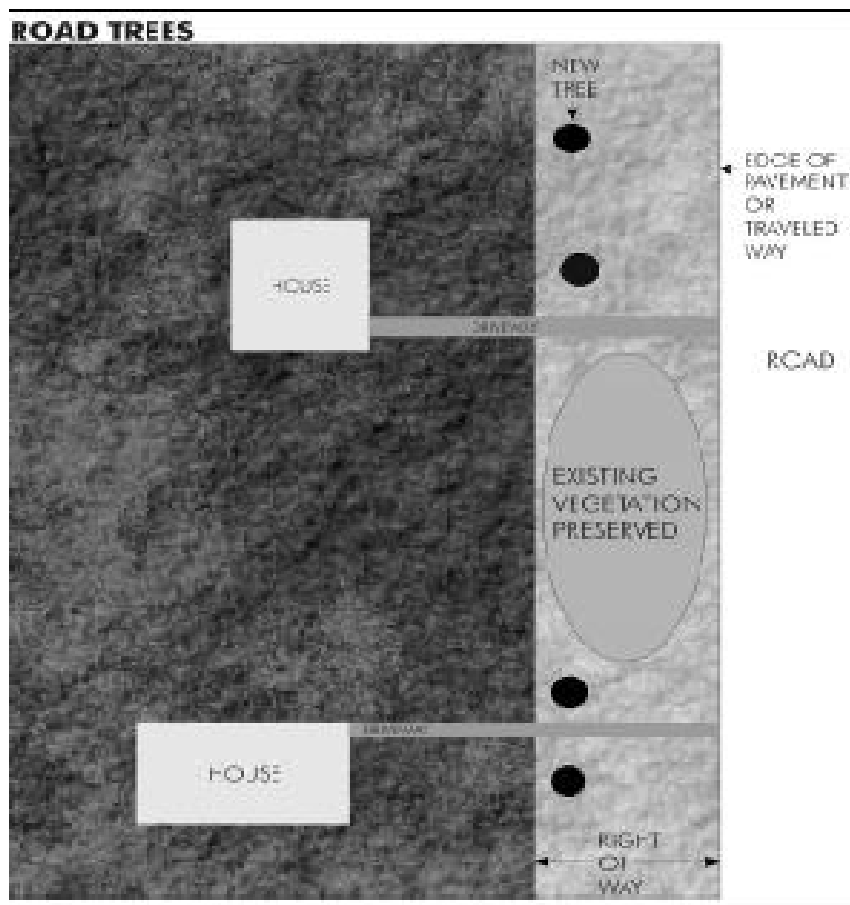
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- (4) At the time of the filing of the approved subdivision plan on the Winchester Land Records, the Commission shall have placed on the Winchester Land Records a notice for each approved building lot. This notice shall indicate the amount of fee that is due prior to the first transfer of an individual lot.
- (5) The applicant has the option of paying the entire fee prior to the filing of the subdivision plan on the Winchester Land Records.
- (6) All fees collected under this section shall be deposited in a Town fund which shall be used exclusively for the purpose of preserving open space, or acquiring additional land for open space or for recreational or agricultural purposes.

**§ 400-30. Street trees.**

- A. Street trees are intended to provide a canopy over existing and proposed streets, reduce noise and glare and improve the aesthetics of the street. It is the Commission's intent to encourage the retention of the maximum number of existing trees and other vegetation within 30 feet of the proposed edge of pavement.
- B. Where existing trees cannot be preserved within the road right-of-way or where, in the Commission's opinion, insufficient suitable trees exist or will remain, the applicant shall plant trees along the road frontage of all lots in the subdivision. These trees are to be planted or retained according to the following requirements:
  - (1) Trees shall be planted an average of 40 feet apart along both sides of all new streets and on lots on existing streets. The Commission may require variations in location, species and quantity due to topography, driveways, need for screening, intersections, utility lines and planting conditions.
  - (2) If new trees are planted, the Commission shall have the right to approve the species of tree to be planted. The Commission prefers deciduous shade trees. New deciduous trees shall have a minimum caliper of three inches and a minimum branching height of five feet. They shall have a mature height of 35 feet or greater. The Commission may allow deciduous trees with a mature height of less than 35 feet in areas where overhead utility lines or solar energy is of concern.
  - (3) Trees that are planted or retained shall be within 30 feet of the edge of the street's pavement or traveled way.
  - (4) During construction, existing trees to be preserved shall be protected in accordance with § 400-31B.
  - (5) In the case of an individual lot along an existing road, the road trees shall be planted prior to the issuance of a certificate of occupancy for a building on that lot. In the case where a new road is constructed, the road trees shall be planted prior to the release of the performance bond.



**§ 400-31. Preservation of natural features.**

- A. The site's natural features shall be preserved to the fullest extent possible. The felling of trees shall be held to a minimum. The applicant shall demonstrate to the Commission that the removal of specimen trees is necessary for the reasonable development of the site.
- B. Specimen trees that are to be preserved and are within, or on the edge of, the construction area shall be protected during construction by barriers. At a minimum, the barriers shall be placed at the drip line of the tree. The barriers shall be at least three feet high and suitably marked to warn construction workers of the presence of a specimen tree. Snow fencing is an example of an acceptable barrier. Barriers shall be placed prior to the start of construction activities and shall remain in place until all construction activities are completed. The areas within the drip line of the specimen trees to be preserved shall remain free of all building materials, fill, vehicles and debris.
- C. No land shall be graded except as shown on the approved site development map. No topsoil shall be removed from any portion of the parcel except where required for the construction of structures, roads, driveways or the installation of utilities and drainage. Where topsoil has been removed, the Commission may require the replacement of said

topsoil to a depth of six inches after compaction and require these areas to be graded, seeded and mulched to prevent erosion.

**§ 400-32. Viewshed regulated area.**

A. Objectives. The Viewshed Regulated Area is adopted in order to:

- (1) Promote the goals and objectives of the Winchester Plan of Conservation and Development.
- (2) Encourage the most appropriate use of land.
- (3) Preserve the natural environment of distinctive high elevation areas as a visual and historic asset for the benefit of the community.
- (4) Prevent the creation of any safety or health hazard, including, but not limited to, soil erosion, excessive drainage runoff and degradation of water quality.
- (5) Minimize the adverse effect of development upon both the visual and functional role of the natural landscape to preserve Winchester's quality of life.

B. Applicability.

- (1) For any proposed structure, development or subdivision application that includes improvements or proposed house sites at or above elevation 900 feet above sea level, the Commission shall evaluate the development and determine whether the applicant will be required to provide viewshed information contained in this section. The factors in determining the applicability of this section shall be the effect that the proposed development has on the preservation of significant scenic features, vistas and ridgelines. The Commission encourages all applicants to attend a preliminary meeting, prior to filing an application, to determine the applicability of this section.
- (2) If the Commission determines that this section is applicable, then it shall have the authority to modify the plan in accordance with the provisions in this section. The applicant shall submit the following material or shall perform the following analysis as deemed necessary by the Commission, in addition to all other plan requirements specified in these regulations:
  - (a) A map at a scale of one inch equals 100 feet showing the entire development plan and delineating all slopes in excess of 25% on the parcel.
  - (b) Site delineation on a USGS Quadrangle Map showing slopes in excess of 25% on the parcel and within 500 feet.
  - (c) In consultation with the Commission, a list of visual impact observation points for the proposed subdivision from regional highways, arterial or collector streets, public parks and other areas accessible to the general public. These points shall be located through field delineation and mapping. The applicant shall place aerial markers, balloons, flags or other on-site markers at points corresponding to the highest point of each proposed structure and/or the limits of site clearing for any proposed site

improvements as deemed necessary by the Commission to allow evaluation of the visual impacts as seen from various observation points. For any site improvement that requires demarcation, no more than four visual impact observation points shall be required. The applicant shall provide photographs taken from visual impact observation points of the development with aerial markers in place of other on-site markers. In addition to photographs, the Commission may request other graphic illustration or other data sufficient to portray the visual impact of the proposed activity.

- (d) A viewshed plan showing location and dimensions of a sight cone(s) for each lot and other development improvements where removal of vegetation is proposed. Site cone areas shall be designed to minimize visibility of the site improvements from the visual impact observation points and reduce the potential for erosion. Removal of tree stock within the view sector cone shall be designed to minimize the visual impact and promote the long-term stabilization of the development.
  - (e) A cross-section at a scale of one inch equals 100 feet in horizontal and one inch equals 125 feet in the vertical to allow analysis of each lot of site improvement shall be prepared.
- C. Mitigation plan. A mitigation plan shall be submitted as a part of the application that specifies mechanisms to minimize the visual and environmental impacts that will result through the development, including but not limited to the following:
- (1) Restrictions on the building materials incorporated into any structures (including but not limited to roofing material), the portion of the structure facing the observation points, building orientation and the like;
  - (2) Restriction on height and mass of structures and/or accessory structures whenever the height is expected to exceed the height of the existing or proposed vegetation screening the structures and improvements from the visual impact observation points at a point in time five years from the time of installation of any new plant material;
  - (3) Restrictions on the location of any structures and/or accessory structures;
  - (4) Restrictions on the clearing of vegetation;
  - (5) Conservation easement areas; and
  - (6) Limiting disturbance of slopes equal to 25% or greater located on the property.
- D. Criteria for decision. In addition to the criteria of these regulations, the Commission shall evaluate every application under this section in accordance with the following criteria:
- (1) Visual impact. The visual impact of the proposed activities as viewed from regional highways, arterial or collector streets, public parks or other areas accessible to the general public. Such impact may include, but not be limited to: unnatural gaps, cuts, projections or other artificial alterations of existing natural tree lines, ridgelines, prominent topographic features or rock formations; the use

of materials which, by their size and/or orientation, disrupt the natural or historic character of the higher elevation area; the size, height, shape and location of buildings.

- E. Modifications and safeguards. If the Commission determines after the evaluation of the information requested that the application is in substantial compliance with this section, the Commission, in its sole discretion, in order to preserve the objectives of this section, may modify the plans or safeguards as follows:

(1) Site development.

- (a) Designate the location of structures and/or accessory structures within the site cone area, including the distance between principal dwellings/structures on adjoining lots;
- (b) Reduce the vegetative removal by restricting the size of lawn areas or other land clearing in connection with development, require the use of common driveways, require grading to be approximately parallel to existing contours, require the use of retaining walls or other methods to minimize disturbance of the existing topography and vegetation and reduce cutting and filling of slopes;
- (c) Require flagging of all vegetative removal prior to issuance of a zoning permit.

(2) Viewshed protection.

- (a) Require that vegetative cutting occur in a staggered or other pattern which reduces the visual impacts of the setting, and/or further require that cutting be staged over a period of time to allow for re-growth of remaining vegetation;
- (b) Require a specific reforestation and screening plan prepared by a State of Connecticut registered professional landscape architect for an individual lot, site development and/or subdivision improvement and require a bond prior to issuance of any permits;
- (c) Require building orientation appropriate to minimize the visual impact of the proposed development;
- (d) Require the use of particular roof lines or other architectural treatments, lighting, pavement materials or other site or building features in order to ensure the compatibility of the development with existing or planned historic sites, buildings or landscapes;
- (e) Require the retention of certain vegetated areas in order to preserve identified historic sites and historic landscapes or vistas; and
- (f) Require conservation easement areas and prohibit removal of tree stock greater than twelve-inch caliper for areas on proposed lots where it is determined the removal of vegetation would not be appropriate as set forth in these regulations.

- F. Recording requirements. Any subdivision or site plan that requires the implementation of this section shall have a note stating: "All clearing and construction activities must comply with § 400-31, Hilltop/Ridgeline Regulation."

## ARTICLE VI

### Design Standards for Roads

#### § 400-33. General.

Roads shall provide a safe and convenient circulation pattern for both existing and future traffic within the subdivision and within the surrounding neighborhood. Traffic calming techniques such as, but not limited to, rumble strips, pedestrian bump-outs, pavers and landscaping, shall be utilized whenever possible and deemed appropriate by the Commission.

- A. The arrangement of roads shall conform to the Town's Plan of Conservation and Development where applicable, and shall be designed to meet the needs of the neighborhood and to discourage through traffic.
- B. The arrangement of proposed roads shall be compatible with existing and planned roads. Existing roads shall be continued into the proposed subdivision if deemed appropriate by the Commission.
- C. Provision shall be made for the continuation of proposed roads to adjoining properties where the potential exists for the future subdivision of the adjoining properties.
- D. When a proposed subdivision covers only part of a larger contiguous piece of land, the applicant shall provide the Commission with a preliminary map indicating a reasonable road layout for the remaining unsubdivided portion of the land.
- E. In general, roads should follow the contours of the land.
- F. Where an existing road is to provide frontage for new lots or access to a new street, the portion of the street fronting the subdivision, or giving access to a subdivision, shall be brought to sufficient conformity with all standards of these regulations. The subdivider will be required to dedicate to the Town land sufficient to satisfy the street right-of-way width requirement.
- G. Where a subdivision fronts on any road which has a right-of-way width, a curve or an intersection that fails to meet the standards specified in these regulations, the subdivider shall deed to the Town additional land for right-of-way sufficient to correct the deficiency in accordance with these standards.

#### § 400-34. Street hierarchy.

Streets shall be classified by type according to the street hierarchy described below. A street's classification is determined by the Commission. The Commission may require the applicant to provide a traffic study to aid in the classification of proposed streets.

- A. Local street/residential access road. Lowest order of residential streets; provides frontage for access to lots and carries traffic having destination or origin on the street

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itself. It is designed to carry the least amount of traffic. On-street parking is allowed. The number of average daily trips is 500 or less.

- B. Residential subcollector. Middle order of residential street. Provides frontage for access to lots and has slightly higher traffic volumes than a local street. Traffic is limited to motorists having origin or destination in the immediate neighborhood. On-street parking is allowed. The number of average daily trips is 1,000 or less.
- C. Residential collector. Highest order of residential street. It conducts and distributes traffic between neighborhoods. On-street parking is not common. The number of average daily trips is less than 3,000. **[Amended at time of adoption of Code]**
- D. Arterial. Interregional road. It conveys traffic between different parts of the Town and between different areas outside the Town; provides frontage for industrial and commercial uses. On-street parking is frequently restricted. The number of average daily trips is 3,000 or more.
- E. Industrial/Commercial. Streets that provide direct access to industrial and commercial areas.

#### § 400-35. Design standards by road type.

- A. Each road shall be classified and designed for its entire length to meet the standards for one of the street types as defined above. The design standards for each road type are given in Tables 1 and 2 below.

| Table 1                        |                       |                     |                          |                      |                        |               |                          |
|--------------------------------|-----------------------|---------------------|--------------------------|----------------------|------------------------|---------------|--------------------------|
| Road Type                      | Design Speed<br>(mph) | ROW Width<br>(feet) | Pavement Width<br>(feet) | On-Street Parking    |                        | Maximum Grade | Sight Distance<br>(feet) |
| Local/Residential access rural | 25                    | 50                  | 22                       | 1 side<br>Add 8 feet | 2 sides<br>Add 16 feet | 10%           | 175                      |
| Residential subcollector       | 30                    | 50                  | 26                       | N/A                  | N/A                    | 10%           | 200                      |
| Residential collector          | 35                    | 50                  | 28                       | N/A                  | N/A                    | 10%           | 250                      |
| Arterial                       | 40                    | 60                  | 32                       | 1 side<br>Add 8 feet | 2 sides<br>Add 16 feet | 10%           | 300                      |



| Table 2                                        |                       |                                                       |                                 |                                                    |
|------------------------------------------------|-----------------------|-------------------------------------------------------|---------------------------------|----------------------------------------------------|
| Road Type                                      | Design Speed<br>(mph) | Minimum Center-<br>line Horizontal<br>Curve<br>(feet) | Intersection Radii<br>(feet)    | Maximum Grade<br>Within 50 Feet of<br>Intersection |
| Local/Residential<br>access rural              | 25                    | 150                                                   | 25                              | 5%                                                 |
| Residential<br>subcollector                    | 30                    | 150                                                   | 25                              | 10%                                                |
| Residential collector                          | 35                    | 300                                                   | 25 residential<br>40 commercial | 10%                                                |
| Major collector/<br>industrial/com-<br>mercial | 40                    | 560                                                   | 40                              | 8%                                                 |

- B. Local roads and residential subcollector streets shall be laid out so that their use by through traffic will be minimized.
- C. The minimum grade on all roads shall be 0.5%. The minimum paved width of any road shall be 22 feet.
- D. The recommended minimum tangent distance between reverse curves is 100 feet.
- E. Road construction materials shall conform to CTDOT specifications, as amended

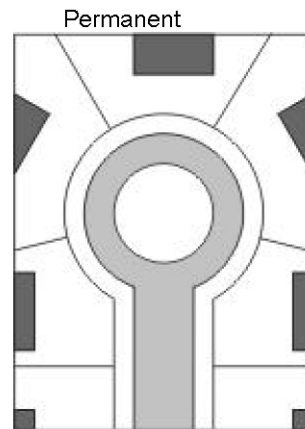
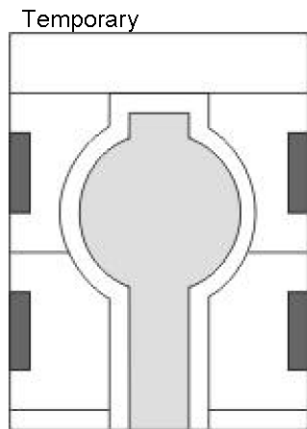
#### § 400-36. Intersections.

- A. No more than two roads shall intersect at any one point.
- B. Roads shall intersect at an angle as near to 90° as practical. In no case shall the angle of intersection be less than 75°.
- C. Intersections along one side of a road shall either:
  - (1) Coincide exactly with intersections along the opposite side of the road; or
  - (2) Be offset by a distance of at least 150 feet from intersections along the opposite side of the road; the distance is measured between the center lines of the roads.
- D. The use of "T" intersections, rather than four-way intersections, shall be encouraged.

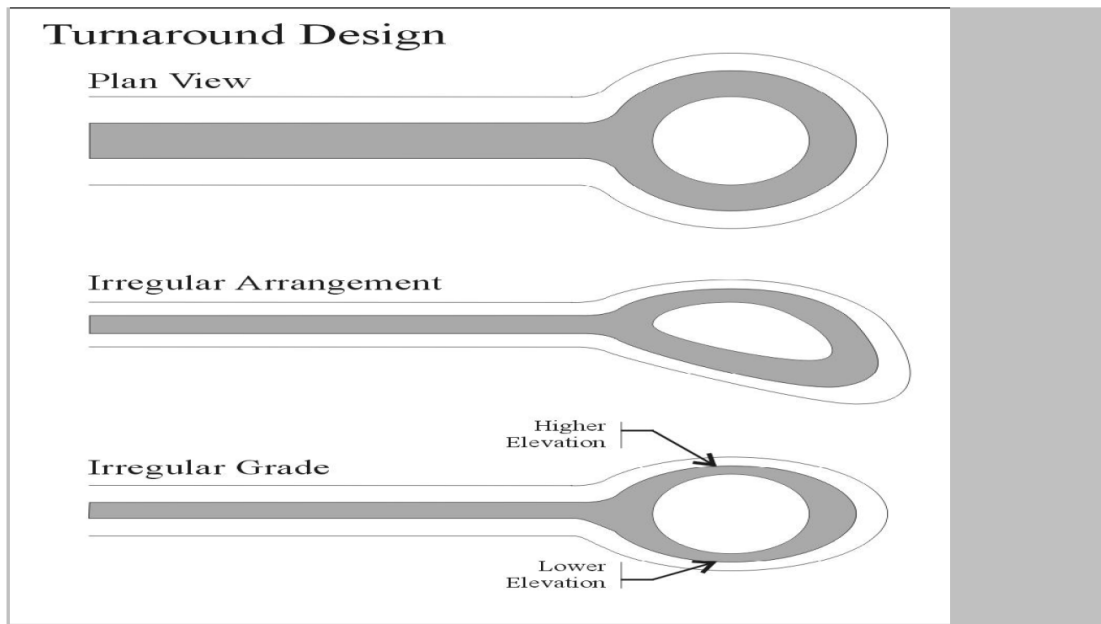
#### § 400-37. Culs-de-sac, turnarounds, dead-ends and loop roads.

- A. All dead-end roads, permanent and temporary, shall terminate in a circular turnaround or "Reverse P" cul-de-sac.
- B. The turnaround areas of permanent culs-de-sac may have a landscaped area in the middle. The natural vegetation in the landscaped area is to be preserved to the extent possible. The Commission may require additional landscaping in this area.

- C. All dead-end roads, permanent and temporary, shall have a right-of-way radius of 50 feet. The turnaround area at the end of a cul-de-sac shall have an outside pavement radius of 40 feet. The Commission may permit a landscaped center island, provided the center island is designed in terms of landscaping to accommodate the turning radius of a WB-40 vehicle.
- D. The maximum roadway gradient within the turnaround shall be 6%, with a minimum gradient of 0.5%.
- E. Culs-de-sac shall be designed to serve no more than 20 dwelling units. The maximum length of a cul-de-sac, regardless of the number of dwelling units served, shall be 1,200 feet.

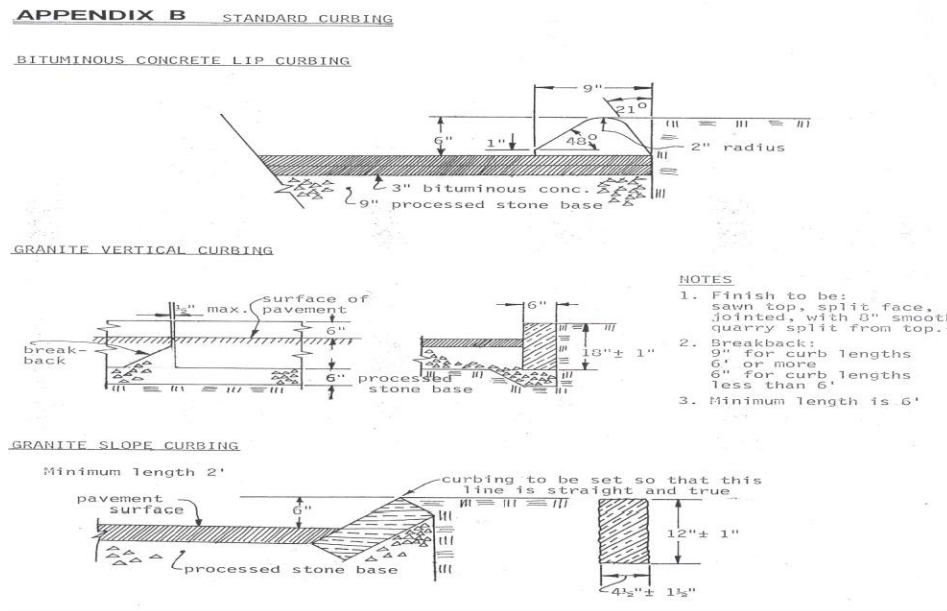


- F. Loop roads shall not exceed 4,000 linear feet nor shall they provide access or frontage to more than 25 lots. A loop road shall have a direct physical connection to an existing or proposed Town road and shall not provide access from a cul-de-sac or dead-end road.



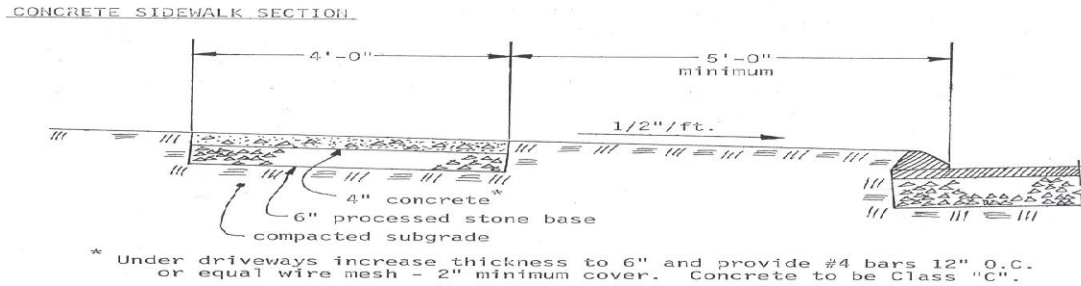
**§ 400-38. Curbing.**

- A. Six-inch pre-cast concrete (extruded concrete curbing is not allowed), granite curbing shall be used under the following conditions:
  - (1) Wherever sidewalks are used;
  - (2) Road gradient exceeds 7%.
  - (3) Road fills over five feet high;
  - (4) All nonresidential areas except as waived by the Commission;
  - (5) Where required by the Commission.
- B. Curbing shall be designed to provide ramps for bicycles and/or wheelchairs as required under the Americans with Disabilities Act.
- C. Curbing shall be installed on both edges of pavement, except where surface drainage is proposed. Curbing shall be granite, or may, with approval of the Commission, be a mountable ("Cape Cod") granite curb. Construction and materials shall conform with CONNDOT specifications.



### § 400-39. Sidewalks and walkways.

- A. Sidewalks shall be required, unless a waiver is granted from the Commission, under the following conditions:
- (1) In any subdivision located in the Central Winchester Business District as shown on the Town of Winchester Zoning Map;
  - (2) Within 500 feet of active recreational parks/areas;
  - (3) Within one-half mile of public schools and nonpublic schools;
  - (4) In retail areas;
  - (5) As required by the Commission.
- B. When required, sidewalks will be located within the right-of-way, four feet from the outside edge of the curb, and shall be a minimum of four feet wide.
- C. As required by the Commission, Town-owned sidewalks shall be constructed of concrete, four inches thick, laid over eight inches of high-quality bank-run gravel; side forms shall be used. Except at vehicle crossings, sidewalks shall be six inches thick and shall be reinforced with welded wire mesh or an equivalent.



- D. Construction of Town-owned, concrete sidewalks shall comply with CONNDOT specifications.
- E. Walkways in dedicated rights-of-way through the interior of a subdivision shall be constructed as specified by the Commission. The Commission may require the establishment of easements for pedestrians and/or bikeways, which shall be a minimum of 10 feet in width

#### **§ 400-40. Guide rails.**

- A. In all areas where the side slopes are steeper than four feet horizontal to one foot vertical and slope down from the street, guide rails shall be designed and installed in accordance with CONNDOT standards.
- B. Alternatives to standard galvanized, w-beam guide rail systems shall be proposed and will be given priority by the Commission in an effort to retain or enhance the character of the neighborhood in which the subdivision is proposed. Alternatives may include, but are not limited to, those depicted below.



#### **§ 400-41. Telephone, cable and electrical utilities.**

- A. All telephone, cable and electrical lines shall be installed in accordance with the specifications and policies of the respective utilities.
- B. All telephone, cable and electrical lines shall be installed underground unless the Commission determines that such underground installation is, in whole or in part, inappropriate or unfeasible. Except for crossings, such lines shall not be located under the road pavement. The lines and facilities shall be installed after the road right-of-way has been graded but prior to installation of the base course for the road pavement.

#### **§ 400-42. Road names.**

Road names shall be proposed by the applicant. The Commission shall recommend road names to the Selectmen, who approve all road names. There should be no duplication of existing road names nor should there be a phonetic resemblance to the names of existing roads. Proposed roads that are continuations of existing roads should be given the same name.

**§ 400-43. Side slopes.**

- A. Streets in cut or fill shall be provided with side slopes not steeper than two feet horizontal to one foot vertical. Actual slopes will be determined by existing material types.
- B. Where a new street abuts private property outside the proposed subdivision, the necessary grading rights shall be obtained by the applicant. These grading rights shall be shown on the subdivision plans and the site development plans.

**§ 400-44. Monuments.**

- A. Monuments shall be placed at all block corners, at angle points, at the points of curvature and tangency in streets and at such intermediate points as may be necessary upon completion of final grading. The location of all street monuments shall be indicated on the final subdivision plan. The monuments shall be installed and their location certified by a licensed land surveyor. All lot corners shall be marked with pipes or other suitable markers. Easements, opens spaces and other lands to be accepted by the Town shall be marked with pipes or other suitable markers prior to final acceptance by the Town.
- B. Monuments shall constructed of stone or reinforced concrete, not less than four inches square and four feet long, with a brass or copper plug or drill hole or cross marking the center of the four-inch square, and be set flush with finished grades.

**§ 400-45. Traffic control.**

Road name signs, traffic regulatory signs and warning signs shall be installed as prescribed by the Town at the expense of the applicant. All signs shall be installed prior to the road's provisional acceptance by the Town.

**§ 400-46. Road lights.**

- A. Rural character will best be preserved by the absence of road lights. Road lights, however, may be required by the Commission on all proposed roads. Illumination is to be kept to the minimum consistent with public safety.
- B. Illumination shall be designed so as not to cause either a hazard to drivers or a nuisance to residents.
- C. Road lights may be required at all intersections and at the end of all culs-de sac.
- D. Road lights may be required at horizontal and vertical curves if, in the opinion of the Commission, the lights are needed to warn drivers of the curves.
- E. The maximum height of light poles shall be 20 feet.
- F. The Commission shall approve the number, location and design of the light poles.
- G. All proposed lighting shall consist of 90° full cut-off fixtures.

## ARTICLE VII

**Stormwater Drainage****§ 400-47. General.**

- A. The developer shall be fully responsible for constructing adequate facilities for the control, collection, conveyance and acceptable disposal of stormwater, other surface water and subsurface water, whether originating within the subdivision area or in a tributary drainage area.
- B. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the Town.
- C. Drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements, where necessary. Such easements shall be at least 20 feet in width. Such easements shall be deeded to the Town.
- D. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the subdivision map. Such easements must be acceptably executed before acceptance of drainage plan and approval of the subdivision map.
- E. Storm drainage systems shall be designed by a qualified professional civil engineer, licensed by the State of Connecticut, and reviewed and approved by the Commission.
- F. The applicant may be required to dedicate, either by deed or by drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the Commission.
- G. The discharge of all stormwater from a subdivision shall be into suitable streams or other acceptable and suitable stormwater drainage facilities having adequate capacity to carry the additional water.
- H. Where the discharge will be into private property, proper easements and discharge rights shall be secured for the Town by the applicant from all affected property owners. Such easements must be acceptably executed before acceptance of the drainage plan and approval of the subdivision map.
- I. Sufficient and adequate facilities shall be constructed on private lots wherever necessary to prevent the flow of surface drainage from the property on which it originates onto adjacent property in sufficient quantity, concentration or velocity to cause damage or create a nuisance on adjoining property.
- J. Where a new street intercepts an existing street which has no underground drainage system or has a drainage system of insufficient capacity to carry the additional flow, appropriate facilities shall be installed by the developer to intercept and dispose of any drainage from the new street which would otherwise be discharged onto the surface of the existing street or into its drainage system.



**§ 400-48. Drainage design.**

- A. All designs shall be based on the maximum ultimate development of the entire watershed as permitted by the Zoning Regulations.<sup>4</sup> All bridges and culverts shall be designed such that the required head and water backwater produced by the structure shall not cause flooding of abutting property.
- B. On watersheds one square mile or over, the design of culverts, bridges and through watercourses shall be based upon not less than a 100-year storm. On watersheds of less than one square mile, the design for the through drainage system shall be for not less than a 50-year storm.
- C. The drainage system for roads, including catch basins, inlets, pipe, underdrains and gutters, within or abutting the subdivision shall be designed for not less than a 10-year storm.
- D. Adequate underdrains shall be constructed whenever, in the opinion of the Town, drainage conditions require it. They may be required even though not shown on the approved construction plans. Design shall be as approved by the Town.
- E. Drainage ditches will, in general, not be permitted where it is feasible to install underground pipe. Lead-off culverts shall be extended to grade.
- F. Culverts under streets shall be extended at least to the edge of the right-of-way of the street. Headwalls, paving, flared-ends and/or riprap, adequate to prevent erosion, shall be provided at the ends of all culverts.

**§ 400-49. Detention basins.**

- A. The Commission may require the construction of detention basins to control peak stormwater discharges from a developed area, to control sedimentation and erosion and to filter stormwater runoff from developed areas. The storm drainage and stream flow computations shall be of sufficient adequacy so that the Commission can make an assessment of the need for detention.
- B. Detention basins shall be designed to achieve a 0% increase in the peak rate of runoff for the two-year to 100-year storm events.
- C. Basins shall be constructed to blend into the existing contours of the land. The Commission may require that vegetation be added for stormwater filtration. The Commission may also require that the basin be of an irregular shape so as to better blend into the parcel's existing contours. The basin's side slopes shall be no steeper than three feet horizontal to one foot vertical.
- D. Maintenance accessways and easements shall be provided for all facilities. The accessway shall be 10 feet wide. The accessway surface shall be 12 inches of rolled gravel formed in two equal lifts. The accessway's slope shall not exceed 15%.
- E. Twenty-foot-wide easements centered on the storm drain pipe shall be provided to the Town for all stormwater pipes which are not installed either in a right-of-way or on

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4. Editor's Note: See Ch. 415, Zoning Regulations.

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other land to be deeded to the Town. Easements for outlet pipes shall extend to a suitable existing storm drain or an adequate natural watercourse.

- F. A minimum ten-foot-wide maintenance access path shall be provided around the perimeter of the detention basin. A six-foot-high black vinyl-coated chain link fence and evergreen landscaped plantings approved by the Commission shall also be provided around the perimeter of the detention basin.

## ARTICLE VIII

### Water Supply

#### § 400-50. Public water supply.

- A. Lots shall be served by a public water supply where the Commission determines such service is both practical and economically feasible. In making its determination, the Commission shall consider:
- (1) The location and size of existing water lines;
  - (2) The adequacy of the water pressure and service;
  - (3) The need for fire protection;
  - (4) The number of lots in the proposed subdivision; and
  - (5) The potential for private wells in the proposed subdivision.
- B. The public water supply system shall have sufficient capacity to handle the necessary flow for domestic demand as well as fire demand.

#### § 400-51. Private water supply.

In subdivisions where the lots are not to be connected to a public water supply, a private well shall be located and constructed on each lot. The well shall be located and constructed in accordance with the requirements of the Connecticut Public Health Code and shall have the approval of the Torrington Area Health District.

## ARTICLE IX

### Fire Protection

#### § 400-52. Fire hydrants.

- A. In subdivisions to be served by a public water supply system, fire hydrants shall be installed as required by the Winchester Fire Chief.
- B. In residential subdivisions, fire hydrants shall be spaced so that each potential residential building shall be within 1,000 feet of a hydrant.
- C. In nonresidential subdivisions, fire hydrants shall be spaced so that each potential principal building shall be no more than 1,000 feet from a hydrant. The Commission,

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after consultation with the Fire Chief, may require that hydrants be spaced less than 1,000 feet apart.

- D. The size, type and installation of hydrants shall conform to the specifications of the Winchester Fire Department.

**§ 400-53. Fire ponds.**

- A. In areas not served by a public water supply system, the Commission may require the construction of a fire pond and/or a dry hydrant. The fire pond and/or dry hydrant shall be accessible to an emergency vehicle.
- B. To provide access to the fire pond or dry hydrant, the Commission may require the construction of an accessway capable of supporting emergency vehicles.
- C. The Commission may require an easement for the use of the pond and the accessway by the Fire Department.
- D. The responsibility for the maintenance of the fire pond, dry hydrant and accessway shall be determined by the Commission.
- E. The installation of the fire pond, dry hydrant and accessway shall conform to the specifications of the Winchester Fire Department.

## ARTICLE X

**Sewage Disposal****§ 400-54. Acceptable means of disposal required.**

Each building lot shall have a means of sanitary sewage disposal that is acceptable to the Commission.

**§ 400-55. Public sewer systems.**

- A. The public sewer system shall be designed and installed in accordance with the Town's construction standards as well as all applicable state and federal regulations, subject to the approval by the Water and Sewer Commission.
- B. The public sewer system shall be installed with sufficient capacity to handle anticipated future development in the surrounding area as designated in the Plan of Conservation and Development and as approved by the Winchester Water and Sewer Commission.
- C. Lots shall be served by a public sewer system where the Commission determines that such service is both practical and economically feasible and where required by Town ordinance.

**§ 400-56. On-site sewage disposal.**

- A. On-site sewage disposal systems may be allowed by the Commission where the Commission determines that public sewer systems are neither practical nor economically feasible.
- B. Prior to approving any subdivision with on-site sewage disposal systems, the Commission shall receive a report from the Torrington Area Health District indicating that all lots in the subdivision are capable of supporting an on-site system.
- C. On-site sewage disposal systems shall be designed and constructed in accordance with the regulations of both the Torrington Area Health District and the Department of Public Health. **[Amended at time of adoption of Code]**

## ARTICLE XI

**Solar and Renewable Energy****§ 400-57. Site design.**

The applicant shall consider site designs that promote energy-efficient patterns of development, the use of solar or other renewable forms of energy and energy conservation.

**§ 400-58. Passive solar energy.**

The applicant shall demonstrate to the Commission that the use of passive solar energy techniques has been considered in the development of the subdivision plan. "Passive solar energy techniques" means site design techniques which:

- A. During the heating season, maximize solar heat gain, minimize solar heat loss and provide thermal storage within a building; and
- B. During the cooling season, minimize heat gain and provide for natural ventilation during the cooling season.

**§ 400-59. Passive solar energy techniques.**

Passive solar energy techniques include, but are not limited to, the following:

- A. Having the proposed principal building oriented so that the longest side of the building faces within 30° of true south;
- B. Having roads laid out within 30° of an east-west axis;
- C. Providing vegetative buffers on the northwesterly side of principal buildings to reduce heat loss due to winter winds;
- D. Providing easements to protect solar access.

## ARTICLE XII

**Enforcement; Amendments; Validity****§ 400-60. Penalties for offenses.**

Any person, firm or corporation subdividing or resubdividing land without the approval of the Commission shall be subject to penalties as specified in the Connecticut General Statutes. Any person, firm or corporation offering for sale a lot in a subdivision or resubdivision that has not been approved by the Commission shall also be subject to penalties as specified in the Connecticut General Statutes.

**§ 400-61. Identification of restrictions on subdivision map.**

If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Regulations,<sup>5</sup> or these regulations, such restrictions or reference thereto shall be indicated on the subdivision map.

**§ 400-62. Amendments.**

The Commission may amend these regulations in accordance with the procedures in the Connecticut General Statutes.

**§ 400-63. Severability.**

If any part of these regulations is declared by a court of competent jurisdiction to be invalid, such declaration shall not affect the validity of the rest of these regulations.

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5. Editor's Note: See Ch. 415, Zoning Regulations.



## Chapter 415

### ZONING REGULATIONS

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- § 415-27. Adult-oriented establishments.
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- § 415-32. Congregate residence development.
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- § 415-34. Convalescent homes and nursing homes.
- § 415-35. Corner lots.
- § 415-36. Country inns.
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- § 415-38. Farms.
- § 415-39. Farm stands, permanent.
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- § 415-44. Industrial heritage reuse.
- § 415-45. Marijuana facilities.
- § 415-46. Multifamily dwellings.

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§ 415-47. Open space subdivisions.

ARTICLE V

§ 415-48. Public safety facilities.

Glossary of Terms and Phrases

§ 415-49. Public utility facilities.

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§ 415-50. Roadside-oriented limited  
retail enterprises.Appendix A, Table of Uses  
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Requirements

§ 415-51. Telecommunications facilities.

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§ 415-52. Wind and solar facilities.

Appendix C, Zoning Map

**[HISTORY: Adopted by the Planning and Zoning Commission of the Town of Winchester effective 11-7-2016, as amended through 12-9-2019. Subsequent amendments noted where applicable.]**

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## ARTICLE I

**Introduction to and Use of Zoning Regulations****§ 415-1. Applicability and purpose.**

These regulations shall apply, and all land, buildings, premises, or part thereof, shall hereafter be used, constructed, reconstructed, extended, enlarged, moved and altered in conformity with these regulations. They are adopted for the following purposes in accordance with the Connecticut General Statutes (C.G.S.), as amended:

- A. To promote and to protect the public health, safety and welfare of the inhabitants of the Town of Winchester, Connecticut (hereinafter referred to as the "Town"), and of the public generally;
- B. To encourage the most appropriate use of land throughout the Town, thereby conserving the value of properties;
- C. To regulate the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards, courts and other open spaces; and the height, size, character and location of signs;
- D. To regulate the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes;
- E. To divide the Town into zoning districts of such number, shape and area as may be best suited to carry out the purposes of these regulations;
- F. To regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land in such zoning districts;
- G. To permit certain classes or kinds of buildings, structures or uses of land within the Town only after obtaining a special permit;
- H. To lessen congestion in the streets;



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§ 415-3

- I. To secure safety from fire, panic, flood and other dangers;
- J. To provide adequate light and air;
- K. To prevent the overcrowding of land and avoid undue concentration of population;
- L. To facilitate the adequate provision for transportation, water, sewerage, schools, parks and public requirements;
- M. To further the policies of the Plan of Conservation and Development;
- N. To guide development in a manner which recognizes the importance of the natural environment and the Town's natural resources;
- O. To protect the value of buildings and property throughout the Town and the Town's ground and surface waters;
- P. To preserve the historical resources, natural features and visual qualities that enhance the character of the Town;
- Q. To encourage development of housing opportunities for all citizens of the Town consistent with soil types, terrain and infrastructure capacity;
- R. To prevent unreasonable pollution, impairment or destruction of the public trust in air, water or other natural resources of the Town;
- S. To guide development which minimizes impacts to wetlands, watercourses, flood-prone areas, hillsides, surface water and groundwater resources, and other sensitive and significant features of the natural landscape, and to establish soil erosion and sedimentation controls;
- T. To encourage energy-efficient patterns of development, the use of solar and other renewable forms of energy and energy conservation; and
- U. For such other purposes as specified in C.G.S. Chapter 124.

**§ 415-2. Severability.**

The invalidity of any word, clause, sentence, paragraph, section, subsection, part or provision of these regulations shall not affect the validity of any other word, clause, sentence, paragraph, section, subsection, part or provision which can be given effect without such invalid part or parts. The invalidity of these regulations with respect to any particular activity shall not invalidate these regulations with respect to other activities.

**§ 415-3. Interpretation.**

- A. In interpreting and applying these regulations, the regulations shall be considered as the minimum requirements for the promotion of the public health, safety and general welfare. When these regulations impose a greater restriction on the use of buildings or structures or require larger yards, courts or other open spaces, or require a greater percentage of lots to remain unbuilt, or impose other standards higher than those imposed by federal or state law or regulation, local ordinance or regulation, or private

agreement, these regulations shall control. When restrictions are imposed by any law, ordinance, regulation or private agreement, which are greater than those required by these regulations, such greater restrictions shall not be affected by these regulations. When one section of these regulations imposes standards greater than those of another section, the standards of the more restrictive section shall control.

- B. In the construction of these regulations, the words and definitions contained herein shall be observed and applied, except where the context clearly indicates otherwise, as follows:
- (1) Words used in the singular shall include the plural, and words used in the plural shall include the singular; words used in the present tense shall include the future tense.
  - (2) The word "shall" is mandatory and not discretionary.
  - (3) The word "may" is permissive.
  - (4) The word "lot" shall include the words "piece," "parcel," "premises" or "land."
  - (5) The words "zone," "zoning district" and "district" have the same meaning.
  - (6) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
  - (7) The word "subdivision" shall include "resubdivision."
  - (8) The phrase "these regulations" shall refer to the entire Zoning Regulations, including the Official Zoning Map.
  - (9) Uses of land, buildings or structures not expressly permitted in the various districts are prohibited.

#### **§ 415-4. Measurement and calculation.**

- A. Measuring distances. Use the shortest distance along a horizontal plane from the lot line and the edge of a structure, irrespective of the topography of the land.
- B. Measuring height. Use the vertical distance above the average natural grade of the outside ground level along all walls of a building to the midpoint of the roof. For height measurements in the HL District, see § 415-13B(1) of these regulations. **[Amended at time of adoption of Code]**
- C. Measuring lot width. Lot widths are measured at the rear of the minimum front yard or at the street line, whichever is least.
- D. Calculating lot area. Minimum lot area requirements shall be exclusive of easements or other permanent restrictions prohibiting building or development, including, but not limited to, areas covered by waters.

**§ 415-5. Zoning Map interpretation.**

When uncertainty exists, in the opinion of the Commission or the Zoning Enforcement Officer, as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. District boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed as following said center lines;
- B. District boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
- C. District boundaries indicated as approximately following Town limits shall be construed as following Town limits;
- D. District boundaries indicated as following railroad rights-of-way shall be construed as the center of said rights-of-way;
- E. Boundaries indicated as approximately following the center line of streams, brooks, natural watercourses and other bodies of water shall be construed as following such center lines; and
- F. District boundaries which are set back from streets and approximately parallel to such streets shall be construed as parallel to such streets and, unless specific dimensions are shown on the Official Zoning Map, shall be construed to be:
  - (1) For Town Districts, 100 feet from the street line; and
  - (2) For Rural and Lake Districts, 150 feet from street line.

**§ 415-6. Density, buildable area and building coverage calculations for certain unbuildable lands.**

When calculating density, buildable area or building coverage in any district, where such calculations apply, no land consisting of wetland soils, FEMA-designated 100-year floodplain, water bodies, watercourses or land with slopes in excess of 25% shall be included as part of the calculations.

## ARTICLE II

### Zoning Districts

**§ 415-7. TSF Town Single Family.**

TSF Districts are intended to reflect and promote a low-intensity, single-family residential development pattern. In these districts, use and density regulations are of primary importance to maintain existing and to promote desired development patterns. Certain uses are permitted, while others require a special permit. All other uses are prohibited. Density is controlled by the establishment of a uniform set of setback, building coverage and height regulations, which determine the size of a building, and will vary depending on the size of the lot. The

natural environment is considered through the establishment of a maximum impervious surface coverage ratio.

- A. Uses. Uses permitted in the TSF District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Building dimensions and placement.
    - (a) Minimum street frontage of lot: 150 feet.
    - (b) Minimum front yard setback: 25 feet.
    - (c) Minimum rear yard setback: 25 feet.
    - (d) Minimum side yard setback: 10 feet.
    - (e) Maximum building coverage: 25%.
    - (f) Maximum height: 35 feet.
    - (g) Maximum impervious surface coverage: 40%.
    - (h) One principal building per lot.
- C. Parking and signage.
  - (1) Off-street parking.
    - (a) Parking is allowed on a driveway leading to the principal building or use and on circular driveways located in a front yard.
    - (b) Front yard parking is not otherwise allowed.
    - (c) See the Table of Uses and Parking Requirements in Appendix A.<sup>1</sup>
  - (2) Sign types.
    - (a) Signs are not allowed unless approved as part of a special permit (maximum of two different sign types), or exempt signs.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

#### **§ 415-8. TCR Town Center Residential.**

TCR Districts are intended to reflect and promote a higher density, walkable development pattern. In these districts, use and density regulations are of primary importance to maintain existing and to promote desired development patterns. Certain uses are permitted, while others require a special permit. All other uses are prohibited. Density is controlled by the

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1. Editor's Note: Appendix A is included as an attachment to this chapter.

establishment of a uniform set of setback, building coverage and height regulations, along with an allowable number of units per acre, which determine the size of a building, and will vary depending on the size of the lot. The natural environment is considered through the establishment of a maximum impervious surface coverage ratio.

- A. Uses. Uses permitted in the TCR District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Dimensions and coverage.
    - (a) Accessory structures:
      - [1] Minimum front yard setback: 25 feet.
      - [2] Other setbacks per principal structures, below.
    - (b) Principal structures:
      - [1] Minimum street frontage of lot: 150 feet.
      - [2] Minimum lot area/dwelling unit: 1,000 square feet.
      - [3] Minimum front yard setback: 10 feet.
      - [4] Minimum side yard setback: 10 feet.
      - [5] Minimum rear yard setback: 10 feet.
      - [6] Maximum building height: 50 feet.
      - [7] Maximum impervious surface coverage ratio: 30%.
      - [8] One principal building per lot except as otherwise allowed via a special permit.
- C. Parking and signage.
  - (1) Off-street parking. See the Table of Uses and Parking Requirements in Appendix A.<sup>2</sup>
  - (2) Permitted sign types.
    - (a) Maximum of two different sign types per multifamily development as listed on the Sign Type and Quantity Table § 415-21.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

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2. Editor's Note: Appendix A is included as an attachment to this chapter.

**§ 415-9. TC Town Center.**

TC Districts are intended to reflect and promote a traditional mixed-use business district characteristic of New England town centers. In these districts, a mix of permitted uses and a walkable urban form is of primary importance to maintain existing development patterns and to promote desired development patterns. Certain uses are permitted, while others require a special permit. All other uses are prohibited. Additional density is promoted in the Town Center.

- A. Uses. Uses permitted in the TC District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. The Zoning Enforcement Officer may approve a change in use between one permitted use and another permitted use in the TC Zone. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Building dimensions and placement.
    - (a) Accessory structures:
      - [1] Minimum front yard setback: 25 feet.
      - [2] Other setbacks as per principal structures, below.
    - (b) Principal structures:
      - [1] Maximum front yard setback: five feet.
      - [2] Maximum side yard setback: three feet.
      - [3] Maximum rear yard setback: 10 feet.
      - [4] Minimum building coverage: 75%.
      - [5] Maximum height: 75 feet.
- C. Parking and signage.
  - (1) Off-street parking. Not required.
  - (2) Permitted sign types.
    - (a) Maximum of two different sign types as listed on the Type and Quantity Table in § 415-21.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

**§ 415-10. TG Town Gateway.**

TG Districts are intended to reflect and promote positive impressions about the Town. In these districts, the regulations are tailored to promote desired development patterns that promote an appropriate transition from rural to Town uses. Certain uses are permitted, while

others require a special permit. All other uses are prohibited. Building setbacks, parking, signage and landscaping regulations are of particular importance in these areas.

- A. Uses. Uses permitted in the TG District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Lot dimensions and coverage.
    - (a) Minimum lot width: 100 feet.
  - (2) Building dimensions and placement.
    - (a) Minimum front setback: 30 feet.
    - (b) Minimum side setback: 15 feet.
    - (c) Minimum rear setback: 30 feet.
    - (d) Maximum height: 50 feet.
    - (e) Maximum impervious surface coverage: 50%.
- C. Parking and signage.
  - (1) Off street parking. See the Table of Uses and Parking Requirements in Appendix A.<sup>3</sup>
  - (2) Permitted sign types.
    - (a) Maximum of two different sign types as listed on the Sign Type and Quantity Table in § 415-21.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

### **§ 415-11. PI Production and Innovation.**

Production and innovation is a hallmark of the Town's history and is an important part of its current and future economy. PI Districts are intended to provide for the continuation of the manufacture, compounding, assembly, fabrication, processing and packaging of goods in portions of the Town traditionally devoted to these uses along the Still and Mad Rivers. Certain uses are permitted, while others require a special permit. All other uses are prohibited. Less intense uses are permitted as of right, with more intense uses requiring

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3. Editor's Note: Appendix A is included as an attachment to this chapter.

approval of a special permit. Live-work spaces and a mix of nonindustrial commercial uses are also encouraged in these areas.

- A. Uses. Uses permitted in the PI District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Lot dimensions and coverage.
    - (a) Minimum lot area: 20,000 square feet.
    - (b) Minimum lot width: 100 feet.
  - (2) Building dimensions and placement.
    - (a) Minimum front setback: 50 feet.
    - (b) Minimum side setback: 15 feet.
    - (c) Minimum rear setback: 30 feet.
    - (d) Maximum building coverage: 30%.
    - (e) Maximum height: 70 feet.
    - (f) Maximum impervious surface coverage: 75%.
- C. Parking and signage.
  - (1) Off-street parking. See the Table of Uses and Parking Requirements in Appendix A.<sup>4</sup>
  - (2) Permitted sign types.
    - (a) Maximum of three different sign types as listed on the Sign Type and Quantity Table in § 415-21.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

#### **§ 415-12. RR Rural Residential.**

RR Districts make up a significant portion of the Town's land area. They are characterized by rolling, wooded hills with low-intensity agriculture uses and single-family estate residences. Maintaining the natural and low-density character of these areas is the focus on these districts. Permitted land uses are limited and density is purposefully low in these districts.

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4. Editor's Note: Appendix A is included as an attachment to this chapter.



Certain uses are permitted, while others require a special permit. All other uses are prohibited.

- A. Uses. Uses permitted in the RR District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Lot dimensions and coverage.
    - (a) Minimum lot area: 85,000 square feet.
    - (b) Minimum lot width: 200 feet.
  - (2) Building dimensions and placement.
    - (a) Minimum front yard: 50 feet.
    - (b) Minimum side yard: 30 feet.
    - (c) Minimum rear building yard: 35 feet.
    - (d) Maximum building coverage: 10%.
    - (e) Maximum height: 30 feet.
    - (f) Maximum impervious surface coverage: 15%.
    - (g) One principal building per lot.
- C. Parking and signage.
  - (1) Off-street parking.
    - (a) Parking is allowed on a driveway leading to a principal building and on circular driveways located in a front yard.
    - (b) See the Table of Uses and Parking Requirements in Appendix A.<sup>5</sup>
  - (2) Permitted sign types.
    - (a) One freestanding sign is permitted for commercial establishments and farms as listed on the Sign Type and Quantity Table in § 415-21.
    - (b) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

#### **§ 415-13. HL Highland Lake District.**

- A. The HL District reflects the unique character and development patterns on and around Highland Lake. The regulations for the district are designed to reduce overcrowding

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5. Editor's Note: Appendix A is included as an attachment to this chapter.

and limit incompatible land uses in this area. They are also intended to protect the lake from excessive stormwater runoff. Certain uses are permitted, while others require a special permit. All other uses are prohibited.

- (1) Uses. Uses permitted in the HL District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- (2) Buildings.
  - (a) Lot dimensions and coverage.
    - [1] Minimum lot area: 40,000 square feet.
    - [2] Minimum lot width: 150 feet.
  - (b) Building dimensions and placement.
    - [1] Minimum front setback: 50 feet.
    - [2] Minimum side setback: 35 feet.
    - [3] Minimum rear setback: 35 feet.
    - [4] Minimum setback from the lake's high-water mark: 35 feet.
    - [5] Maximum impervious surfaces: See below.
    - [6] Height: See Subsection B.
    - [7] One principal building per lot.
- (3) Parking and signage.
  - (a) Off-street parking. None required unless as part of a special permit.
  - (b) Permitted sign types.
    - [1] One freestanding sign is permitted for commercial establishments and farms as listed on the Sign Type and Quantity Table in § 415-21.
    - [2] No other signs unless permitted as part of a special permit (maximum of two different sign types).
    - [3] For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

See Subsection B for additional regulations in the HL District.

B. Additional regulations in the HL District.

- (1) Building height. Buildings in the HL District shall be no taller than 30 feet in height. The building height is the distance between a horizontal line at the average existing pre-development grade of the lot directly beside the structure, and the highest point of the coping of a flat roof, the top of a mansard roof, the

midpoint of any pitched gable, hip or the upper portion of a gambrel roof, or measured between the top floor ceiling and the peak of the roof on an "A" framed structure.

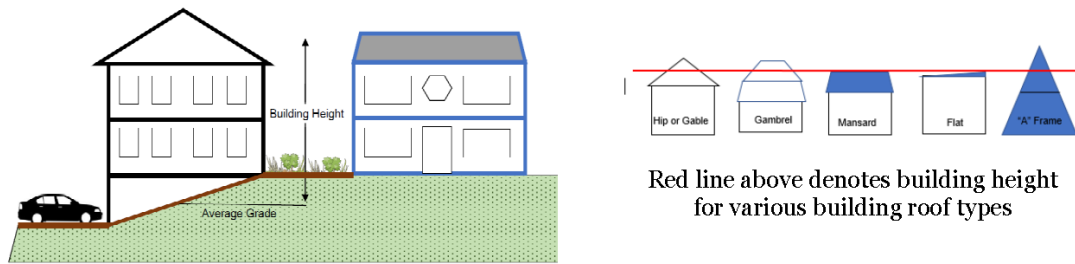
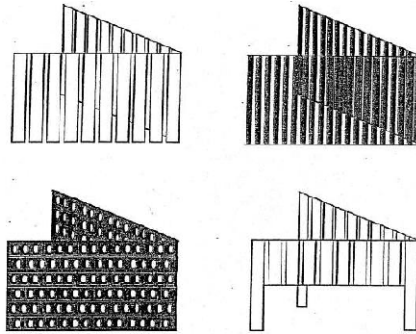


Diagram showing example Building Height Calculation.

(2) Impervious surfaces.

- (a) Except as otherwise provided herein, impervious surfaces on a lot shall not exceed 15% of the total area of the lot; provided, however, if LID Regulations are employed in the development of the lot, then the lot may, by special exception issued by the Zoning Board of Appeals, receive a 5% impervious surface bonus to allow for a maximum of 20% impervious surfaces on a lot. The LID practice(s) must provide a "Primary Stormwater Treatment Practice" as described in Section 6.2 of the 2004 CT Stormwater Quality Manual, as amended, that will accept, at the least, the water quality volume (first inch of rainfall) of stormwater generated by the activities on the property that are in excess of the 15% limit.
  - (b) For driveways, walkways and patios, if a design showing an engineered pervious design, such as pervious pavers, asphalt or concrete, is utilized along with an appropriate base, these surfaces shall be exempt from the above limits. Such design must demonstrate that the product will be able to completely accept at least the water quality volume (first inch of rainfall) for the life of the surface. Decks constructed over a pervious surface such as grass or soil shall also be exempt from the above limits.
- (3) Fences and walls. All fences and walls in the HL District shall comply with these regulations, and all fences or walls within 20 feet of the high water line or exceeding four feet in height shall require a special permit approved by the Commission in accordance with the following:
- (a) In reviewing applications under this subsection, the Commission shall take into consideration the impact of proposed fences or walls on the visual access to Highland Lake from both private properties and the public way, and to the greatest extent possible, fences and walls shall be located in such a way as to maintain views of Highland Lake from neighboring properties and from the nearest public right-of-way. At a minimum, fences or walls shall be located to maintain one straight-line, uninterrupted viewshed area to Highland Lake per lot as viewed from the nearest public right-of-way. The width of the viewshed area shall be not less than nine feet and shall be located within the side yard of the lot.

- (b) Fences and walls shall not exceed six feet in height, the design of which shall be semi-open, such as the examples shown below.
- (c) Fences located within 20 feet of the high water line of Highland Lake shall not exceed four feet in height, the design of which shall be semi-open, such as the examples shown below.
- (d) Walls located within a required front yard or within 20 feet of the high water line of Highland Lake shall not exceed a height of 36 inches.
- (e) The height of fences or walls shall be measured from the ground on which the fence or wall sits. In the event that one or more fence section(s) does not touch the ground, the height shall be measured from the ground immediately adjacent to such fence section, whichever is less. Fence posts, columns and decorative caps may be permitted to exceed the maximum fence heights by not more than 12 inches.
- (f) All fences shall be constructed so that the finished side shall face outward toward the abutting lots and rights-of-way.
- (g) To allow access for maintenance, fences and walls shall be located at least two feet from all property lines, or, with mutual written consent from the adjoining lot owner(s), which shall be notarized, may be located on the lot line.
- (h) Retaining walls and temporary construction and erosion control fences are exempt from these additional requirements.
- (i) All applications for a special permit approval under this subsection shall be accompanied by the following:
  - [1] Copies of an application and fees as prescribed by the Commission;
  - [2] Copies of a site plan, drawn to scale not to exceed one inch equals 50 feet, showing all the lot lines, structures, easements or rights-of-way, natural features and location of the proposed fence or wall, which shall also include dimensions of the proposed fence or wall as well as setback distances;
  - [3] Copies of the Assessor's map(s) showing the subject lot and all the lots within 300 feet of the subject lot;
  - [4] Copies of a drawing of the proposed fence or wall at a scale not to exceed 1/8 inch equals one foot, showing the height, building materials and style of the proposed fence or wall; and five-inch by seven-inch color photographs of the lot, site area and surrounding neighborhood.
- (j) Examples of a semi-open fence, shown below:



- (k) The subject structure does not encroach within the side yard to an extent greater than the existing principal building and limited to a minimum side yard of nine feet.
- (l) A landscape buffer planted parallel to the side yard for the full length of both sides of the proposed structure, which shall create a permanent screening element between lots.<sup>6</sup>
- (4) Decks, patios, terraces, steps needed for building access and accessibility features. Decks, patios, terraces and steps needed for building access, including accessibility features, may be added to buildings within the HL District within the required setbacks, provided: **[Amended at time of adoption of Code]**
  - (a) The subject structure, other than steps in Subsection B(4)(d) below, shall be installed no closer to the boundary than the existing principal building, or nine feet, whichever is greater.
  - (b) The subject structure is not within 20 feet of the lakeshore/retaining wall face/high water level, or a front or rear property line.
  - (c) There shall be a landscaped buffer on the subject lot between the proposed subject structure and the neighboring lot to provide screening between lots. A single hedgerow of deciduous or coniferous plantings, at least five feet high, and spaced as recommended by the grower when used as a screening planting, shall be provided for this purpose.
  - (d) Steps required for building access are no larger than what is required by the building code and shall be positioned to minimize the incursion into a front, rear or side yard setback when possible (steps beside, rather than perpendicular to, the served structure). Such steps may be covered for safety purposes, but no habitable space shall be built above such stairways.
  - (e) Accessibility features for use by disabled individuals, such as ramps and expanded stoops which are wanted for access, may be installed under this provision, provided the feature is not any larger than recommended by ADA standards and is configured to intrude as little as possible into the required setback.

6. Editor's Note: Original Subsection m), prohibiting structures within 20 feet of the lakeshore, which immediately followed this subsection, was repealed at time of adoption of Code.

- (f) These decks, patios, terraces, steps and accessibility features shall not be increased in height, as otherwise allowed in § 415-17D(2), nor increased in total size to more than 400 square feet. Decks in excess of 400 square feet are permitted through a special exception from the Zoning Board of Appeals.
- (5) Prohibited screening. No earthen berms or other similar features shall be utilized for screening in the HL District.
- (6) Special regulations for subdivision in the HL District. Any subdivision of land in the HL District shall utilize the open space subdivision regulations.<sup>7</sup>

#### **§ 415-14. HLB Highland Lake Business District.**

The HLB District reflects the unique character and development pattern of the small cluster of businesses located at the north end of Highland Lake. The regulations for the district are designed to promote the character of the area and limit incompatible land uses. Uses require a special permit. All other uses are prohibited.

- A. Uses. Uses permitted in the HLB District and uses requiring a special permit are set forth in Appendix A, included as an attachment to this chapter. **[Amended at time of adoption of Code]**
- B. Buildings.
  - (1) Lot dimensions and coverage.
    - (a) Minimum lot area: 4,000 square feet.
    - (b) Minimum lot width: 40 feet.
  - (2) Building dimensions and placement.
    - (a) Minimum front setback: five feet.
    - (b) Minimum side setback: five feet.
    - (c) Minimum rear setback (for non-lakefront properties): 25 feet.
    - (d) Minimum setback from the lake's high water mark: zero feet.
    - (e) Maximum impervious surfaces: 75%.
    - (f) Height: 50 feet.
- C. Parking and signage.
  - (1) Off-street parking. See the Table of Uses and Parking Requirements in Appendix A.<sup>8</sup>
  - (2) Permitted sign types.

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7. Editor's Note: See § 415-47 of this chapter.

8. Editor's Note: Appendix A is included as an attachment to this chapter.

§ 415-14

## ZONING REGULATIONS

§ 415-15

- (a) One sign of any type, listed on the Sign Type and Quantity Table in § 415-21.
- (b) No other signs unless permitted as part of a special permit (maximum of two different sign types).
- (c) For signs related to a family child-care home, see Article III, Common Regulations, § 415-21, Sign types. **[Amended at time of adoption of Code]**

All additional regulations of the HL District shall apply in the HLB District. See HL District, § 415-13, Subsection B.

## ARTICLE III

**Common Regulations****§ 415-15. Architectural review.**

This section is intended to aid applicants in ensuring that their designs are in harmony with the character of the community, encourage high-quality building and site design, and result in development or redevelopment that is compatible with the character of the community. Adherence to preservation of local historic places should be considered.

**A. Establishment.**

- (1) The Commission shall appoint an Architectural Review Committee. The Committee shall consist of five regular members and two alternate members. The Town Planner shall be a regular member of the committee. Initially, two members shall be appointed to a term of one year, two members shall be appointed to a term of two years and one member shall be appointed to a term of three years. Thereafter, all members shall be appointed to a term of three years. Initially, one alternate member shall be appointed to a term of one year and one alternate member shall be appointed to a term of two years. Thereafter, all alternate members shall be appointed to a term of three years. At least one alternate or regular member should be an architect or landscape architect. At least one alternate or regular member should have a background in historical preservation.
- (2) The Committee's recommendations are strictly advisory. The Committee's actions shall not result in a delay in the time allowed for the normal processing of applications.

**B. Applicability.** Proposed development, construction or redevelopment or use in a TC, PI, HLB or TG District shall be reviewed in relation to these design guidelines. In addition, nonresidential uses in any other district which will change the appearance of a structure, or where a new structure is to be built for nonresidential purposes, shall also be reviewed in relation to these design guidelines.

**C. Procedure.**

- (1) The Committee shall review an application in relation to the design guidelines of this section and may request the assistance of a design professional(s) in evaluating such plans. Within 35 days after being referred to the Committee, the Committee shall review and make written recommendations. **[Amended at time of adoption of Code]**
- (2) Any recommendations or suggestions so received from the design professional(s) shall not be binding on the Committee.

D. Guidelines.

- (1) Relationship of buildings to site and adjoining areas.
  - (a) Buildings should be organized in a coordinated and functional manner that is compatible with site features and the desirable characteristics of adjoining areas.
  - (b) A unified design theme for building massing, exterior treatments and signage should be established where harmony in textures, lines and masses is provided and monotony is avoided.
  - (c) Parking areas should be treated appropriately in relation to the building, the neighborhood and the community.
  - (d) The height and scale of each building should be compatible with its site and existing (or anticipated) adjoining buildings.
  - (e) Newly installed utility services, and service revisions necessitated by exterior alterations, should be underground.
  - (f) A desirable streetscape and attractive landscape transitions to adjoining properties shall be provided.

E. Landscape and site treatment.

- (1) Landscape treatment should be provided to enhance architectural features, shield unsightly areas, provide shade and relate to the natural environment and topography.
- (2) Plant material that is indigenous to the area should be selected for its ultimate growth and for interest in its shape, texture and color.
- (3) Pedestrian walkways should provide safe. and convenient connections within the site and between adjacent sites and shall be constructed of all-weather materials appropriate for the location (such as brick, concrete or paving blocks, but not earth, gravel or loose stone).
- (4) Existing trees at four inches or greater caliper should be incorporated into the site plan.

F. Building design.

- (1) Architectural features should be evaluated based on the scale of the building(s), the quality of the design and the relationship to surroundings.



- (2) Facades and rooflines should be articulated and/or varied to reduce the appearance of bulk and provide architectural interest.
- (3) Building materials should have good architectural character and durable quality and shall be selected for harmony of the building with adjoining buildings and the immediate neighborhood.
- (4) Building textures, colors and components should be selected for harmony of the building with those in the neighborhood where it will be located.
- (5) Utility and service equipment areas shall be screened from public view with materials harmonious with the building.

G. Signs and lighting.

- (1) Signs should be designed as an integral architectural element of the building and site to which it principally relates and shall be coordinated with the building architecture.
- (2) Exterior lighting, where used, should enhance the building design and the adjoining landscape.
- (3) Lighting should be restrained in design and excessive brightness avoided.

**§ 415-16. Low-impact development (LID) regulations.**

- A. Purpose and intent. The purpose of these LID regulations is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development water runoff.
- B. Stormwater runoff and non-point source pollution associated with new development and redevelopment. LID site planning and proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies.
- C. Administration. The Commission shall administer, implement and enforce these regulations. The Commission may utilize consultants or staff as its authorized agent for the purposes of reviewing applications for consistency with these LID regulations.
- D. Scope and applicability. These LID review regulations shall apply to all development subject to site plan review, or approval by the Commission or the Zoning Board of Appeals, as the case may be, of a special permit. A single-family dwelling that is not part of a subdivision of land shall be exempt from these low-impact development (LID) regulations, except where required in the HL District.
- E. Review procedures and requirements. Applications requiring LID review shall be required to submit the materials as specified in this section, and are required to meet the LID criteria as specified herein.

- F. Peer review. The Commission may retain the services of a registered professional engineer licensed in the State of Connecticut or other professional consultant to advise the Commission on any or all elements of the proposed development's LID plan. In all cases in which the Commission deems that a peer review of the LID plan is warranted, the applicant shall be required to reimburse the Town for the cost of the peer review. This payment shall be made to the Town in advance of the peer review based on an estimate provided by the peer reviewer. Failure to pay for the peer review costs shall be grounds for denial of the application.
- G. Project completion. At completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site as required herein. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a registered professional engineer licensed in the State of Connecticut.
- H. LID plan contents.
- (1) The LID plan shall contain sufficient information for the Commission to evaluate the environmental impact, effectiveness and acceptability of the site planning process and the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Connecticut.
  - (2) The LID plan shall fully describe the LID elements of the proposed development in the form of a LID plan map and narrative. The map and attached narrative shall include and discuss, at a minimum, the following elements:
    - (a) The proposed land use for the site and the location(s) of proposed buildings or other structures, impervious surfaces and drainage facilities, if applicable;
    - (b) The location(s) of existing and proposed easements;
    - (c) The location(s) of existing and proposed utilities;
    - (d) The site's existing and proposed topography with contours at two-foot intervals;
    - (e) The existing site hydrology (both groundwater recharge and surface runoff);
    - (f) The delineation of existing stormwater conveyances, impoundments, wetlands, drinking water resource areas or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows;
    - (g) Soils information from test pits performed at the location of the proposed LID elements, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock and percolation rates;
    - (h) The delineation of the FEMA-designated 100-year floodplain, if applicable;
    - (i) Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention or infiltration;

- (j) The existing and proposed vegetation and ground surfaces, with runoff coefficients for each;
- (k) The delineation of both existing and post-development watershed boundaries, drainage areas and stormwater flow paths, including municipal drainage system flows;
- (l) Computations shall be provided for the project consistent with the Hydrologic Sizing Criteria as outlined in the DEEP Connecticut Stormwater Quality Manual. These shall include groundwater recharge volume (GRV), water quality volume (WQV) and peak flow control, where appropriate;
- (m) The delineation and description of all components of the proposed LID system, including:
  - [1] Locations of all drainage discharges and their method of stabilization, with supporting computations;
  - [2] All measures for the detention, retention or infiltration of water;
  - [3] Description of nonstructural BMPs;
  - [4] All measures for the protection of water quality; and
  - [5] The structural details for all components of the proposed drainage systems and LID elements and BMPs; and
- (n) A plan for the operation and maintenance of each component of the stormwater management system, listing the maintenance to be conducted and the frequency of such maintenance. The maintenance schedule shall specify who is responsible for performing the maintenance and how the maintenance will be funded. The plan shall also identify any easements necessary for construction and maintenance of the system.

I. Performance standards and LID criteria.

- (1) At a minimum, all development projects shall comply with the applicable standards, principles and best management practices (BMPs) described in the 2014 Connecticut Stormwater Quality Manual and the Town of Winchester Low Impact Development and Stormwater Management Manual, both as amended.
- (2) Proposed residential, commercial or industrial subdivisions shall apply these standards and principles to the development as a whole. Individual lots in new subdivisions shall not be considered separate development projects, but rather the entire subdivision shall be considered a single development project.
- (3) The use of better site design and nonstructural BMPs is encouraged to minimize reliance on structural management measures.

J. Inspections.

- (1) At the discretion of the Commission and the Town, periodic inspections of LID elements and infrastructure may be conducted during both the construction phase of the development and the post-construction maintenance phase of the

development. Such inspections may be conducted by the Zoning Enforcement Officer or other such other agent as the Commission may designate.

- (2) If the Commission determines that there is a failure to comply with the LID plan, the property owner shall be notified, in writing, of the nature of the violation and the corrective actions required.
  - (3) Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Commission upon request. Parties responsible for the operation and maintenance of a LID element or LID infrastructure shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five years. These records shall be made available to the Town officer or the Town's designated agent during inspection of the LID element or LID infrastructure, and to the Commission at other reasonable times upon request.
- K. Special considerations for PI Districts. As part of any special permit application in a PI District, the applicant must submit a narrative describing how the proposed use addresses or incorporates the applicable principles and best management practices (BMPs) outlined in Section 4.0, LID Design and Planning, of the Town's Low Impact Design and Stormwater Management Manual (September 2010). If applicable, LID principles and BMPs are not incorporated in the proposed special permit application, the narrative must clearly state the reasons why it is not feasible to incorporate such principles and BMPs. In addition, the applicant must submit an LID plan map that indicates the types and locations of all BMPs and other LID elements on the development site.

**§ 415-17. Nonconforming uses, buildings/structures and lots.**

- A. Intent. Within the districts established by these regulations or by amendments that may later be adopted, there exist lots, uses and structures which existed at the time that these regulations were adopted or amended, but which would be prohibited, regulated or restricted under the provisions of the regulations or future amendments. Such lots, uses and structures are declared nonconforming by these regulations. It is the intent of these regulations:
- (1) To permit these nonconformities to continue until they are discontinued/removed, but not to encourage their survival.
  - (2) To prohibit the enlargement, expansion or extension of nonconformities, if such a change would increase the nonconformity, and to prohibit the use of nonconformities as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Continuation.
- (1) Nonconforming uses and structures that existed on the date these regulations, or amendments to these regulations, became effective may continue, except as provided below.

- (2) These regulations shall not require change in the plans, construction or designated use of a structure, provided that:
  - (a) Commencement of the construction of a structure or commencement of a use predates the effective date of these regulations or amendments to these regulations.
  - (b) The application filed with the Commission or the Zoning Board of Appeals or the required zoning and building permits for such structure and/or use predate the effective date of these regulations or amendments to these regulations.
- (3) When a nonconforming use is intentionally discontinued or abandoned, the land and/or structure which harbored the nonconforming use may thereafter be used only for conforming uses.
- (4) Destruction of or damage to nonconforming structure.
  - (a) A nonconforming structure that is destroyed or damaged by calamity (fire, explosion, wind, flood, accident, act of God, act of the public enemy, etc.) may be reconstructed, restored, and a nonconforming use that is destroyed or damaged by calamity may resume, provided that:
    - [1] A zoning permit is issued for the structure or use;
    - [2] Neither the floor area nor the volume of a reconstructed, restored or altered structure may be expanded beyond the floor area and volume of the structure that predated the calamity; nor may the area of land used for a nonconforming use be expanded; and
    - [3] If a nonconforming use of land (not involving a structure) is resumed following a calamity, the area occupied by the nonconforming use must be no larger than, and in the same location as, the use immediately prior to the calamity.
  - (b) The size and location of the structure before the calamity shall be determined from the best available information on file at the Town Hall and/or via a submitted survey or plan showing the old structure signed by a licensed surveyor, architect or engineer.

C. Nonconforming uses.

- (1) Nonconforming uses shall not be extended or expanded through the structure or on a lot beyond where the use existed as of the commencement of the nonconformity.
- (2) No portion of a nonconforming use of land (not involving a structure) shall be moved from place to place on the land after the date these regulations or amendments to these regulations became effective.
- (3) If a nonconforming use is changed to a use that is permitted by right or by special permit, the use shall never revert to one that is nonconforming.

- (4) No existing nonconforming use shall be changed to another nonconforming use unless the Commission approves a special permit and determines by grant of a special permit that the substitute use is so similar to the existing nonconforming use that no alterations other than trade fixtures will need to be made and the substitute nonconforming use will not create any impacts on the public dissimilar to the existing nonconforming use.
  - (5) Voluntary discontinuance of a nonconforming use shall not by itself be evidence of the owner's intent not to reestablish such use, but instead must be accompanied by an intent not to reestablish such use.
- D. Nonconforming structures. A structure which contains a permitted use, but which is otherwise nonconforming, may be expanded, or altered, provided that:
- (1) Only permitted uses shall be allowed to occupy the expanded or altered areas.
  - (2) No nonconformities are created or expanded, except that a second floor may be added above an existing first floor, utilizing the same footprint, provided such addition is within the maximum building height of the district. No such second floor may be added to decks, patios, terraces and steps as described in § 415-13B(4).
  - (3) In the case of residential structures, no additional family units are created as a result of the expansion or alteration.
  - (4) If a nonconforming structure is modified to become conforming or more conforming, the structure may never be modified to become nonconforming or less conforming.
  - (5) A nonconforming structure shall not be moved to any other location on a property unless the structure conforms to all applicable sections of these regulations after it is moved.
  - (6) Ordinary repairs, remodeling, alteration or safety improvements (required by building or life safety codes) made to nonconforming structures are permitted, provided that:
    - (a) Applicable building permits are secured; and
    - (b) Such work does not increase any existing nonconformities, except that a second floor may be added above a first floor, utilizing the same footprint, provided such addition is within the maximum building height of the district.
  - (7) Voluntary demolition of a nonconforming building or structure shall not by itself be evidence of the owner's intent not to reconstruct such building or structure, but must be accompanied by an intent not to reconstruct such building or structure. Any such reconstruction shall be of no greater floor area, nor a greater height at any point or greater volume other than as allowed in Subsection D(2) than the building or structure that was voluntarily demolished.
  - (8) A special exception is obtained in accordance with Subsection F(2) of this section.

## E. Nonconforming lots.

- (1) Provided that sewage disposal in accordance with applicable regulations and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of permitted building or the establishment of a permitted use on a lot containing less than the prescribed lot area or lot frontage which, at the time of adoption thereof or any pertinent amendments hereto:
  - (a) Was owned separately from any adjoining lot and recorded in the land records of the Town; or
  - (b) Was shown on a plan of subdivision, approved by the Commission and filed in the Town Clerk's office with the Land Records of the Town, in the manner prescribed by law.
- (2) No dwelling for more than one household shall be constructed on a lot, existing or created, which contain less than 100% of the required "minimum lot area per dwelling unit" in the applicable district. For any lot created after the effective date of these regulations, each approved residential lot in any RR District shall contain a contiguous developable land usable site area of 12,500 square feet. A minimum of 75% of the total building footprint must be situated within this contiguous developable area. Evidence of compliance with this requirement must be noted in all subdivision applications and applications for a zoning permit.
- (3) Except as otherwise provided herein, where two or more nonconforming adjoining lots of record are in the same ownership on or after the effective date of these regulations, then all such lots shall be combined as necessary toward meeting, or more nearly meeting, the lot area and width requirements of these regulations. If all such adjoining lots, when combined, still do not meet the area and width requirements of these regulations, such composite parcel shall be treated as a single lot under these regulations. The Zoning Enforcement Officer may issue a finding that such lots have merged, which finding shall be mailed to the owner of record, who shall have the opportunity to be heard by the Zoning Enforcement Officer, and to present evidence concerning lot merger or lack thereof; and to appeal the decision of the Zoning Enforcement Officer to the Zoning Board of Appeals. Where the Zoning Enforcement Officer's finding of lot merger is not appealed or overturned on appeal, the Zoning Enforcement Officer may file his or her finding on the land records of the Town of Winchester.

## F. Nonconforming structure expansion allowances. Understanding many properties in Town predate these regulations and may not meet these regulations, this subsection has been created to allow reasonable allowances to improve these structures in an efficient manner, provided the proposed use conforms to these regulations.

- (1) Accessibility features for use by disabled individuals, such as ramps and expanded stoops which are wanted for access, may be installed under this provision, provided the feature is not any larger than recommended by ADA standards and is configured to intrude as little as possible into the required setback.

- (2) Any structure that is legal-nonconforming, as to a requirement listed below, may apply to the Zoning Board of Appeals for a special exception to conduct certain expansions within the constraints set forth herein. Other requirements of these regulations, such as limits on maximum impervious surfaces, shall still apply.
- (a) Setbacks. A principal residential building, or a commercial/industrial building abutting other nonresidentially zoned property, that does not meet one or more setback requirements of these requirements may be expanded via an application for special exception to the Zoning Board of Appeals, provided such expansion does not come any closer to that property line than any portion of the existing building which creates the nonconformity nor create a new nonconformity. If two setback nonconformities exist in an interior corner, that corner may be expanded to be no closer to the property line than the portion of each wall that creates the nonconformity. In addition, the height of a building may be increased under these same lateral limitations up to the height limit of the district. The Board shall carefully review the "Considerations for special permits" criteria in determining if the approval shall be granted.
- (b) Accessibility features. This provision may also be used to allow the installation of accessibility features for access or other accommodation by disabled individuals, not covered under Subsection F(1), above, provided the expansion within the required setback is the least possible and leaves a remaining setback of at least five feet.
- (3) This provision shall not apply to any structure that is to be voluntarily demolished and demolition shall void any approval under this section, unless part of a special exception issued as per the following Subsection G.

G. Voluntary demolitions.

- (1) Any nonconforming portion of a building or structure that is to be demolished and rebuilt must be rebuilt to comply with all applicable provisions of these regulations unless:
- (a) Such demolition is accompanied by an intent to reconstruct that building or structure in the same location, to no greater building coverage, height at any point or volume of the preexisting building other than as allowed in Subsection D(2); or
- (b) A special exception is granted by the Zoning Board of Appeals in accordance with the criteria in § 415-24D of these regulations, provided that:
- [1] No existing nonconformity is increased, except as allowed in Subsection F(2) above;
- [2] The applicant has shown that the proposal will, within the site constraints present, minimize any nonconformity or the impacts of any nonconformity to the greatest extent possible, balanced with the need for reasonable and prudent redevelopment of the lot;



[3] LID techniques are utilized, as allowed by the site, to minimize the impact to the environment.

- (2) The Board may allow such nonconformities as they existed on the lot to be continued in the new construction, but shall give due consideration to the recommendations given in Subsection G(1)(b)[2] above, to minimize these nonconformities when possible. The Board may also relocate the nonconforming building footprint or volume to better situate the structure on the lot by, for example, centering the structure between the lot lines or rotating the structure to better align it with the street setbacks or visual impact on neighboring properties, or to provide more buffering from a water body, provided the nonconformities are not increased overall.

**§ 415-18. Other generally applicable development regulations.**

**A. Required frontage and access.**

- (1) No building shall be built on any lot unless the lot has frontage on a public street, or unless it has unobstructed and permanent easement of access, or by way of a private right-of-way leading to a public street.
- (2) In the case of the subdivision of land in any district, other than for open space subdivisions, or in the case of a first cut not involving a subdivision, not more than the following percentage of lots in such subdivision may have frontage on a public street in an amount less than the required minimum lot width specified for the applicable district:

| <b>Maximum Percentage of Lots Having Frontage Less than Minimum Lot Width</b> |                                    |
|-------------------------------------------------------------------------------|------------------------------------|
| <b>Number of Lots in Subdivision</b>                                          | <b>Maximum Number of Rear Lots</b> |
| 1 to 10                                                                       | 1 or 40%                           |
| 11 to 15                                                                      | 30%                                |
| 16 to 20                                                                      | 20%                                |
| 21 and over                                                                   | 10%                                |

- (3) No subdivision plan, boundary line adjustment or first-cut shall be filed with the Town Clerk unless first reviewed by the ZEO to assure compliance with these Zoning Regulations.

**B. Building on existing lots.**

- (1) Provided that sewage disposal in accordance with applicable regulations and that a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed lot area or lot width which, at the time of adoption thereof or any pertinent amendments hereto:

- (a) Was owned separately from any adjoining lot and recorded in the land records of the Town; or
  - (b) Was shown on a plan of subdivision, approved by the Commission and filed in the Town Clerk's office with the Land Records of the Town, in the manner prescribed by law.
- (2) No dwelling for more than one family shall be constructed on a lot, existing or created under the conditions herein, which contains less than 100% of the required "minimum lot area per dwelling unit" in the applicable district.
- C. Single-family conversions to multifamily uses. After the effective date of these regulations, no building shall thereafter be altered, and no lot shall be converted for use for three or more dwelling units, except where such a use is permitted in the subject zone by special permit granted by the Commission, where the Commission shall find that the use:
  - (1) Will not result in undue concentration of population in the neighborhood;
  - (2) Will not create traffic hazards or traffic volumes beyond the capacity of the roads;
  - (3) Will not have a depreciating effect on the neighborhood;
  - (4) Will conform to these regulations; and
  - (5) Will be subject to such further conditions as the Commission deems necessary to protect the public health, safety, convenience and property values.
- D. Placement of fill. Any person proposing the placement of 100 cubic yards or more of fill material upon a property, except in conjunction with a bona fide construction activity relating to a residential dwelling, or an approved site plan, including construction of driveways, septic tanks and leaching fields incidental thereto, which is completed within six months, shall notify the Zoning Enforcement Officer of such activity for approval. The Zoning Enforcement Officer shall review such proposal to ensure proper design of resultant grades and drainage and protection of adjacent properties. In the conduct of such review, the Zoning Enforcement Officer may require the provision of necessary maps and data.
- E. Steep slope regulations. The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding 15%:
  - (1) No permit shall be granted for the development of or construction on any lot that involves the disturbance of slopes greater than 15% unless a special permit is approved and issued, subject to the following conditions:
    - (a) Adequate erosion control and drainage measures shall be put in place to avoid erosion and sedimentation during or after construction, and all erosion control and stormwater management measures shall comply with all applicable laws and guidelines; and

- (b) Adequate measures to minimize the clear-cutting of trees or the clearing of shrubs and other natural vegetation.
  - (2) Clear-cutting trees on or within 1,000 feet of any ridgeline is prohibited.
  - (3) No disturbance, including clear-cutting trees or clearing of vegetation or the construction of driveways, shall be permitted on any slope of 25% or greater, except as may be necessary for public safety or public utilities.
- F. Performance standards. For the purpose of promoting the general welfare, and protecting the public health and safety and providing adequate light and clean air and water, the following performance standards shall apply to all commercial and industrial uses of land:
  - (1) No new use shall be permitted, and no existing use shall be changed, except in conformance with these regulations.
  - (2) The use shall be carried on in such a manner and with such precautions against fire and explosion hazards as to produce no serious exposure hazard to adjacent property, and the storage of all flammable or explosive materials shall be in a manner approved by the Fire Marshal.
  - (3) All commercial and industrial uses and processes shall comply with the emission standards established by the Connecticut Department of Energy and Environmental Protection.
  - (4) All commercial and industrial uses shall comply with the regulations governing the discharge of water, substances and materials into the ground or into streams of the Connecticut Department of Energy and Environmental Protection, Commission and the Department of Public Health.
  - (5) Commercial or industrial interior or exterior lighting shall not produce discomfort or glare on public highways or neighboring property, or conflict with any traffic signals. **[Amended at time of adoption of Code]**
  - (6) Vibration noticeable off the lot shall not exceed the standards developed by the U.S. Bureau of Mines, Bulletin #442, or any revision thereof.
- G. Accessory structures. One accessory structure having a gross floor area of 200 square feet or less and a building height of less than 10 feet, which will not house any persons or animals, may be constructed in a side or rear yard, provided it is located behind the principal structure, not counting decks or minor additions, and no closer than five feet to any property line. An application to the Zoning Board of Appeals may be filed for a special exception to allow up to one additional accessory structure under this provision. The Board shall carefully review the "Considerations for special permits" criteria in determining if the approval shall be granted.
- H. Setback exemptions. Common architectural features which do not protrude more than two feet from a structure, such as overhangs, gutters, bow/bay windows and other similar elements, can protrude into the required setbacks; however, the structure wall must comply. Chimneys can also enter the required setbacks, provided they are less than 30 inches in depth and seven feet in width.

**§ 415-19. Parking types, outdoor lighting and landscaping.**

A. Off-street parking. Any use or construction on a lot, except for those expressly exempt from parking requirements in a particular district, shall have off-street parking and shall conform to the following requirements:

(1) Parking areas, general. In addition to the minimum parking requirements specifically set forth in the Table of Uses and Minimum Parking Requirements in Appendix A,<sup>9</sup> all of the following shall apply to all off-street parking areas:

(a) Location and size.

[1] All parking areas shall be on the same lot with the building or within a 200-foot walk, as measured by drawing a straight line between the nearest lot lines of the principal lot and off-site parking lot.

[2] Location of required on-site parking in all districts is subject to all minimum setback requirements. Except for lots in the TC District, parking areas proposed to be located within a setback shall require a special permit.

[3] A contiguous single parking area shall not exceed one acre in total area. Parking areas larger than one acre in total area shall be divided into smaller parking areas with planted buffers of a minimum depth of 15 feet between them to minimize the perceived scale of the total field of stalls. Such planted buffers may have one three-foot gap for connecting driveways and pedestrian walkways.

[4] Unless otherwise permitted herein, all parking areas serving commercial and multifamily uses shall be paved with asphalt or concrete, striped, and parking spaces directly abutting a building or structure shall have bumper and wheel guards, and, if located directly in front of a building, shall have at least two permanent concrete or steel bollards in front of each entrance to the building.

(b) Calculating number of spaces for mixed-use buildings. The minimum number of parking spaces for a building containing multiple uses shall be calculated separately for each use according to the following example:

A 10,000 sq. ft. building containing 8,000 sq. ft. of warehouse space and 2,000 sq. ft. of sales space = 8,000 sq. ft. x 1 space per 2,000 sq. ft. = 4 required spaces + 2,000 sq. ft. x 1 space per 300 sq. ft. = 7 spaces = 11 total required spaces.

(c) Space and aisle dimensions. Parking spaces shall be designed in accordance with the following minimum dimensional requirements:

[1] All parking spaces where a vehicle has direct access to/from the parking space and a public right-of-way shall be either parallel or

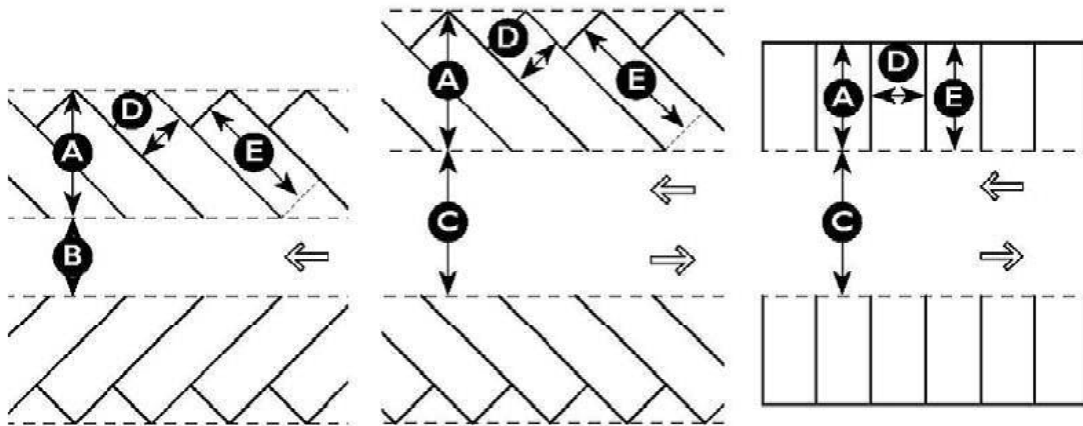
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9. Editor's Note: Appendix A is included as an attachment to this chapter.

placed at a 45° angle to the right-of-way in the discretion of the Commission.

- [2] Parking spaces where a vehicle accesses the public-right-of-way via an access driveway and are not directly accessible to/from a public right-of-way shall be of a perpendicular layout.
- [3] The following table and graphics provide the minimum dimensional requirements for parking areas and spaces:

| Parking Space Layout | Parking Row Depth (feet) | Drive Aisle Width — One-Way (feet) | Drive Aisle Width — Two-Way (feet) | Space Width (feet) | Space Length (feet) |
|----------------------|--------------------------|------------------------------------|------------------------------------|--------------------|---------------------|
|                      | (A)                      | (B)                                | (C)                                | (D)                | (E)                 |
| Parallel             | 9                        | 12                                 | 20                                 | 9                  | 20                  |
| Angled (45°)         | 20                       | 13                                 | 24                                 | 9                  | 20                  |
| Perpendicular        | 18                       | 14                                 | 24                                 | 9                  | 18                  |



- (2) Access and circulation, general. Vehicular and pedestrian access to and circulation within a lot shall be designed in a manner that:
- (a) Safeguards against hazards to traffic and pedestrians in the public right-of-way and upon the lot;
  - (b) Avoids traffic congestion on any public right-of-way; and
  - (c) Provides safe and convenient circulation for vehicles and pedestrians within a lot and to adjacent lots.
- (3) Access and circulation, specific.
- (a) Shared driveways. The primary purpose of a shared driveway is to minimize curb cuts that preserve street traffic-carrying capacity, reduce traffic congestion and improve safety of vehicular and pedestrian movements. Shared driveways are encouraged along state highways and major Town roads but are also appropriate in locations on other Town roads where the Town Engineer finds that they will improve safety of traffic

movement and upon submission, review and approval of a site plan by said official.

- (b) Review and approval. Upon the Commission's approval via site plan or other requirement, shared driveways may be utilized by two adjacent residential lots or by one or more lots and businesses in a TC, TG or PI District. The shared driveway shall also meet the requirements of the Public Works Director or his or her designee.
- (c) Private agreement required. As a condition of any such site plan approval, the applicant shall submit a shared driveway agreement to the Zoning Enforcement Officer in form and substance that is acceptable to the Town Attorney and the Public Works Director or his or her designee. The approved shared driveway agreement must be executed and recorded with the deeds to the lots.
- (4) Off-street loading. An area for the loading and unloading of goods and materials shall be accommodated on a lot. The Commission shall consider the nature of the use, the volume of the vehicular and pedestrian movement that passes the lot and the location of the principal building in relation to the street.
- (5) Shared parking areas for mixed uses. Parking required for two or more lots, buildings or uses may be provided in a combined parking area or facility. The total number of parking spaces required for all applicable uses in the aggregate may be reduced by up to 50% if the applicant demonstrates and the Commission determines, by special permit, that the hours or days of peak parking need for the uses are sufficiently varied that a reduced number of parking spaces would provide adequately for all uses served by the designated parking area or facility. If a reduced number of parking spaces is approved, no change in any use shall thereafter be permitted without an additional determination by the Commission that the reduced number of parking spaces will remain adequate for expected parking needs. If the Commission determines that a change in any use will necessitate additional parking, such parking shall be provided before the change in use is authorized.
- (6) Deferred construction of parking spaces.
  - (a) The Commission may permit the deferred construction of parking spaces if it determines that:
    - [1] The particular use and intensity of use may not require all of the required parking spaces; and/or
    - [2] The deferred construction of parking spaces will not cause substantial inconvenience to the patrons of such uses or impair the safety of the public.
  - (b) The Commission may allow for the deferred construction of up to 50% of the parking spaces required by these regulations, provided that:
    - [1] All required parking must be shown on the plans and be in conformance with these regulations.

- [2] The spaces for which delayed installation is desired and/or approved shall be so specified.
- [3] The stormwater management system shall be designed as if the deferred spaces were built, and stormwater management structures shall be installed in the deferred parking area.
- [4] The applicant/owner/developer of the project must agree to install the required parking spaces at such time as the Commission determines that the installation is appropriate, after notice to the applicant/owner/developer and the opportunity to be heard.
- [5] If the Commission determines that installation of all of the parking spaces is appropriate under existing circumstances, then the applicant/owner/developer must complete the installation within 180 days of notification. Failure to install said spaces shall be considered a violation of these regulations.

B. Outdoor and exterior lighting.

- (1) The following shall apply to all outdoor and exterior lighting on a lot:
  - (a) All external illumination shall be stationary and shielded or recessed within the roof canopy and directed in such a manner that the source (bulb, tube, etc.) of light will not be visible from any street or from any adjoining lot and that the illuminated areas shall be confined essentially to the lot where the illumination originates.
  - (b) The use of LED and other energy-efficient lighting is encouraged.
  - (c) The maximum height shall not exceed 16 feet above the grade directly below the fixture housing the light source.
  - (d) All motion-sensing light fixtures shall be fully shielded.
  - (e) Any privately or publicly owned outdoor light fixture with a lamp of initial output over 10,000 lumens located within 50 feet of any residential, including any multifamily residential use, or any public right-of-way, shall utilize an internal or external shield, with the light fixture and shield oriented to minimize light trespass over the adjacent lot or right-of-way line. If an external shield is used, its surface must be painted black to minimize reflections.
  - (f) Emergency lighting that is only turned on in the event of a power failure or when an alarm is activated is permitted.
  - (g) All outdoor lighting shall comply with 505.6.3, Light Pollution Controls, of the Connecticut Building Code.
- (2) The following types of outdoor lighting are prohibited:
  - (a) Searchlights, laser-source lights or any similar high-intensity light, except in emergencies by law enforcement, emergency services personnel, public

utilities and road construction/maintenance crews at their direction, and except for meteorological data-gathering purposes.

- (b) Any lighting device located on the exterior of a building or on the inside of a window which is objectionable to anyone beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

C. Landscaping. The following landscaping regulations and standards are intended to protect and enhance the appearance, character and value of property in the Town; provide aesthetic and visual mitigation between dissimilar land uses and districts; and meet the general principles and objectives of low-impact design (LID) through quality site development and the inclusion of LID best management practices (BMPs). These LID principles include, but are not limited to, prevention of soil erosion, prevention of excessive stormwater runoff and prevention of the pollution of water bodies, watercourses, wetlands and aquifers.

(1) General landscaping requirements.

- (a) All portions of any lot containing a structure that is not used for the location of buildings, structures, accessory uses, off-street parking and loading, sidewalks or other paved areas shall be landscaped in accordance with an approved landscaping plan.
- (b) For all landscaping plans, an ample variety and quantity of planting materials shall be used. The composition of landscaping elements shall complement both the scale and style of existing and proposed buildings.
- (c) The use of non-native invasive or potentially invasive plants, as defined by the Connecticut Invasive Plants Council, or as determined by the Connecticut Department of Energy and Environmental Protection (DEEP), or successor agencies, shall be prohibited.
- (d) The use of low-impact development (LID) infrastructure and best management practices (BMPs) as identified in the Town of Winchester's Low Impact Development and Stormwater Management Manual is strongly encouraged to be incorporated in all landscaping plans.
- (e) Landscaping, trees and plants required by these regulations shall be planted in accordance with accepted horticultural practices. All trees, shrubs and plants shall be spaced according to the accepted landscaping practices applicable to each species.
- (f) The following are the minimum size requirements for any required plantings:
  - [1] Large deciduous shade trees (example: maple, oak, ash) shall be single-stem, three-inch diameter at breast height.
  - [2] Ornamental deciduous trees (example: crabapple, cherry, magnolia, dogwood) shall be single-stem, two inches at breast height.



- [3] Evergreen trees (example: spruce, pine) shall be single-stem and at least six feet tall.
- [4] Deciduous shrubs shall be 18 inches to 24 inches in size.
- [5] Broadleaf evergreen shrubs (example: rhododendron) shall be 24 inches in spread or height.
- [6] The minimum size for container-grown shrubs shall be three gallons.
- [7] Ground covers shall be two-year-old plants.
- [8] Vines shall be a minimum five leaders of six-inch length.
- (g) The incorporation of existing vegetation, particularly large-caliper and specimen trees, in landscaping plans is strongly encouraged. Invasive species shall be removed in areas where existing vegetation is proposed to be preserved prior to site development. Where a lot is cleared of such existing vegetation and trees prior to the filing of an application, the Commission may require the planting of the largest trees that are commercially available to replace them.
- (h) Any landscaping, trees or plants shown on the approved site plan that are in a condition that does not meet the intent or specific requirements of these regulations shall be replaced by the property owner during the next planting season for the particular plant material.
- (i) For all landscaping plans, an impervious area shall be provided and maintained of an area adequate to store total snowfall amounts of at least six inches in a 24-hour period.
- (j) Outdoor lighting shall be designed so as to not interfere with landscaping elements.
- (2) Measurements of trees and planting materials. Calipers and heights for all trees and planting materials shall be measured according to American Association of Nurserymen standards.
- (3) Maintenance of landscaped areas.
  - (a) Maintenance of landscaped areas is the ongoing responsibility of the property owner. The property owner shall prepare and present to the Commission a landscaping maintenance plan at the time of application.
  - (b) Maintenance of landscaped areas shall include continuous operations of removal of weeds, mowing, trimming, edging, cultivation, reseeding, plant replacement, appropriate fertilization, spraying, control of pests, insects and rodents by nontoxic methods whenever possible, watering and other operations necessary to assure normal plant growth.
  - (c) The obligation for continuous maintenance shall be binding on the applicant for landscape plan approval, and to any subsequent owners of the property or any other parties having a controlling interest in the property.

- (4) Landscaping of yards/setback areas.
  - (a) Residential uses. No landscaping requirements shall apply to lots used for single-family or two-family dwellings.
  - (b) Nonresidential uses and special permit uses in residential districts.
    - [1] Front yard landscape areas, where required, shall include the full width of each lot along the front lot line, except where driveways, sidewalks and parking are located. Front yard landscape areas shall extend to a depth equal to the minimum front yard setback distance of the applicable district.
    - [2] Front yard landscape areas shall consist of either lawn, evergreen ground cover or other suitable vegetative cover.
    - [3] Tree plantings shall include a minimum of one deciduous tree for every 40 lineal feet of lot frontage (or fraction thereof), or one nondeciduous tree for every 20 lineal feet of lot frontage (or fraction thereof). Deciduous trees must comprise 50% or more of the total trees planted or retained to meet these requirements. The spacing of trees planted shall be appropriate for the species selected.
    - [4] Existing trees with a caliper of three inches or greater that are retained in the front yard landscape area as part of the development of a lot may be used to meet all or part of these landscaping requirements.

D. Buffer areas for applicable districts. Buffer areas provide important separation distances between different land uses, help minimize noise and light trespass between properties, provide an attractive and natural visual barrier between dissimilar uses and protect critical natural features and habitat. The following requirements are designed to achieve these objectives:

- (1) General buffer area requirements.
  - (a) A landscaped buffer area shall be provided and maintained along the full length of applicable lot lines. All buffer areas must comply with applicable general and specific landscaping requirements provided herein.
  - (b) Each buffer area shall include a suitable combination of various planting materials. The buffer area must effectively screen the subject lot from abutting properties. The buffer areas must be designed and composed of materials that provide for year-round screening of the lot.
  - (c) Buffer areas may include elements such as fencing, earthen berms and other similar features, provided that these elements are used in conjunction with appropriate planting materials. **[Amended at time of adoption of Code]**
  - (d) No structures, other than fences, shall be permitted within any designated buffer areas.

- (e) If the different land uses requiring a general buffer area are separated by a public street, the public street may serve to satisfy the general buffer area requirement.
  - (2) Buffering single-family uses. Where any nonresidential use or multifamily development having over five units abuts a lot zoned for a single-family use, a 35-foot-wide buffer area is required along the abutting lot line.
  - (3) Integration of LID infrastructure into yard/setback/buffer areas. All low-impact development (LID) infrastructure identified in the Town of Winchester's Low Impact Development and Stormwater Management Manual shall be permitted within any required yard, setback or buffer area.
- E. Landscaping of parking areas.
- (1) General landscaping requirements for all parking areas.
    - (a) Landscaping shall not be specifically required for surface parking facilities containing fewer than 10 parking spaces.
    - (b) All surface parking facilities containing 10 or more parking spaces shall have a landscaped area situated along the entire length of any abutting street line or public right-of-way line. This landscaped area shall be a minimum of 10 feet in depth over its entire length, with the exception of areas required for driveway access into and out of the parking facility and internal walkways connecting to the public sidewalk system. This landscaped area shall be planted and maintained in compliance with these regulations.
  - (2) Specific regulations for parking lots with 10 to 99 parking spaces. Surface parking areas with between 10 and 99 parking spaces shall have the following additional landscaping treatments:
    - (a) All landscaped areas located between the maximum number of parking spaces shall be:
      - [1] A minimum of eight feet wide where parallel to the length of the vehicle;
      - [2] A minimum of 10 feet wide where separating the ends of two opposing lines of vehicles; and
      - [3] Landscaped with a ground cover as required herein and with a minimum of 3-1/2-inch-caliper deciduous trees or with a minimum of six-foot-tall evergreen trees, or a combination thereof, spaced not more than 20 feet apart in the areas between the ends of the vehicles.
    - (b) A landscaped island shall be located at each end of every row of parking spaces, and an intermediate island situated along each row after every 15 parking spaces. However, landscaped islands shall not be required between a parking space and a building wall if the building wall is within 10 feet of the parking space.

- (c) Landscaped islands shall be a minimum of 18 feet in length and six feet in width. Each landscaped island shall contain at least one deciduous tree with a minimum caliper of 3 1/2 inches. A flowering, ornamental or evergreen tree may be substituted in cases where its location does not interfere with sight distances within the parking lot.
- F. Specific regulations for parking lots containing more than 99 parking spaces. Parking facilities containing 99 or more parking spaces shall have landscaping treatments as described below, in addition to those required for those containing 99 or fewer parking spaces above.
  - (1) Landscaped islands may be combined into planting clusters or rows, provided the following requirements are met:
    - (a) Planting clusters shall be located adjacent to or within the parking area.
    - (b) Planting clusters shall be evenly distributed throughout the parking area, with no more than 200 feet separating each cluster.
    - (c) An individual planting cluster shall have minimum dimensions of 12 feet by 18 feet.
    - (d) The total area of the planting clusters shall be greater than or equal to the area of the required landscape islands.
    - (e) The planting cluster shall have at least the same number of trees as the required landscaped islands.
- G. Usable open space for multifamily dwelling units.
  - (1) Required usable open space shall be intended, designed and constructed for the outdoor use and enjoyment of the residents and, except in the case of balconies, porches and terraces, shall:
    - (a) Be open to the sky and unobstructed, except for ordinary structural projections not exceeding 12 feet;
    - (b) Be landscaped in accordance with the requirements herein; and
    - (c) Contain a landscaped buffer area between such open space and any street, driveway, parking area or service area on the same lot or any adjoining lot.
  - (2) The net area of a balcony or terrace, reserved for the exclusive use of a dwelling unit, may be counted toward meeting the required usable open space per dwelling unit, provided that such balcony or terrace:
    - (a) Has no side less than six feet in length;
    - (b) Contains not less than 70 square feet of usable area; and
    - (c) Is open for the full length of its longest dimension to a yard or court, except for a protective railing.

- H. Street trees. All street trees shall be planted and maintained in accordance with the Town of Winchester Subdivision Regulations.<sup>10</sup>
- I. Out-of-season surety. In the case where a certificate of zoning compliance or a certificate of occupancy is requested beyond the planting season, at the request of the applicant, the Zoning Enforcement Officer, or his/her designee, may accept a performance surety. The plantings covered by the performance surety shall be completed within eight months from the date of the certificate of zoning compliance or the certificate of occupancy. Such surety shall be either a certified check, a passbook or an irrevocable letter of credit. The surety shall be in a form approved by the Town and shall be payable to the Town in an amount of the estimated total cost of all plant materials and installation costs. This estimate shall be developed by the applicant and approved by the Zoning Enforcement Officer. Such surety shall be made conditional upon the applicant complying with the provisions of these regulations. Releases shall be made by the Commission, under the advisement of the Zoning Enforcement Official.
- J. Landscape treatment of surface parking facilities. Where an off-street parking or loading facility is located adjacent to a street or right-of-way line, there shall be a landscaped area between such street line and the balance of the lot, as required herein. All surface parking facilities shall be suitably landscaped to minimize noise, glare and other nuisance characteristics, as well as to improve the aesthetics of the site and surrounding area. Landscape placement shall take into consideration the location of overhead utilities. All surface parking facilities shall be required to have painted lines, designating spaces in accordance with the site plan approved by the Commission. Painted lines shall be applied within one month of paving and shall be maintained so as to be visible.
- K. Screening of service areas, dumpster and mechanical equipment. All service areas, trash storage areas and ground- or roof-mounted mechanical equipment shall be screened from ground-level view and from adjacent properties or public rights-of-way. Such screen shall be designed as an integral part of the site design using materials and forms that are similar to that of the architecture and design of the principal building. Individual refuse/recycling facilities shall be stored behind the dwelling unit. Refuse/ Recycling containers shall not be placed at the curb more than 24 hours in advance of scheduled date. Furthermore, collection containers shall be removed within 24 hours of 6:00 a.m. of the scheduled collection date.

#### **§ 415-20. Prohibited items.**

- A. Junkyards;
- B. Unattended donation containers;
- C. Hoop houses, portable garages and similar tent-like structures unless they are issued a zoning permit for the construction and meet all applicable requirements. Hoop houses for farming purposes on a farm shall be exempt, provided they meet the applicable setback for buildings; and

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<sup>10</sup>. Editor's Note: See Ch. 400, Subdivision Regulations.

- D. Mobile homes and mobile home parks, except they, and recreational vehicles, may be allowed as temporary housing during construction or reconstruction, as evidenced by a bona fide building permit, as allowed by the Zoning Enforcement Officer for periods of no longer than six months, renewable once, provided they are properly connected to water, sewer/septic and power facilities.

#### § 415-21. Sign types.

There are six types of signs that may be allowed by district or use, as defined in Article II. In most districts, one may choose from a certain number of the sign types as listed in the following subsections; however, some uses in residential districts dictate the specific permitted sign type. The sign types are set forth in Subsections A through F below, and a summary table of allowable signs by district is set forth in Subsection J below.

- A. Awning sign: one sign per shopfront.

- (1) Maximum sign face area: 75% of total face area of valance portion; 25% of total face area of sloping portion.
- (2) Maximum awning width: width of shopfront.
- (3) Maximum lettering height: 18 inches on sloping portion; 16 inches on valance portion; eight inches on a perpendicular or flat-roofed awning.



- B. Freestanding sign: one sign per lot. See table below.



| Site Developed Frontage*<br>(feet) | Maximum Height of Sign to<br>Top of Support Post<br>(feet) | Maximum Face Area of<br>Sign, per side**<br>(square feet) | Maximum Sign Width<br>(feet) |
|------------------------------------|------------------------------------------------------------|-----------------------------------------------------------|------------------------------|
| 269 or less                        | 12                                                         | 50                                                        | 8                            |
| 270 to 319                         | 14                                                         | 70                                                        | 8                            |
| 320 and more                       | 16                                                         | 90                                                        | 8                            |

\* For purposes of the above table, "developed frontage" shall mean frontage on any one street fronting the parcel that is visibly developed from the street with buildings, parking areas, maintained landscape areas and lawns (not including wooded or buffer areas).

\*\* Freestanding signs shall have no more than two sides.

C. Monument sign: one per lot.

- (1) Maximum sign area: 72 square feet.
- (2) Maximum sign height: 10 feet from the grade directly under the sign base to the top of the sign, including all structural supports and framing.
- (3) Minimum sign setback: 1/2 of the height of the sign from the street line.



D. Projecting sign: one sign per shopfront.

- (1) Maximum sign face area: six square feet.
- (2) Maximum sign projection from building: 36 inches.
- (3) Maximum sign height: 36 inches.



- E. Sandwich board sign: one sign per shopfront.
- (1) Maximum sign face area: six square feet.
  - (2) Maximum board width: 24 inches.
  - (3) Maximum board height: 36 inches.
  - (4) Maximum allowable use: placed no more than one hour prior to opening and removed within one hour of closing each day, but not to exceed 12 hours each day.





F. Wall sign.

- (1) Total allowance per building: two square feet for every linear foot of building facing a front lot line, to be allocated among the tenants accessed from that side of the building; or where a building's parking and/or tenant access is located to the side of the building, frontage on that side may also be counted and shall be allocated among the tenants accessed from that side of the building to allow signs on that side of the building. Where a building has a rear or side access point which fronts a second street or parking area, one additional wall sign per tenant may be allowed using the formulas above, to be posted on that building side which faces the second street or parking area.
- (2) Gas station canopies may have signage on any face of a canopy, limited to one square foot in size for every linear foot of the canopy face for that side where the sign is mounted, or 20 square feet, whichever is smaller.



G. Approval procedure.

- (1) Any new development shall have the signage depicted on the site plan to be reviewed by the Commission as part of the site plan review, special permit or special exception process.
- (2) Any existing development shall have additional or replacement signage reviewed and approved by the Zoning Enforcement Officer; however, all new or structurally altered freestanding signs shall only be reviewed by the Commission under a site plan review (face changes exempt).

H. Sign illumination.

- (1) Wall signs.
  - (a) Wall signs may be illuminated only by:
    - [1] Reverse backlighting, also known as "halo lighting," against an opaque exterior channel letter face that creates a halo or reverse engraved effect; or
    - [2] Shaded gooseneck sign lighting.
  - (b) Wall sign illumination shall be by light-emitting diode (LED) with a maximum intensity of 12.0 footcandles as measured five feet directly in front of the sign face.
- (2) Sandwich board signs are not permitted to be illuminated.
- (3) Projecting signs and awning signs may only be lit by shaded gooseneck sign lighting containing LED bulbs.
- (4) Monument and freestanding signs may be lit by either:
  - (a) Shaded up or directional sign lighting placed on the ground or on the base of the sign directly in front of the sign;

- (b) Shaded gooseneck sign lighting containing LED bulbs; or
- (c) Internally illuminated by fluorescent lamps or light-emitting diode (LED), with a maximum of 12.0 footcandles measured five feet directly in front of the sign face, with an opaque exterior facing of a dark color that will create a reverse engraved effect.

I. General.

- (1) The area of a sign face shall be calculated in accordance with the definition of "sign area or face" in § 415-53 of these regulations. **[Amended at time of adoption of Code]**
- (2) No sign shall advertise or refer to an activity, use, structure or business which does not take place or which is not located on the same lot as the sign.
- (3) No sign shall be of the flashing, animated, pulsing, moving or rotating type.
- (4) Signs must be constructed of quality material, firmly supported, maintained in good condition and repair and removed when the purpose for which they were erected no longer exists.
- (5) No sign shall be affixed to the roof of any building.
- (6) Exposed or unshaded incandescent or fluorescent electric lightbulbs or neon shall not be allowed by themselves or as part of any sign, except as part of seasonal decorations or community events or celebrations.
- (7) The Zoning Enforcement Officer may order the removal of any signs that are not maintained or erected in accordance with the provisions of this section.
- (8) Fuel price signs on lots used for motor vehicle fuel sales shall be permitted on a monument or freestanding sign and shall be included in the calculation of maximum size. Fuel price signs may also be included as pump toppers. Fuel price signs may be digital and changeable.
- (9) A family child-care home shall be entitled to either one freestanding sign or one projecting sign. **[Amended at time of adoption of Code]**
- (10) The Board of Selectmen may install directional signs within Town or state road rights-of-way or on private property with the written consent of the owner to direct the public to municipal, community or private facilities that may be difficult for the motoring public to find. Such signs shall not exceed 20 square feet in area, nor six feet in height, and there shall be no more than one sign per facility or within 100 feet of another similar sign on the same side of the street. Single signs may be shared by more than one facility.
- (11) The following are exempt from these regulations:
  - (a) Historic site markers or plaques, gravestones and address numbers.
  - (b) Placards required by law, including official or legal notices issued and posted by any public agency or court and traffic directional or warning placards.

- (c) Plaques, tablets or inscriptions indicating the name of a building, date of erection or other commemorative information, if they meet the following criteria:
    - [1] They are an integral part of the building structure or are attached flat to the face of the building;
    - [2] They are nonilluminated; and
    - [3] They do not exceed four square feet in surface area.
  - (d) Incidental placards, if they do not exceed two square feet in surface area, but not including signs required by law as set forth above, and including signs related to rest rooms, hours of operation, acceptable credit cards and forms of payment, property ownership and management, recycling containers and identifying applicable forms of social media.
  - (e) Religious symbols under 16 feet in height.
  - (f) A flag, so long as it is not greater than 20 square feet in surface area.
  - (g) Internal circulation and directional signs.
  - (h) Menu boards approved as part of an approved drive-through.
  - (i) One freestanding or monument sign installed to identify a park or open space installed by the Town, a Land Trust or other similar government or nonprofit conservation organization, provided it is less than 12 square feet in size, no greater than 12 feet in height and nonilluminated.
  - (j) Up to two one-sided, freestanding signs installed to identify a cemetery, provided that each is no more than 32 square feet in size and no greater than 12 feet in height, and is nonilluminated, shall be allowed through a zoning permit subject to the review of the Zoning Enforcement Officer. **[Amended at time of adoption of Code]**
- (12) The following signs are not permitted in any district:
- (a) Signs on utility poles.
  - (b) Signs located in the public right-of-way other than those posted by the government agency having jurisdiction over such right-of-way.<sup>11</sup>
  - (c) Changing message center signs where the message changes more frequently than once every 10 seconds.
  - (d) Flashing or scrolling text signs, signs containing or surrounded by flashing or blinking lights.
  - (e) Video boards or displays, except accessory to a use and approved by special permit. Such signs must be designed to be complementary to the

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11. Editor's Note: Original Subsection iii, regarding cemetery signs, which immediately followed this subsection, was moved to Subsection I(11) at time of adoption of Code.

overall project design, to not cause traffic or other safety concerns and to not be unreasonably objectionable to neighboring properties. These boards or displays may be allowed separately from the allowed signage for that zone and shall be limited by the conditions of the special permit.

(13) The following temporary signs are permitted as follows:

- (a) Grand opening displays, such as signs, posters, pennants, strings of lights, blinking lights, balloons and searchlights that announce the opening of a new enterprise or the opening of an enterprise under new management for a period of up to 30 consecutive days, not to exceed a total of 60 days per annum. **[Amended at time of adoption of Code]**
- (b) Temporary signs as listed below are allowed, but not to exceed 32 square feet in total for all listed:
  - [1] Construction signs, including "coming soon" signs for real estate developments, for a period of up to one year after the initial placement of the sign on the lot.
  - [2] Political signs.
  - [3] Real estate "for sale" or "for rent/lease" signs, one per lot, which must be removed not later than 10 days after the sale or letting of the property being advertised.
- (c) Nonprofit or community signs may be displayed on the Town Green in the area set aside for such purposes or other similar Town-owned areas elsewhere in Town as allowed by the adopted policy of the Board of Selectmen, provided that each individual sign is no larger than eight square feet, nor taller than four feet, nonilluminated, and all signs in total, per site, are no larger than 64 square feet.

(14) Nothing in these regulations shall restrict the placement of signage required upon any structure as required by the State Building Code, State Fire/Safety Code, the State or Local Fire Marshal or the Americans with Disabilities Act.

J. Sign Type and Quantity Table. The table below lists the permitted sign type and quantity for each land use district:

Key:

- X Sign type allowed
- Sign type not allowed
- SP Special permit required

| District                           | TSF | TCR                                                             | TC                              | TG                              | PI                              | RR                              | HL                                                                         | HLB                             |
|------------------------------------|-----|-----------------------------------------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------------------------------------------------|---------------------------------|
| Sign Type*                         |     |                                                                 |                                 |                                 |                                 |                                 |                                                                            |                                 |
| Number of any allowable sign types | SP  | 2 of any sign type listed below (multi-family development only) | 2 of any sign type listed below | 2 of any sign type listed below | 3 of any sign type listed below | 1 of any sign type listed below | 1 of any sign type listed below (commercial establishments and farms only) | 1 of any sign type listed below |
| Awning                             | SP  | X                                                               | X                               | X                               | X                               | —                               | —                                                                          | X                               |
| Freestanding                       | SP  | X                                                               | X                               | X                               | X                               | X                               | X                                                                          | X                               |
| Monument                           | SP  | —                                                               | X                               | X                               | X                               | —                               | —                                                                          | —                               |
| Projecting                         | SP  | X                                                               | X                               | X                               | X                               | —                               | —                                                                          | X                               |
| Sandwich board                     | SP  | —                                                               | X                               | X                               | X                               | —                               | —                                                                          | X                               |
| Wall                               | SP  | X                                                               | X                               | X                               | X                               | —                               | —                                                                          | X                               |

\* See Subsection I above for signs related to family child-care homes. **[Amended at time of adoption of Code]**

## § 415-22. Site plan requirements.

A. Site plan required in certain districts or for certain uses in other districts. In all TC, TCR, TG and PI Districts, and for all uses other than a single-family home, accessory residential use, family child-care home, farm, home farming and seasonal cottages in all other districts, approval of a site plan of development by the Commission is a prerequisite to receiving a zoning permit for the following: **[Amended at time of adoption of Code]**

- (1) Construction of new structures, whether principal or accessory;
- (2) Expansion of buildings as existing on the effective date of these regulations by an amount greater than 20% of the total floor area or volume for existing structures 5,000 square feet or smaller, or by an amount greater than 10% of the total floor area or volume for existing structures larger than 5,000 square feet;
- (3) Construction of new site facilities, including, but not limited to, parking areas containing more than three parking spaces, landscaping greater than 1,500 square feet in area, retaining walls greater than four feet in height and drainage systems with contributing watersheds greater than one acre in area;
- (4) Changes in use of structures, site facilities or land, including, but not limited to, changes that require different off-street parking or loading requirements, alteration or moving relocation of curb cuts or a different on-site traffic distribution; and
- (5) Reconstruction of conforming or nonconforming uses of land that are destroyed by calamity. See § 415-17.<sup>12</sup>

12. Editor's Note: Original Subsection 2, which defined minor and major site plans and which immediately followed this subsection, was repealed at time of adoption of Codes.

B. Site plan submission requirements. The Commission, in its discretion, may require an applicant to submit either a minor site plan or a major site plan, as those terms are defined in § 415-53 of these regulations. All site plans, whether minor or major, shall be prepared by a Connecticut-licensed land surveyor or professional engineer and include a date of drawing or revision within six months of submission, name and address of professional completing the drawing, a block showing existing and proposed compliance with the Bulk Table requirements for the zone where development is proposed, a signature block for the approval of the Commission and a location map, an index listing contents of submitted plan (major plan) and site data information (zone, lot/block number). **[Amended at time of adoption of Code]**

- (1) Minor site plan requirements. Basic site plans shall be prepared by a Connecticut-licensed land surveyor or professional engineer and shall be accurately drawn to scale to not less than one inch equals 20 feet and sheet size not less than 8 1/2 inches by 11 inches, and shall also include the following:
  - (a) Property line location and dimensions certified to the A-2 Standard of Accuracy by a Connecticut-licensed land surveyor with North arrow, easements and rights-of-way;
  - (b) Location and dimensions of all hard-surfaced areas, including curb and gutter, sidewalks, driveways, parking spaces, loading areas, garbage areas and access points to public streets;
  - (c) The size, shape and location of all existing and proposed structures, including overhang projections, garages, carports, sheds, storage containers and the distance to the nearest point of any dwelling to abutting properties;
  - (d) Front, side and rear yard setback dimensions from property line to all existing and proposed structures;
  - (e) Parking strip layout, including lawn areas, location of existing and proposed street trees and curb cuts;
  - (f) Architectural plans, including exterior elevations (including sign areas), floor plans and exterior materials and colors; and
  - (g) A statement of use describing, in detail, the nature of the proposed use, including the hours of operation, anticipated number of employees, truck traffic and truck routes and such other information as the Commission may require.
- (2) Major site plan requirements. Major site plans shall also be prepared by a Connecticut-licensed land surveyor or professional engineer and shall include the following in addition to the basic requirements for minor site plans:
  - (a) The size, shape and location of all existing landscape features, including large trees, pools, decks, patios, exterior lighting, utility lines, streams and any other exterior element;
  - (b) Landscape plan, including location, spacing, size, quantity and type of all proposed plant materials and installation details;

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- (c) Location and height of fences, retaining walls and railings;
- (d) Contour lines indicating existing and proposed grade changes at intervals not to exceed two feet;
- (e) Location, height, size and design of all existing and proposed exterior signs and advertising features;
- (f) Location and type of catch basins or surface water detention basins and other surface drainage facilities; and
- (g) Show all existing and proposed public way improvements.

**§ 415-23. Soil erosion and sedimentation control.**

- A. General provisions. The Commission hereby establishes these Soil Erosion and Sedimentation Control Regulations and designates the Inland Wetlands Commission for their implementation. Any application to the Commission where the activity requires the submission of a soil erosion and sediment control plan to the Zoning Enforcement Officer shall contain therein a certification that an application for certification has also been submitted to the Inland Wetlands Commission along with such plan. All such plans shall include measures to minimize soil erosion and sedimentation resulting from land development and measures for controlling erosion and sediment which equal or exceed those contained in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. The Commission may require an applicant to submit a copy of the soil erosion and sediment control plan, certified by the Inland Wetlands Commission, to the Commission. The Inland Wetlands Commission shall send a report to the Commission setting forth its actions taken with respect to any soil erosion and sediment control plan submitted pursuant to these regulations. **[Amended at time of adoption of Code]**
- B. Activities requiring a soil erosion and sediment control plan. A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than one-half acre, or within the Highland Lake (HL) District is cumulatively more than 4,000 square feet. A single-family dwelling that is not part of a subdivision of land shall be exempt from these Soil Erosion and Sedimentation Control Regulations under the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control.
- C. Erosion and sediment control plan requirements. To be eligible for certification, a soil erosion and sediment control plan shall contain adequate provisions to control accelerated erosion and sedimentation and reduce the danger from stormwater runoff from the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. Said plan shall contain, but not be limited to:
  - (1) A narrative describing:
    - (a) The proposed development;



- (b) A schedule for grading and construction activities, including start and completion dates; sequence of grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; and sequence for final stabilization of the project site;
- (c) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
- (d) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities;
- (e) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities;
- (f) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities;
- (g) An emergency contact and telephone number;
- (h) Site plan map.

[1] A site plan map at one inch equals 100 feet or larger scale to show:

- [a] The location of the proposed development and adjacent properties;
- [b] The existing and proposed topography, including soil types, wetlands, watercourses and water bodies;
- [c] The existing structures on the project site, if any;
- [d] The proposed area alterations, including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;
- [e] The location of and design detail for all proposed soil erosion and sediment control measures and stormwater management facilities;
- [f] The sequence of grading and construction activities;
- [g] The sequence of installation and/or application of soil erosion and sediment control measures;
- [h] The sequence of final stabilization of the development site;
- [i] Any other information deemed necessary or appropriate by the applicant or the Zoning Enforcement Officer in order to review and certify the proposed soil erosion and sediment control plan; and
- [j] An A-2 drawing.

[2] Such plan shall be prepared by a professional engineer registered in the State of Connecticut. Such engineer shall certify that the plan, as

prepared, complies with the requirements and objectives of these regulations; and

- (2) Any other information deemed necessary and appropriate by the Zoning Enforcement Officer to complete an application.

D. Minimum acceptable standards.

- (1) Soil erosion and sediment control plans shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.
- (2) The minimum standards for individual soil erosion and sediment control measures are those contained in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
- (3) The appropriate method from Chapter 9 of the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, shall be used in determining peak flow rates and in volumes of runoff unless an equally effective alternative method is approved by the Zoning Enforcement Officer.

E. Issuance or denial of certification.

- (1) Certification by Commission; Inland Wetlands Commission report.
  - (a) The Commission shall either certify that the soil erosion and sediment control plan, as filed or as conditioned by it in its certification, either:
    - [1] Complies with the requirements and objectivities of these regulations; or
    - [2] Deny certification when the plan does not comply with these regulations.
  - (b) The Inland Wetlands Commission shall send a report to the Commission within seven days of its decision.
- (2) Nothing in these regulations shall be construed as extending the time limits for the approval of any application under C.G.S. Chapter 124, 124A or 126.
- (3) The Commission may, prior to certification, forward a copy of the soil erosion and sediment control plan to the County Soil and Water Conservation District or other review agency or consultant for its or their review and comment.
- (4) The Commission may, as a condition to its certification of any soil erosion and sediment control plan, require that the applicant deliver to the Town a cash bond, or performance bond or other financial assurance acceptable to the Town, in an amount equal to the estimated cost of measures required to implement, perform and maintain the requirements of the certified plan. If so required, site

development shall not commence until such bond or financial assurances have been delivered to the Town.

- F. Conditions relating to soil erosion and sediment control. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.
- G. Inspection.
  - (1) The Commission may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.
  - (2) Where field conditions so indicate, the Zoning Enforcement Officer may require corrective or alternate means of soil erosion and sediment control measures not shown on the certified plan.
  - (3) Inspections may be made by the Town staff during the development to ensure compliance with the certified plan and that control measures and facilities are properly performed, installed and maintained. The regulations in this section may be enforced by the Zoning Enforcement Officer.
- H. Bond release. Bonds may be released by the Zoning Enforcement Officer when the work is complete and the site is stabilized.

**§ 415-24. Special permits and special exceptions.**

- A. Special permits and special exceptions. Within this section, "special permit" and "special exception" are interchangeable, except that special permit applications are heard by the Planning and Zoning Commission, and special exceptions by the Zoning Board of Appeals.
- B. A special permit or special exception application shall be submitted for any activity designated in the regulations as requiring a special permit. The Commission shall process the special permit application in accordance with the period of time permitted under C.G.S. § 8-7d and other requirements of C.G.S. Chapter 124.
- C. Application requirements. Each application for a special permit shall be accompanied by a site plan and a detailed statement describing how the special permit criteria herein will be addressed.
- D. Considerations for special permits. In considering any application for a special permit, the Commission shall evaluate the merit of the application with respect to the following factors:
  - (1) Suitable location for use. Whether the location and size of the site and the nature and intensity of the operations involved with the use will be in harmony with the appropriate and orderly development of the area.

- (2) Appropriate improvements. Whether the site improvements associated with the proposed development (location of buildings and activities, design of buildings, extent of landscaping) will be attractive and suitable in relation to the site and the existing and probable future character of the neighborhood in which the use is located.
  - (3) Suitable transportation conditions. Whether the nature of the proposed use or activity and the characteristics of the transportation system will adversely affect safety in the streets or unreasonably increase traffic congestion in the area or interfere with the pattern of vehicular circulation.
  - (4) Adequate public utilities. Whether the provisions for water supply, sewage disposal and stormwater drainage will conform to accepted practices and will not unduly burden the capacity of such facilities.
  - (5) Adequate public services. Whether the proposed use or activity will provide easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
  - (6) Environmental protection and conservation. Whether appropriate consideration has been given to the protection, preservation and/or enhancement of natural, scenic, historic and unique resources.
  - (7) Long-term viability. Whether adequate provision has been made for the sustained maintenance of the proposed development (structures, streets and other improvements).
  - (8) Purposes. Whether the proposed use or activity will conflict with the purposes of these regulations.
  - (9) Plan of Conservation and Development. Whether the proposed use or activity will facilitate achievement of one or more of the goals, objectives, policies and recommendations of the Plan of Conservation and Development.
- E. Additional considerations for special permits in certain residential districts. In considering an application for a special permit, the Commission shall consider all of the following in addition to the foregoing considerations:
- (1) That the existing and future character of the neighborhood in which the special permit is to be located will be adequately protected;
  - (2) That adequate safeguards have been taken to protect adjacent property and the neighborhood in general;
  - (3) That traffic circulation within the site and the amount, location and access to parking is adequate;
  - (4) That the basic design of the proposed uses or structures, the relationship between the structures and the land and overall physical appearance of the proposed use of the structures will be in general harmony with the character of the neighborhood surrounding and will not serve to blight or detract from abutting residences or other property;

- (5) That adequate safeguards have been taken to protect the natural environment; and
  - (6) That all required public services will be reasonably available to serve the proposed development.
- F. Special permits for drive-through facilities. Drive-in and drive-through service facilities, with the exception of car washes, require a special permit and shall be located, developed and operated in compliance with the following: **[Amended at time of adoption of Code]**
- (1) Each facility must provide sufficient queue area of at least 20 feet per vehicle in advance of the service point to accommodate at least three vehicles per service point or at least six vehicles per establishment, whichever is greater. The queue area may not interfere with other on-site circulation and parking facilities.
  - (2) At least one permanent trash receptacle must be installed.
  - (3) Menu boards must be located at least 50 feet from any residential district boundary. Speaker noise levels may not be audible on any abutting residential property.
  - (4) Pedestrian walkways must have clear visibility and be emphasized by enhanced paving or markings when they intersect the drive-in or drive-through aisles.
- G. Conditional approval. In granting a special permit, the Commission may stipulate such conditions as are reasonable and necessary to protect or promote the public health, safety or welfare; property values; the environment; sound planning and zoning principles; improved land use, site planning and land development; or better overall neighborhood compatibility.
- H. Decision. Whenever it grants or denies a special permit, the Commission may, in its discretion, state upon its record the reason(s) for its decision and shall:
- (1) State the name of the owner of record;
  - (2) Contain a description of the premises to which it relates;
  - (3) Identify the section and/or subsection of the regulations under which the special permit was granted or denied; and
  - (4) Specify the nature of the special permit.
- I. Effective date. A special permit granted by the Commission shall only become effective upon the filing of a copy, certified by the Commission, in the land records of the Town, in accordance with the provisions of C.G.S. § 8-3d.
- J. Public notice.
- (1) In addition to any other notice provisions of local or state regulations, and statutes, applicants requesting a change in zone, a special exception or a special permit shall notify by certificate of mailing of each abutting property owner, including properties directly across the street, as indicated on the most recent Grand List maintained by the Assessor, of any point on the boundary of the subject property of the date and place of the public hearing, wherein such request

is to be considered by the Commission. Such notice shall be mailed a minimum of seven days prior to the date of public hearing. At the time of public hearing, the applicant shall present receipts from the postal service to demonstrate compliance with this subsection. Certified Mail is not an acceptable means of providing public notice.

- (2) In addition, a sign, which may be provided by the Town, must be posted in a clearly visible location, within 10 feet from the street, on the property which is the subject of the application no less than 14 days before the scheduled hearing and shall remain posted until the hearing commences, and an affidavit must be signed at the time of application acknowledging this requirement. In a case where a property fronts more than one street, a sign shall be posted on each street. The first sign(s), if available, shall be provided for free (deposit required); replacements are available for a charge. Such signs shall be at least 11 inches by 17 inches, feature one-inch typeface and read (at a minimum):

|                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;">TOWN LAND USE BOARD (P/Z or ZBA)<br/>APPLICATION PENDING FOR THIS PROPERTY<br/>For information call Town Hall at 379-3818 or 738-6593<br/>Planning and Community Development</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

(or as approved or supplied by the Zoning Enforcement Officer)

- (3) This public notice subsection shall not apply to any action initiated by the Planning and Zoning Commission or Inland Wetlands Commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.
- K. Text and map amendment procedures. Amendment of these regulations, including the Official Zoning Map, may be petitioned for by an application for zone change filed by any person or persons, or may be initiated by the Commission. Amendments may be made after notice and hearing in accordance with the provisions of the Connecticut General Statutes, as amended, and of these regulations. An amendment of these regulations, including the Official Zoning Map, shall be effective on the first business day following both the filing of a copy of such amendment in the office of the Town Clerk and publication of a notice of the Commission's decision in a newspaper having a substantial circulation in the Town; or on such later date as the Commission shall have established as the effective date for such amendment. Before the Commission approves any amendment to these regulations, the Commission shall determine that the proposed amendment will not hinder the attainment of the purposes of these regulations, and that the public health, safety, welfare and property values will not be adversely affected.
- L. Applications. Applications for zone change shall be on a form approved by the Commission, accompanied by the filing fee established by the Commission, and shall be accompanied by six sets of a plan accurately drawn to a scale of one inch to 100 feet on a sheet 24 inches by 36 inches. Such plan shall include a location map and shall show the existing and proposed zoning designations and the location of buildings, streets, driveways and other facilities on the subject land and adjoining properties within 500 feet.

- M. Considerations. Before the Commission approves a zone change, the Commission shall determine that the proposed zone change will be in conformance with the Plan of Conservation and Development (POCD) and the purposes of these regulations, and that the uses permitted in the proposed zone will not adversely affect the public health, safety, welfare and property values.
- N. Protests. If a protest is filed at such hearing with the Commission against a proposed zone change, signed by the owners of 20% or more of the area of lots included in such a proposed change, or of the lots within 500 feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of 2/3 of all the members of the Commission.
- O. Multiple petitions. The Commission is not required to hear any petition or petitions relating to the same zone change(s) or substantially the same zone change(s) more than once in a period of 12 months (365 days).

**§ 415-25. Zoning administration; site plans; appeals; enforcement.**

- A. Zoning administration, permits and certificates.
  - (1) Establishment of Zoning Enforcement Officer. The Zoning Enforcement Officer (ZEO) of the Town or, if none, such other person as may be designated by the Commission as the Zoning Enforcement Officer (ZEO), shall be the administrative official charged with the enforcement of these regulations. No building permit, zoning permit, certificate of occupancy or certificate of zoning compliance may be issued except in conformity with all applicable provisions of these regulations and other applicable laws, regulations and ordinances of the Town and the State of Connecticut, except to the extent the same may be modified by legal process or law.
  - (2) Building permit. A building permit is a document issued and certified by the Building Official that the proposed construction is in conformance with the State Building Code and, if applicable, the State Fire Code. No building permit shall be issued unless and until a zoning permit has been duly issued, if required by these regulations.
  - (3) Zoning permit. A zoning permit is a document issued and certified by the Zoning Enforcement Officer that the proposed use and construction are in conformance with these regulations. A zoning permit is not required for repairs or alterations to existing buildings or structures, provided that such work does not increase the floor area of any building or structure and does not change the use thereof. An application for a zoning permit shall include:
    - (a) Plot plan.
      - [1] A drawing of the lot, drawn to scale, and showing property lines, open spaces, structure and building areas and the location of the lot with reference to all abutting properties and streets;
      - [2] The Zoning Enforcement Officer may require any such plot plan to:
        - (i) be prepared by a Connecticut-licensed surveyor or professional

engineer, certified to the A-2 Standard of Accuracy; and (ii) be in compliance with the requirements for a site plan under these regulations. Any applicant who submits a drawing that is not certified shall be fully responsible for its accuracy. No variances shall be issued to resolve any issues caused by any inaccuracy.

- (b) A written statement of use describing in detail the proposed use of the property;
  - (c) A copy of the application for the building permit;
  - (d) A set of dimensional plans of floors and elevations of the building or structure, and specifications to indicate the kind, size and quality of the proposed construction; and
  - (e) The fee, as per the Planning and Zoning Application Fee Ordinance. **[Amended at time of adoption of Code]**
- (4) Permits, building and zoning. No land shall be used and no building or structure shall be used, erected, moved, enlarged or structurally altered at a cost exceeding \$100, and no permanent sign, exceeding four square feet of total sign face area, shall be constructed, erected or maintained, unless and until a zoning permit has been issued by the Zoning Enforcement Officer and a building permit has been issued, when required, by the Building Official. Applications for a building permit and zoning permit shall be made by the owner or his agent on forms approved by the Commission and shall be accompanied by the applicable fee for each, payable to the Town of Winchester.
- (5) Expiration. A zoning permit shall become null and void unless construction is commenced within six months from the date of its issuance, unless such time shall have been extended in writing by the Zoning Enforcement Officer.
- (6) Certificates, zoning compliance and occupancy. No land, building, structure, permanent sign exceeding four square feet of total sign face area, or lot of which the use or area of construction of which has been changed, extended, moved, enlarged or structurally altered, shall be occupied or used, in whole or in part, until both a certificate of occupancy has been issued by the Building Official and a certificate of zoning compliance has been issued by the Zoning Enforcement Officer. Prior to any issuance of certificate of occupancy by the Building Official, an applicant must apply for and obtain a certificate of zoning compliance. In the event of a valid nonconforming use, building, lot or structure, the certificate of zoning compliance shall so indicate. When a proposed change, extension, enlargement or alteration of land, structure, building or lot does not require, under these regulations, a building permit or zoning permit, a certificate of zoning compliance and certificate of occupancy shall be applied for and obtained prior to any such proposed change, extension, enlargement or alteration being commenced.
- (7) Certificate of occupancy. A certificate of occupancy is a document issued by the Building Official certifying that a certificate of zoning compliance has been issued by the Zoning Enforcement Officer and that the as-built condition is in



conformance with the building permit, if required, and in compliance with the State Building Code and, if applicable, the State Fire Safety Code.

- (8) Certificate of zoning compliance. A certificate of zoning compliance is a document issued by the Zoning Enforcement Officer, certifying that such land, building, structure, sign or lot is in compliance with the zoning permit, if required, and in conformance with these Zoning Regulations or any permit issued hereunder, or is a valid nonconforming structure or use under these regulations.
- (9) Definitions.
  - (a) Wherever in these regulations reference is made to the "Town Building Code," "Building Code," "Basic Building Code" or "State Building Code," the same shall mean the State Building Code adopted pursuant to C.G.S. Chapter 541, as amended, and any amendments thereto, as well as any regulations, rules, orders, directives and interpretations promulgated thereunder.
  - (b) Wherever in these regulations reference is made to the "State Fire Safety Code," the "Life Safety Code" or "Fire Code," the same shall mean the State Fire Code adopted pursuant to C.G.S. Chapter 541, as amended, and any amendments thereto, as well as any regulations, rules, orders, directives and interpretations promulgated thereunder.
  - (c) The term "Building Official," as used in these regulations, shall mean the local Building Official appointed, qualified and licensed pursuant to C.G.S. § 29-260 through 29-262, as amended.
- (10) Records. The Zoning Enforcement Officer shall keep a record of all issued zoning permits and certificates of zoning compliance, together with all supporting documentation therefor. Such records shall be maintained in the office of the Zoning Enforcement Officer and shall be available for public inspection and copying at reasonable cost. The Building Official and Zoning Enforcement Officer may integrate such records, in which event such records shall then be jointly maintained by and be the responsibility of the Building Official and Zoning Enforcement Officer and shall be maintained in the office of either.
- (11) Change of use. The Zoning Enforcement Officer may administratively approve changes in nonresidential uses, and resumptions of uses which have been inactive or abandoned, via a zoning permit, where the use is allowed in the district via the special permit process, where all aspects of the regulations are met except for any existing nonconformities related to the existing building such as setbacks and coverage, and where no changes to the footprint of the building or, in the case of multi-tenant buildings, where no interior partitions between uses are changed. The Zoning Enforcement Officer may consult with the Chairman of the Commission before approving such application, and the Zoning Enforcement Officer shall be allowed to refer any application to the full Commission for any reason. **[Amended at time of adoption of Code]**

#### B. Appeals.

- (1) Establishment of Zoning Board of Appeals.

- (a) Membership and records. The Zoning Board of Appeals shall be established as set forth in Charter Section 604. Said Board, by a vote of its seated members, shall elect a Chairman and Vice Chairman from its membership and shall appoint a Secretary, who shall keep minutes of its proceedings showing the vote of every member upon each question, or, if absent or failing to vote, indicating such fact. Each rule and regulation, and each amendment or repeal thereof, and each order, requirement or decision of the Board shall immediately be filed in the office of the Board, and shall be a public record. Before acting on any matter under the provisions of these regulations, the Board shall hold a public hearing, as required by C.G.S. Chapter 124, as amended. **[Amended at time of adoption of Code]**
- (b) Meetings. All meetings of said Board shall be held at the call of the Chairman, and at such other times as said Board may determine, and shall be open to the public. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.
- (c) Powers and duties. The Zoning Board of Appeals shall have the following powers and duties:
  - [1] To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Officer or any other official charged with the enforcement of these regulations;
  - [2] To hear and decide all matters upon which it is required to pass by the specific terms of these regulations; and
  - [3] To determine and vary the application of provisions of these regulations in harmony with their general purpose and intent, and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land, where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of these regulations would result in exceptional difficulty or unusual hardship, so that justice will be done, and the public safety and welfare preserved.
- (d) Procedure. All appeals and applications made to said Board shall be submitted on forms prescribed by said Board and with supporting plans, materials and other information required by said Board. Applications shall be accompanied by the appropriate fee as established by said Board. Any action required by the appellant as a result of decisions or orders made by said Board must be taken within the time affixed by said Board. The Zoning Board of Appeals shall not be required to hear any application for the same variance or substantially the same variance for a period of six months after a decision by said Board or by a court on an earlier such application.

C. Enforcement.

- (1) Zoning Enforcement Officer. These regulations shall be enforced by the Zoning Enforcement Officer (ZEO), acting as agent for and under the supervision of the Commission. The Zoning Enforcement Officer will work closely with the Commission and keep it fully informed of all enforcement actions and will keep and maintain records (including a daily log) of all enforcement actions. The Zoning Enforcement Officer (ZEO) is hereby authorized to cause any land, building, structure, sign, lot or use to be inspected and/or issue orders in writing to remedy any condition found to exist which is in violation of these regulations. Copies of any orders issued by the Zoning Enforcement Officer shall be sent contemporaneously to the Commission. The Zoning Enforcement Officer shall furnish reports to the Commission of enforcement activities at the Commission's regular meetings or at such times and in such manner as the Commission may require.
- (2) Enforcement actions. The Commission, the Zoning Enforcement Officer or any other official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent the unlawful erection, alteration, reconstruction, maintenance or use of any land, building, structure, sign or lot and/or to correct or abate any unlawful act or to prevent the illegal occupation of any land, building, structure or lot or any illegal act or violation of these regulations.
- (3) Fines and remedies. Any person, firm, association, corporation or other legal entity violating any of the provisions of these regulations shall be subject to a fine in an amount not to exceed that permitted under Connecticut law for each such offense, and for each and every day that such offense continues; provided, however, that the Commission may exercise any and all of the remedies and sanctions, including without limitation imposition of fines in the same or greater amount, for violation of these regulations as are prescribed by the Connecticut General Statutes, as amended.

#### ARTICLE IV Special Regulations

##### **§ 415-26. Accessory apartments.**

- A. Purpose and intent. The intent of permitting accessory apartments is for any or all of the following:
  - (1) To provide elderly homeowners with a means of obtaining rental income, companionship, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
  - (2) To add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate-income households who might otherwise have difficulty finding housing.
  - (3) To develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle.

- (4) To protect stability, property values and the single-family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses.
  - (5) To provide housing units for persons with disabilities.
- B. Specific requirements. The Zoning Board of Appeals may issue a special exception authorizing the installation and use of an accessory apartment in a detached accessory structure on a single-family home lot on the following conditions:
- (1) The apartment will be a complete, separate housekeeping unit containing both kitchen and bath.
  - (2) Only one accessory apartment may be created within a single-family house or house lot.
  - (3) The owner(s) of the residence in which the accessory unit is created must continue to occupy at least one of the dwelling units as their primary residence. The zoning permit or special permit for the accessory apartment automatically lapses if the owner no longer occupies one of the dwelling units.
  - (4) Any new outside entrance to serve an accessory apartment shall be located on the side or in the rear of the building.
  - (5) The gross floor area of an accessory apartment (including any additions) shall not be greater than 900 square feet. This shall include all floor space of the apartment, measured from the inside edge of the outermost finished walls, including any closets or storage areas. However, it shall not include spaces exclusively dedicated to utilities, such as furnaces or water heaters, nor shall it include stairs leading to the main entrance of the apartment (but not stairs within the apartment itself, which shall be counted).
  - (6) Once an accessory apartment has been added to a single-family residence or lot, the accessory apartment shall never be enlarged beyond the 900 square feet allowed by this section.
  - (7) An accessory apartment may not be occupied by more than three people.
  - (8) Three off-street parking spaces must be available for use by the owner-occupant(s) and tenant(s).
  - (9) The design and room sizes of the apartment must conform to all applicable standards in the health, building and other codes.
  - (10) Zoning permits issued under this section shall specify that the owner must occupy one of the dwelling units. The zoning permit and the notarized letters required herein must be recorded in the Town of Winchester Land Records, in the chain of title to the property, with documentation of the recording provided to the Zoning Enforcement Officer, prior to the occupancy of the accessory apartment.
  - (11) When a structure which has received a permit for an accessory apartment is sold, the new owner(s), if they wish to continue to exercise the permit, must, within 30 days of the sale, submit a notarized letter to the Zoning Enforcement Officer

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stating that they will occupy one of the dwelling units on the premises as their primary residence. This statement shall be listed as a condition on any permits which are issued under this section.

- (12) Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's permanent primary residence.
- (13) Prior to issuance of a permit, a floor plan must be submitted showing the building, including proposed interior and exterior changes to the building.

**§ 415-27. Adult-oriented establishments. [Amended at time of adoption of Code]**

Adult-oriented establishments may be permitted only in the PI District and must comply with the requirements of Chapter 162, Adult Entertainment, of the Town Code.

**§ 415-28. Bed-and-breakfasts.**

- A. Bed-and-breakfasts are permitted in a structure in which the owner is in full-time residence and where the following are satisfied:
  - (1) Full bathrooms shall be provided at the rate of one per two guest rooms;
  - (2) The Regional Health District shall certify that the existing or proposed modified subsurface sewage disposal system is adequate to serve the proposed use. A complete new sanitary system may be required if the existing system is inadequate for the proposed use or if there is insufficient data concerning the nature of the existing system; and
  - (3) For purposes of this section, the "owner" shall be a natural person or persons who is or are the record owners of the premises.
- B. Minor additions may be made to a structure, up to 200 square feet, for improvements necessary for such occupancy.
- C. The length of stay shall not exceed three days per guest. Food service shall be limited to continental breakfast only.
- D. The operation of a bed-and-breakfast use shall require a special permit.

**§ 415-29. Clubs.**

A club shall be allowed by special permit and shall cater only to its members or guests accompanying them, shall not be operated for profit, and no activity shall be carried on which results in objectionable noise audible off the premises and shall meet all of the following requirements:

- A. The scale and design of the structure is compatible with the surrounding neighborhood;
- B. Landscape planning or other visual separation is provided to minimize the effects of the use on neighboring properties; and

- C. Building plans of the structure and a site plan showing conformance with the above criteria shall be submitted to the Commission.

**§ 415-30. Commercial recreation.**

- A. Commercial recreation area. A commercial recreation area, on a parcel of land containing not less than 20 acres of land devoted to one or more of the following uses and located only in an RR District, may be allowed as a special permit, provided that the Commission shall find, in addition to the requirements for all special permits, that it:
- (1) Is consistent with the Plan of Conservation and Development of Winchester;
  - (2) Will cause no hazards to health, safety and property from fire, accident, sanitary and drainage conditions, excessive traffic, noise, vibration, odor or other nuisance;
  - (3) Will not add undue traffic to local streets or storm drainage beyond their reasonable capacity;
  - (4) Conforms to the proper standards of traffic access and egress and fire protection.
- B. Site plan requirements. Application for a special permit for commercial recreation shall be accompanied by a site plan, showing the boundaries of the property and all roads and structures within 500 feet of the property, together with:
- (1) Proposed roads, parking areas and any required drainage and sanitary facilities;
  - (2) Location of proposed structures and the limits of areas of proposed activities, together with a specific list of the proposed use or uses, including daytime and nighttime activities;
  - (3) Applicable information required to assure conformance to the design criteria; and
  - (4) Application fee.
- C. Design and operating criteria. Design and operating criteria governing the location and construction of improvements, structures and facilities shall include the following:
- (1) No structure, except a single-family dwelling, and no recreational activity, except a golf course, shall be closer than 100 feet to the nearest public highway, nor closer than 250 feet to the nearest dwelling located under other ownership on the same side of the highway; except that where public and private safety are protected, activities such as horseback riding and snowmobiling trails may be permitted closer than 100 feet to highways, as shown on the approved plan.
  - (2) The volume of sound from music and public-address systems shall be so controlled as to prevent objectionable noise off the premises.
  - (3) Banquets, meetings, stage presentations and dancing shall be held inside a building, but this shall not prevent presentation outside a building of athletic exhibitions or contests requiring outdoor facilities.

- D. Uses permitted in commercial recreation. Uses permitted under a special permit for commercial recreation use shall include only the following permitted uses and any approved combination thereof:
- (1) Outdoor athletic activities, including facilities for skating, skiing, snowmobiling, sledding, swimming, squash and tennis, but expressly prohibiting all other all-terrain vehicles, including motorcycles, minibikes and similar vehicles.
  - (2) A golf course of not less than nine holes as a principal recreational use, and a par-three golf course of putting greens and driving range, as accessory to a principal recreational facility, but expressly prohibiting miniature golf, putting greens and driving ranges as a principal use.
  - (3) Riding academy or hunt club as a principal use, and the keeping and boarding of horses for riding, instruction and exhibition, as accessory to a principal recreational facility.
  - (4) Outdoor picnic facilities, including barbecue pits and outdoor fireplaces, as an accessory use to a principal recreational facility.
  - (5) Social and recreational facilities for dining and dancing, including banquets, meetings, receptions, assemblies and entertainment, provided such activities are accessory to and part of an indoor-outdoor recreational enterprise and are carried on inside a fully enclosed building.
  - (6) Motel, lodge or inn, furnishing lodging and/or meals to transients, as accessory to a recreational use, but not as a principal use, provided that no living accommodations that include cooking facilities shall be occupied by persons other than those employed on the premises for more than 30 days between October 1 and the next following May 15.
  - (7) The rental of campsites as a part of a commercial recreation operation is permitted, subject to the following conditions:
    - (a) Campsites may be occupied by a tent or recreational vehicle, but not by any type of permanent building.
    - (b) Campsites shall conform to the design criteria herein, and campsites provided for recreational vehicle use shall further conform with all applicable requirements of these regulations.
    - (c) Power to campsites shall be shut off in the off-season (winter).
  - (8) Activities similar to those listed above, that are commonly provided by such organizations as day camps, swimming and tennis clubs, other recreational enterprises, and that are listed in the application and on the site plan, may be approved by the Commission, subject to such additional safeguards as the Commission may require.
    - (a) Except as provided above, residential use shall be limited to existing dwellings and new accommodations for persons employed on the premises only.

- (9) Accessory uses and structures customarily incidental to a permitted use.
  - (10) One freestanding sign is permitted at the main entrance to the lot containing the commercial recreation use. External lighting only is permitted with the light sources shaded to prevent glare on any adjoining property. Notwithstanding other provisions of these regulations, directional signs not exceeding one square foot each in area may be permitted when and where approved by the Commission.
- E. Approval by the Commission. Approval by the Commission of a special permit for commercial recreation shall be based solely on an approved site plan, filed with the Commission, which shall clearly show the locations of structures, construction, improvements, outdoor lighting and the limits of the open areas of outdoor activities, together with a list of the uses and accessory uses included as a part of the special permit.
- (1) The applicant may submit, and the Commission may approve, minor amendments to an approved special permit, provided that any amendments that extend the limits or the number or kinds of activities or structures, or scope of lighting, shall not be approved until after a public hearing. The Commission may make a determination that minor camp improvements which meet the requirements of this section will only require a zoning permit.
  - (2) Any expansion of the number or kinds of activities or structures, or scope of lighting, will require submission of an amended plan, a public hearing and Commission approval.
  - (3) Approval for a special permit for commercial recreation shall become null and void if all of the approved facilities are not in operation after two years following the date of approval. Said special permit is extendable for up to an additional two years should an extension be sought by applicant and granted by the Commission.
- F. Campsite design criteria. The following requirements shall apply to the layout, construction and operation of facilities permitted hereunder:
- (1) Provision shall be made for furnishing adequate potable water, sanitary sewage disposal and collection and disposal of garbage and waste materials in conformance with state and local ordinances. Approval of the plans by the designated public health agency is required before approval of a special permit, and certification by such agency of construction of sanitary facilities in accordance with the approved plans is required before issuance of a certificate of zoning compliance.
  - (2) A 110-volt electric outlet shall be provided at each campsite in not less than 40% of the total number of campsites.
  - (3) Potable water shall be furnished by a piped pressure system, with one outlet on each campsite, in not less than 40% of the total number of individual campsites, and one outlet for not more than 10 individual campsites (tents and recreational vehicles).
  - (4) Sanitary sewage disposal shall be by a piped system, with one trapped connection on each campsite, and one connection to community toilet and waste facilities,



which shall serve not more than 10 individual campsites. No septic tank or drain field shall be connected to fewer than 20 campsites, nor be located on land allocated to individual campsites.

- (5) Where required, a community toilet facility, to serve not more than 10 campsites, shall consist of a shower stall, a lavatory and a water closet, separated for each sex, suitably screened from campsites, and such facility shall be located not more than 250 feet from the farthest campsite served. Where, in the judgment of the Commission, unusual conditions of topography, soils seepage or other natural features prevent strict adherence to the above standards, the Commission may approve combining toilet locations, or a greater distance between such facilities, so long as the safety and convenience of the campers are not jeopardized.
- (6) Garbage and waste collection stations shall be located so as to serve not more than 10 campsites, and shall be substantially screened, or daily collections shall be made from insect-tight containers.
- (7) The location, materials of construction and storage of fuel for outdoor cooking facilities shall be subject to the approval of the Fire Marshal, and no outdoor cooking shall be allowed except at approved locations. Subject to the above, open fireplaces and Coleman-type stoves are permitted, if approved by the Fire Marshal.
- (8) Roads and driveways adequate for the purpose intended, and adequate provisions for storm drainage, shall be subject to the approval of the Commission. All roads shall provide free movement for fire equipment in accordance with the Connecticut Fire Prevention Code, as amended.
- (9) Each campsite shall contain not less than 3,000 square feet of area for the exclusive use of the site occupants, provided that there shall be not more than 10 campsites per gross acre devoted to such sites, exclusive of all public open spaces. This shall not prohibit campsites of less than 3,000 square feet each in the case of a group camping field designated on the approved site plan for a period not to exceed three days.
- (10) Except in the case of group camping noted in Subsection F(9) above, each campsite shall have not less than 25 feet of frontage on an access driveway or way connecting ultimately to a public street, and an average width not less than 50 feet, and a minimum depth of 60 feet. **[Amended at time of adoption of Code]**
- (11) Each campsite shall have an open yard, unoccupied except for trees, planting or fencing, 10 feet wide, along each campsite boundary line, but this shall not prevent two families from using the adjoining yards on two adjoining campsites for camping purposes.
- (12) Campsites shall be so arranged that the natural plants and trees, terrain and scenic assets shall be preserved, that each campsite has direct or indirect access to a Town road, but is visually private and protected from other campsites, and that emergency vehicles have proper and safe access to substantially all of the campsites.

**§ 415-31. Commercial stables. [Amended at time of adoption of Code]**

Riding academies, livery and boarding stables, animal and convalescent stables, rental and hacking stables and private club riding stables shall be a permitted use in the PI District and permitted only upon the granting of a special permit in the TG District, provided all of the following requirements are met in addition to the requirements for all special permits, where applicable:

- A. Any barns, riding rings, corrals and accessory facilities shall be contained within one lot of suitably drained land consisting of at least 10 acres;
- B. Parking for commercial stables shall be provided as set forth in Appendix A,<sup>13</sup> and sufficient off-street parking facilities should be provided to accommodate all users and visitors to the lot, including spectators for horse shows or similar events. The roads for entering and leaving the lot shall not be located or placed in a manner to create pedestrian or vehicular traffic hazard on the public street or highway;
- C. Stable manure or hazardous materials utilized or stored must not create a health hazard from an air and water pollution standpoint to the community in general or the persons inhabiting or using the surrounding acreage; and therefore, the stabling of horses shall conform to all regulations of local and state health authorities. Toilet facilities shall be provided for in accordance with local health requirements for normal operations as well as for horse shows and similar activities. If the Commission determines that the proposed activity may pose a threat to groundwater, the Commission shall require appropriate provisions to prevent groundwater contamination in accordance with the groundwater protection requirements in these regulations;
- D. Adequate perimeter fencing shall be installed and maintained to reasonably contain the horses within the lot;
- E. Fire control facilities for the barns, buildings and other facilities used for normal operations as well as for horse shows and similar activities shall be acceptable to the Fire Marshal;
- F. The use of public address systems, the conduct of the instruction of riders, training of horses and the spectator participation in competitions should be modulated and continuously controlled in order to avoid becoming a nuisance to surrounding neighbors as determined by the Commission;
- G. No building or manure pit used for or in conjunction with the operation shall be located in a manner that any part thereof shall be less than 100 feet from the nearest line of any road, street or highway abutting the lot or any side and rear lot line. Riding rings and corrals shall not be within 50 feet of any residential use;
- H. The use of temporary buildings or trailers for the stabling of horses in excess of 15 days is prohibited;
- I. The area should be landscaped so as to harmonize with the character of the neighborhood. The land shall be so maintained that it will not create a nuisance as determined by the Commission. The manure storage area shall be so screened that it

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13. Editor's Note: Appendix A is included as an attachment to this chapter.

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will not be unsightly. There shall be no storage of supplies outside of permanent building, except that the storage of wood chips used in the open is permissible, provided there is no conflict with any provision in this section; and

- J. There shall be no external flood lighting which is objectionable, either due to brightness or to direct transmissions outside of the lot where it originates, as determined by the Commission.

**§ 415-32. Congregate residence development.**

Congregate residence development, which shall include congregate dwellings and may include other types of dwellings, is intended to provide options for common dining and common use of other facilities and services essential to residential life.

- A. Location. Congregate residence development may be located in TCR, TC and TG and RR Districts, and only where all dwelling units will be connected to public or community water and public sewers before occupancy.
- B. Special permit use. Congregate residence development shall be allowed as a special permit. In addition to the requirements for all special permits, the standards applicable to congregate residence developments shall be the same as those for multiple dwellings, except for the following additional standards established for congregate residence developments:

- (1) Minimum lot size/residential density.

|                      | Minimum Lot Area<br>(square feet) | Minimum Lot Area Per<br>Family Unit<br>(square feet) |
|----------------------|-----------------------------------|------------------------------------------------------|
| Residential District | 40,000                            | 7,500                                                |
| Commercial Districts | 40,000                            | 3,600                                                |

- (2) Driveways having access to and from public streets shall have ingress and egress lanes separated by a divider, or islands serving the same function, of no less than five feet in width.

**§ 415-33. Containers.**

Containers shall comply with all of the following requirements:

- A. All containers shall be screened from view of public streets and adjacent lots by a minimum six-foot-high enclosure on three sides finished to match the main building as set forth herein;
- B. Metal swinging gates of a height equal to the enclosure height shall be provided for the truck collection side of the compactor enclosure, which shall be oriented away from public streets;

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- C. The interior dimensions of the compactor enclosure shall provide for two feet of clearance between the container and enclosure walls or gates;
- D. The placement of containers on a lot shall not reduce the number of parking spaces below the minimum required by these regulations;
- E. Containers that are part of a Town recycling center are exempt from the above regulations; and
- F. Residential-type recycling carts for refuse and recycling collection shall not be considered a container for purposes of these regulations.

**§ 415-34. Convalescent homes and nursing homes.**

Convalescent homes and nursing homes shall be allowed by special permit and shall comply with all of the following requirements, in addition to the requirements for all special permits:

- A. The minimum lot area shall be five acres;
- B. The facility shall be served by a public water system and public sewer facilities;
- C. The lot shall be of such a size and shape that a 300-foot square can be located within the lot boundaries;
- D. The minimum setback distance for all buildings and parking areas shall be 100 feet from a state highway right-of-way and 75 feet from a Town street right-of-way and 50 feet from all other lot lines;
- E. The total lot coverage of the footprint of all buildings on the lot shall not exceed 10% of the total lot area;
- F. The total floor area of all buildings on the lot shall not exceed 20% of the total lot area;
- G. The total ground coverage by all buildings and other structures, outside storage area, areas for off-street parking, loading and driveway and all paved areas on the lot shall not exceed 30% of the total lot area; and
- H. A landscape plan for the lot prepared by a landscape architect, licensed to practice in the State of Connecticut, shall be submitted as part of the special permit application. All portions of the lot not covered by buildings, other structures, outside storage or paved areas shall be suitably landscaped with trees, shrubs, lawns or other suitable landscaping. Areas not disturbed by filling, grading, excavation or other construction activity may be left as natural terrain when having a location, size and shape that supports the landscaping plan for the lot. Where the lot abuts an RR or HL District, the required setback area along the lot boundary line shall be landscaped with evergreen shrubs or trees, or such landscaping in combination with embankments, fences and/or walls, to provide a screen and transition from the site to the district. Suitable natural terrain and existing evergreen trees and shrubs may be preserved or augmented with new planting to satisfy the landscape requirement in the setback area.

**§ 415-35. Corner lots.**

On a corner lot, only one street line may be considered as a front lot line and only one yard may be considered the front yard. The front lot line shall be the front lot line directly opposite the front facade of a building. The yard fronting the other street that forms the corner lot shall be considered a side yard for purposes of these regulations. No wall, fence or structure shall be erected, and no hedge, shrub or other growth which is more than three feet high, and which will obstruct corner visibility, shall be maintained on a corner lot in the triangular area formed by the two street lines and a third line which touches the building line and is a chord of the angle of the street intersection.

**§ 415-36. Country inns.**

A country inn shall comply with all of the following requirements:

- A. The minimum lot area shall be five acres. The total area of impervious surfaces on the lot shall not exceed 15% of the total area of the lot. (For the purpose of this section of the regulations, impervious surface shall include the footprint of any building and the area of any paved parking areas.);
- B. Modifications or additions proposed to accommodate the use of the structure as a country inn shall not exceed 50% of the total habitable floor area of the existing structure;
- C. All parking areas shall be screened from view from surrounding residences. Parking shall be located to the side and rear of the structure, wherever possible. No parking shall be located within 50 feet of the front line or 25 feet of a side or rear lot line; and
- D. No separate commercial use other than that related to food, beverage and transient accommodations shall be permitted.

**§ 415-37. Earth excavation.**

- A. An earth excavation special permit may be granted for the purpose of permitting earth removal, excavation, filling, stockpiling, importation and grading only as the minimum required for preparing land for residential, business or industrial development or for maintenance or improvement of bodies of water.
- B. Approval of an earth excavation special permit may be granted in two stages by the Commission:
  - (1) Permit approval to the owner may be granted only after submission of all the required documents and requested information and the necessary public hearing.
  - (2) Permit approval to the operator may be granted only after his furnishing to the Commission evidence of proper bonding and insurance.
- C. Before an earth excavation special permit is issued, or as a condition of approval, the applicant or his operator shall post a performance bond in form and amount satisfactory to the Commission, as surety conditioned on the carrying out of all the above conditions and any other safeguards imposed, and providing that, in case of default, the

bond shall be utilized to take any and all necessary steps to comply with said conditions.

- D. No permit shall be issued for a period exceeding two years. Permits may be renewed for additional two-year periods upon application to the Commission and payment of a fee set from time to time by the Planning and Zoning Commission, provided that the Commission finds that the permittee has fully complied with these regulations and the terms and conditions of the expiring permit. **[Amended at time of adoption of Code]**
- E. Updated contour maps may be required by the Commission prior to the renewal of the permit.
- F. The Commission, or the Zoning Enforcement Officer, may require an "as is" contour map at any stage of the operation.
- G. An "as built" contour map, prepared by a surveyor licensed in the State of Connecticut, showing conformity with the requirements for restoration, may be required prior to the release of any bonds.
- H. An earth excavation special permit shall not be required for any of the following:
  - (1) Stockpiling, filling or removal of earth materials on any lot, provided such activity involves no more than 500 cubic yards of earth material, and further provided that this exemption shall apply only once in any calendar year, as determined by a professional engineer registered in the State of Connecticut; **[Amended at time of adoption of Code]**
  - (2) Necessary removal, excavation, filling, grading, stockpiling, screening of materials in direct connection with the construction or alteration of a structure, septic system, driveway or other utility on a lot for which all appropriate permits have been issued, and which activity involves less than 1,000 cubic yards of earth materials. In the TG and PI Zones, this limit is increased to 5,000 yards, provided the access to the excavation site shall be via a state highway or a dedicated industrial park road directly connecting to a state highway. However, such excavation shall still meet the requirements of this section;
  - (3) The normal maintenance and repair of roads and driveways and the construction of new roads by the Town;
  - (4) Accessory compost heaps and manure piles generated from permitted on-site activities as long as such activities are being properly managed and are not causing pollution or a public nuisance or a health hazard; or
  - (5) Stockpiling of materials and debris associated with off-site activities such as construction and demolition.
- I. In considering any application, the Commission shall evaluate the effect on adjacent property, property values, the public health and safety and the potential future use of the premises, the specific purpose set forth in the district and the general purposes of these regulations. The Commission may approve a plan only when it is satisfied that the purposes of these regulations will be met and that the following conditions will be complied with:

- (1) All operations shall be conducted on the premises only between the hours of 7:00 a.m. and 5:30 p.m., local time, Mondays through Saturdays, inclusive; except such days and hours of operation may be expanded by the Commission upon its finding of good cause. No operations are to take place on Sundays and those legal holidays set by the State of Connecticut, without the prior approval of the Commission.
- (2) No more than three acres may be opened up and excavated at any one time without specific authorization from the Commission.
- (3) No stationary machinery shall be erected or maintained within 100 feet of any property line, permit area line or street line.
- (4) No excavation shall take place within 50 feet, or such lesser distance as the Commission may specify upon its finding of good cause, of any property or street line regardless of elevation, and no shrubbery, grass or trees shall be removed from said 50-foot strip until restoration is completed. **[Amended at time of adoption of Code]**
- (5) Where leveling off is the intent of the applicant and where doing so would improve the properties of both the applicant and the adjacent property owner(s), the applicant may, after formal application and approval by the Commission, excavate and grade within the fifty-foot setback area.
- (6) Where there is a commercial earth excavation operation, either new or existing, adjacent to another such operation, either existing or formerly excavated, the Commission may require the owner(s)/operator(s) of the contiguous properties to "mine through," removing the materials within the fifty-foot buffer strips and blending the contiguous property line into a common grade.
- (7) A Connecticut-licensed surveyor shall stake all corners of the permit area. A secondary staking shall be required 45 feet inside the permit area, in a manner acceptable to the Commission, in order to maintain the fifty-foot setback.
- (8) When the depth of the excavation exceeds 20 feet, the distance from the property line or street line shall be increased not less than one foot for each additional vertical foot of excavation.
- (9) When excavation and/or removal operations are completed, or if a permit has expired and/or has not been renewed, the excavated area shall be graded to within 25 feet of the permit line, adjacent property line and/or street lines, so that the slopes and disturbed areas shall be no steeper than 1:3 (vertical to horizontal). A layer of topsoil shall be spread over the excavated areas, except exposed rock surfaces, to a minimum depth of four inches, in accordance with the approved final grading plan. The Commission may approve other such methods in writing. Restoration shall take place within one year following the completion of work or the expiration/nonrenewal of a permit. Said area shall be maintained in a stabilized condition for a period of one year before the final bond shall be released by the Commission.
- (10) No building except a field office or temporary shelter for machinery shall be erected on the premises without specific written authorization from the

Commission. No screening, washing, crushing or other form of processing shall be conducted upon the premises unless such activities are expressly allowed by the Commission as part of an approved earth excavation special permit. Any office, temporary shelter or machinery shall be removed from the premises within six months after the completion, expiration or nonrenewal of a permit, subject to extension of such period by the Commission for good cause.

- (11) At all stages of the operation, proper drainage shall be maintained to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties or roads. Blocked drainage ditches or culverts, or erosion on any street or highway shall be immediately removed by the owner or operator of the premises. Should the Town be required to cause the removal of such materials for the safety of the public or for any other reason, the cost of such work shall be paid by the owner and/or operator of the premises.
- (12) During the period of excavation and removal, the Commission may require that barricades, fences or grassed berms, up to six feet in height, be erected, as deemed necessary by the Commission, for the protection of pedestrians and vehicles and to buffer adjacent properties from the operation.
- (13) Overhanging slopes are prohibited. Except for temporary conditions during excavation, all soil slopes shall not exceed 1:3 (vertical to horizontal) and all solid rock faces shall not exceed 3:1 (vertical to horizontal), unless steeper slopes are expressly allowed or flatter slopes are required by the Commission as part of an approved earth excavation special permit.
- (14) During the period of excavation and removal, the owner and/or operator of the premises shall provide, at his own expense, such special police, flagman, barricades and fences for the protection of pedestrians and vehicles, as deemed necessary by the Commission or the Zoning Enforcement Officer to protect the public health, safety, convenience and property values.
- (15) Truck access to the excavation shall be so arranged and scheduled as to minimize danger to traffic and nuisance to surrounding properties. That portion of any access road within the area of operation shall be treated to minimize dust. The Commission may require a hard-surfaced road to ensure further control of dust.
- (16) Proper measures shall be taken to avoid noise and air pollution. Such measures may include limitations upon the stockpiling of excavated materials upon the premises.
- (17) The owner and/or operator shall be liable for the cost of repairing any damage to any public street or highway resulting from its operation.
- (18) The Commission may require other appropriate safeguards necessary to protect the public health, safety, convenience and property values.



**§ 415-38. Farms.**

A farm shall meet all of the following requirements:

- A. Be on a lot containing at least five acres;
- B. With the exception of dwellings and farm stands, all farm-related buildings and structures shall be located not less than 100 feet from any street line and 100 feet from any dwelling on an adjacent lot. This requirement shall not restrict the location of fencing for pastures. One sign of up to 10 square feet shall be permitted;
- C. Commercial slaughtering is not permitted, with the exception of animals raised on the lot;
- D. No zoning permit shall be required for a temporary moveable farm stand, provided that all of the following requirements are satisfied:
  - (1) It is set up and used only for the sale of farm produce in season;
  - (2) The produce has been grown on the lot; and
  - (3) The stand is no greater than 100 square feet in surface area and is located not closer than 20 feet to the street pavement or travel way.
- E. A temporary, moveable stand set up for the sale of local and Connecticut-grown products in season may be permitted as an accessory use to the principal farm use of a lot, subject to approval of a site plan application. The site plan application shall provide for sufficient parking and circulation for both the principal and accessory use.
- F. Any for-fee activities which fall under the definition of a "banquet facility" shall not be hosted on the property until a special permit for a banquet facility is obtained.

**§ 415-39. Farm stands, permanent. [Amended at time of adoption of Code]**

A permanent farm stand may be permitted by site plan review by the Commission for the display or sale of Connecticut-grown farm products substantially all of which are grown on a farm that meets all of the following requirements:

- A. Shall be subject to all applicable setback requirements in the district in which it is located; provided that the stand and associated signs shall not be less than 10 feet from any street line and not less than 50 feet from any street intersection;
- B. A minimum of one off-street parking space consisting of a dustless surface shall be provided for each 50 square feet of permanent farm stand floor or sales area, either inside or outside. The Commission may require additional parking spaces where it determines it is necessary. The applicant may be required to show on the site plan a suitable area for future parking spaces. This area shall be open and adequately drained and may be maintained with a grass surface;
- C. The floor area of a permanent farm stand shall not exceed 200 square feet, which shall include any outside space used for sales. The Commission may approved a standalone farm stand or a farm stand within an existing building with a total floor area greater than 200 square feet upon the issuance of a special permit;

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- D. A permanent farm stand may be established within a barn or other similar building designed and used for farm purposes upon the issuance of a special permit; and
- E. No more than two signs of any type shall be permitted, aggregating 12 feet in area and advertising products sold at the permanent farm stand.

#### **§ 415-40. Farm wineries.**

A farm winery shall meet all of the following conditions:

- A. All refuse areas shall be screened from view off-site and subject to all setbacks required for the district and a minimum of 100 feet from any dwelling on an adjacent lot; and
- B. One projecting sign, up to 10 square feet, shall be permitted.
- C. Any for-fee activities which fall under the definition of a "banquet facility" shall not be hosted on the property until a special permit for a banquet facility is obtained.

#### **§ 415-41. Greenhouses/Nurseries, commercial.**

Greenhouses and commercial nurseries shall meet all of the following requirements:

- A. The minimum lot size shall be five acres;
- B. The maximum total floor gross area devoted to a commercial growing and selling business shall be 20,000 square feet (including all greenhouses, hoop houses, sheds and other buildings or covered structures related to the growing and selling business);  
**[Amended at time of adoption of Code]**
- C. The lot shall meet the frontage requirement of the district in which it is located. All structures shall be located not less than 100 feet from the street line and 100 feet from any dwelling on an adjacent lot. The side yard setback shall be not less than 50 feet for all buildings, parking areas and driveways; and
- D. Parking spaces shall be located to the rear and the side of the sales building and may be required to be screened from view from the road. The number of parking spaces required shall be as set forth in Appendix A.<sup>14</sup> **[Amended at time of adoption of Code]**

#### **§ 415-42. Home farming. [Amended at time of adoption of Code]**

Home farming shall be permitted on lots of a minimum of three acres only; provided that not more than 20 chickens or similar poultry may be kept on a smaller lot in a building or enclosure that is not less than 20 feet from any property or lot line. In no event shall more than 20 chickens be kept and no roosters may be kept on any lot in a TC, TCR or TSF District.

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14. Editor's Note: Appendix A is included as an attachment to this chapter.

**§ 415-43. Home occupations.**

- A. Home occupation special permit. All applicants for a home occupation use shall make application for a special permit.
- B. A special permit shall not be issued for a home occupation unless an applicant satisfactorily demonstrates that the home occupation satisfies all of the following requirements in addition to the requirements for all special permits:
  - (1) Is secondary to the residential use of the property;
  - (2) Does not change the residential character of the property in any visible manner;
  - (3) Does not create objectionable noise, odor, vibrations, waste or unsightly conditions that are noticeable off-premises;
  - (4) Does not interfere with radio and television reception in the vicinity and does not create a health or safety hazard;
  - (5) Any equipment used in association shall be customarily incidental to the residential use;
  - (6) Only immediate members of the household on the lot may work in the home occupation;
  - (7) Except for fruits and vegetables grown on the premises, no display shall be visible from the street;
  - (8) Articles not made, raised or grown on the premises may not be sold on the lot; and
  - (9) The total floor area occupied by such home occupation does not exceed 25% of the dwelling floor area above the basement.

**§ 415-44. Industrial heritage reuse.**

- A. Adaptive reuse. For properties containing historic mills built prior to 1940 and where such mill buildings shall be rehabilitated into diversified development opportunities, the Commission may approve a residential, commercial, light industrial or mixed uses in order to:
  - (1) Encourage renovation and/or adaptive reuse of Winchester's historic mills;
  - (2) Promote diversified development opportunities;
  - (3) Retain historic architectural features while adapting underutilized structures to community needs; and
  - (4) Implement recommendations of the Plan of Conservation and Development.
- B. Factors for determination. In addition to the criteria for reviewing and determining a special permit, factors to be considered by the Commission in approving any such modifications shall, in addition to the requirements for all special permits, include:

- (1) Whether the historic mill building or elements possessing historic or architectural significance will be preserved to the extent feasible;
- (2) Whether any new buildings and/or building additions will be architecturally compatible with existing historic buildings and the neighborhood;
- (3) Whether adaptive reuse will address Winchester's development needs and, in the appropriate setting, provides space for business or retail establishments; and
- (4) Whether such modification will help accomplish goals and objectives contained in Winchester's Plan of Conservation and Development.

C. Procedures.

- (1) As authorized by the Connecticut General Statutes, any applicant proposing a multiple-dwelling development is encouraged, but not required, to have an informal discussion with the Commission prior to preparing detailed plans, especially if such application involves the potential use for affordable housing.
- (2) When the Commission determines that additional technical expertise is needed as part of its review of an application to create multiple dwellings, it may contract for such technical expertise and charge the cost of such services to the applicant. **[Amended at time of adoption of Code]**

D. Allowances. Because developing these properties can be challenging due to their unique historical development patterns, nonconforming building footprints and environmental contamination, the following allowances may be made by special permit to allow effective redevelopment:

- (1) Setbacks for any new development. Any new development along a property line shall be no closer to that property line than any other portion of a building along that same property line existing as of the effective date of these regulations.
- (2) Coverage. Coverage can be as high as 100%, provided stormwater management practices, in accordance with the recommendations of the 2004 Connecticut Stormwater Quality Manual, as amended, are employed for the parcel in question to the extent that such practices are consistent with any site remediation plan approved by the State Department of Energy and Environmental Protection or the responsible licensed environmental professional. **[Amended at time of adoption of Code]**

E. Parking. Parking may be reduced to zero required spaces on-site, provided there are alternative parking spaces available off-site for the intended use, and that:

- (1) Such parking spaces are available in perpetuity by easement or other property right to the satisfaction of the Commission's legal counsel; and
- (2) Such parking is reasonably close to the development and not separated by topographic or other barriers; and
- (3) Such parking spaces are connected to the development by existing or proposed walkways, which shall be illuminated and maintained by the developer.

- F. Landscaping. The specific landscaping requirements contained within these regulations are not required under this provision, provided an appropriate amount of landscaping is included, taking into account contamination and any site remediation plan approved by the State Department of Energy and Environmental Protection.

#### **§ 415-45. Marijuana facilities.**

The Commission may grant, after holding a public hearing, a special permit for the operation of a licensed marijuana dispensary facility. In addition to the requirements for all special permits, the following conditions shall apply:

- A. Special permits shall be approved with the condition that the applicant obtains the appropriate dispensary facility permit issued by the State of Connecticut Department of Consumer Protection (or other state agency as regulatory changes occur).
- B. The conditional approval shall become finalized upon the receipt by the Zoning Enforcement Officer of a copy of the Department of Consumer Protection-issued permit.
- C. The conditional approval shall expire if the applicant fails to provide the Zoning Enforcement Officer with a copy of the Department of Consumer Protection-issued permit within six months of the date of the Commission's conditional approval.
- D. No medical marijuana dispensary facility shall be allowed within the same building, structure or portion thereof that is used for residential purposes.
- E. The Commission will consider the proximity of the proposal to schools, churches, public buildings, parks and other places of public gatherings.
- F. A six-month extension of such conditional approval may be granted to the applicant upon written notification to the Zoning Enforcement Officer that an application for a Department of Consumer Protection permit has been filed, indicating the expected decision date of the Department of Consumer Protection permit.

#### **§ 415-46. Multifamily dwellings.**

Dwelling units in multifamily dwellings may be owned by a single owner or individually by tenants, or both, but the lot shall be held in unified ownership and shall meet all of the following requirements:

- A. No apartment building shall have more than 30 dwelling units contained therein. Buildings with more than 12 dwelling units shall be varied substantially in plane along the building's length;
- B. Garage space or off-street parking space for 1.5 vehicles plus 0.25 guest space shall be provided on the lot for each unit; **[Amended at time of adoption of Code]**
- C. No site shall contain more than four dwelling units for each 40,000 square feet of usable site area, except in TC and TCR and HLB Districts. "Usable site area" shall be defined as land other than regulated inland wetlands and watercourses, 100-year flood hazard areas as defined by the Federal Emergency Management Agency and as shown

on Flood Hazard Area Maps on file in the office of the Commission, land subject to existing easements which prohibit building or development, and 50% of all land with a slope in excess of 25% as delineated on a site plan map showing topographic contours based upon a field or aerial survey and certified by a Connecticut-licensed surveyor;

- D. In general, the design of the project, including building spacing, shall provide adequate light, air and privacy to the dwellers and provide ample separation distances to assure proper provisions for safety;
- E. Recreation facilities, open spaces and facilities suitable for active and passive recreation shall be provided to serve the project and shall be so designed and specified that a performance bond may be drawn. Said areas shall be adequately protected from streets, driveways and parking areas;
- F. Main interior walks shall be of sufficient width and construction to serve emergency vehicles and apparatus if a structure is not served by a roadway or parking lot on one side along its length;
- G. Each lot line, except street lines, shall be paralleled by a continuous buffer strip at least 15 feet wide, planted with a mixture of evergreen and deciduous shrubs and trees, which shall be maintained in order to protect adjacent lots and the neighborhood in general from detriment. If adapting an existing building which lacks the yard required for this full buffer strip, it may be reduced by the Commission if ample screening is shown to be present;
- H. All multifamily dwellings shall be connected with a municipal sewer system or with a private sewage disposal system approved by the Torrington Area Health District; and **[Amended at time of adoption of Code]**
- I. All multifamily dwellings shall have adequate refuse collection and recycling facilities, which shall include no less than one enclosed (100% opaque on three sides and at least eight feet high) dumpster pad, dumpster and recycling container for every 10 dwelling units.

#### **§ 415-47. Open space subdivisions.**

- A. General. Open space subdivisions are established to provide flexibility in land development by allowing for cluster residential developments in RR and TSF Districts only. They are intended to provide open space, conservation and recreation areas, both active and passive. To the extent practicable, they are intended to preserve the natural and scenic qualities of the site and its surrounding neighborhood, including wetlands, watercourses, ridgetops, existing stands of mature vegetation, rock outcrops, scenic and historic sites, to protect water quality, natural drainage system and areas of affordable housing in conformance with the policies set forth in the plan of development. All open space subdivisions shall require a special permit. **[Amended at time of adoption of Code]**
- B. Minimum site area. No open space subdivision shall be approved on a lot, or assemblage of lots, that is/are less than 10 acres in area.

- C. Number of subdivision lots. The number of lots in an open space subdivision shall not exceed the number of lots that would otherwise be permitted in the underlying zoning district. Such lot number shall be determined by the preparation of a yield plan that depicts a realistic subdivision that would comply with all applicable regulations and codes. The Commission may evaluate the feasibility of the yield plan and reduce the number of lots as part of its review of the open space subdivision. The Commission has flexibility and discretion in determining the number and dimension of lots in the open space subdivision when in its judgment the shape, topography, existence of wetlands or watercourses or other unique features should be preserved for the benefit of the community as a whole or the subdivision.
- D. Minimum required open space. The open space shall be at least equal to the total reduction in lot area of each lot, but in no event shall open space in the subdivision be less than 30% of the total area of the subdivision. All open space in the subdivision shall be common areas maintained at all times by an owners' association legally established under Connecticut law or deeded to a land trust, the town or state, proof of which shall be provided to the Commission prior to endorsement of the final plans and filing with the Town Clerk. Where conveyance is to be to the Town, the state or a land trust, the applicant shall provide written indication such entity will accept the conveyance of the open space; where conveyance is to be to a homeowners' association, the proposed declaration, bylaws and other documents shall be provided at the time of application.
- E. Conformance to other regulations. Lots in an open space subdivision need not conform to the building placement or lot dimension requirements of the underlying zoning, provided that they conform to all other regulations of the district, including, but not limited to, use.
- F. Relation to other lots. An open space subdivision shall be buffered from adjacent lots by a buffer that is equal to 150% of the rear setback requirement for the district in which it is located and with landscape buffers in the discretion of the Commission.
- G. Adequate utilities. The open space subdivision shall be served by all public utilities; provided that for any lots in the subdivision that are 30,000 square feet or larger in area, the Commission may permit an alternative method of water supply or sewage disposal as long as such systems are approved by the Commission and, as appropriate, the Connecticut Department of Energy and Environmental Protection and the Torrington Area Health District.
- H. Provision for natural resources. In addition to all other submission requirements for an application for a special permit, an applicant for an open space subdivision shall provide a natural resource review report, which shall describe and illustrate any and all natural resources found on the proposed site, including, but not limited to, the following:
  - (1) Wetlands, water bodies and watercourses;
  - (2) Floodplains, including FEMA-designated 100-year floodplain;
  - (3) Soil types;
  - (4) Existing woodlands and individual trees with a caliper of 12 inches or greater;

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- (5) Evidence of any threatened or endangered species; and
- (6) Other unique flora or fauna, geological features or cultural/historical resources such as stone walls.

**§ 415-48. Public safety facilities.**

A public safety facility shall meet all of the following requirements:

- A. The scale and design of the structures is compatible with the neighborhood;
- B. Landscape planting or other visual separation is provided to minimize the effects of the use on neighboring properties; and
- C. Building plans of the structure and a site plan showing conformance with the above criteria shall have been submitted to the Commission and a special permit obtained for the use.

**§ 415-49. Public utility facilities.**

Any public utility facility subject to local zoning authority in accordance with C.G.S. § 16-235 shall require a special permit. This includes any steam plant, gas plant, gas tank or holder, water tank, electric substation, antenna or earth station receiver of any public service company where such facility is not subject to the jurisdiction of the Connecticut Siting Council. (Note: Regarding "telecommunications facilities," see § 415-51, Telecommunications facilities.)

- A. Special permit criteria and standards for all utility facilities. In addition to the requirements for all special permits, the following shall be required:
  - (1) Wherever possible, public utility facilities shall be located in a PI District. Where a public utility facility is proposed in a residence district, the applicant shall provide documentation that the facility is not feasible or suitable for location in a PI District.
  - (2) The applicant shall demonstrate that the location and size of the proposed site was selected to minimize the visual impact of the proposed facility on surrounding residential areas.
  - (3) The site plan for all public utility facilities shall include all of the following:
    - (a) Landscape plan prepared by a registered landscape architect, which shall show how the facility will be screened from surrounding residential uses to the extent feasible in consideration of the height of the facility; and
    - (b) Existing treescape and other natural features to be preserved to screen the view of the facility from public streets and surrounding residential areas.
  - (4) Area shall have adequate access control for safety and security.
- B. Minimum lot size. The minimum lot size for an electric substation in a residence district shall be three acres. Yard requirements shall be as provided for in the



residential district in which the facility is located. Front, side or rear yard shall not be developed or used for equipment or storage.

- C. Total floor area. The total floor area of any water or sewer pumping station shall not exceed 300 square feet.

**§ 415-50. Roadside-oriented limited retail enterprises. [Amended at time of adoption of Code]**

A small retail enterprise, store or shop may be permitted as a special permit in the RR District and a permitted use in the TG District, provided that all of the following requirements, in addition to the requirements for all special permits, where required, are met:

- A. The business is conducted in a residential dwelling occupied by only one family, and the occupants shall be the owner or operator of the establishment.
- B. Any structural alteration or additions, or new construction, shall be in the scale and character of the residential dwelling and the neighborhood.
- C. Adequate off-street parking shall be provided, not closer than 50 feet to the street right-of-way, nor closer than 50 feet to the nearest residential structure on property under other ownership.
- D. One freestanding sign only is permitted in the front yard not closer than 20 feet to the street right-of-way line.
- E. There shall be no outdoor display of merchandise or articles, except that an antique (nonautomotive) may be displayed in connection with an antique shop.
- F. Uses permitted may include an antique shop, gift shop, tea room or use that the Commission shall find to be similar as to traffic generated, extent of the enterprise, noise or odor generated and compatibility of the use with the neighborhood. Where applicable, in the judgment of the Commission, a site plan may be required to clarify an approval in a specific application.

**§ 415-51. Telecommunications facilities.**

- A. Statement of purpose. This regulation establishes standards and requirements and permitting procedures for wireless communication facilities that are subject to local zoning regulation in Connecticut. Its purpose is to regulate the placement of antennas, towers and their regulated wireless communication facilities to protect the health, safety and welfare of the Town; and:
  - (1) To provide for locations consistent with the Plan of Conservation and Development (POCD) and the purposes of these regulations;
  - (2) To minimize adverse visual effects through proper design, siting and screening;
  - (3) To avoid potential damage to adjacent properties; and
  - (4) To provide for orderly removal of abandoned facilities.

## B. Use regulations.

- (1) Exemptions. The following shall be exempt from these telecommunications facilities regulations:
  - (a) Repair and maintenance of towers and antennas.
  - (b) Antennas used solely for residential television and radio reception.
  - (c) Satellite antennas measuring two meters or less in diameter and located in commercial districts, and satellite antennas measuring one meter or less in diameter regardless of location. (Note: This requirement is established pursuant to a FCC ruling preempting local regulation of satellite antennas.)
- (2) Permitted uses. The following regulated facilities located on existing structures or co-located shall be permitted uses in all districts; however, all such uses in any such district shall require the issuance of a special permit:
  - (a) A regulated facility which is completely camouflaged and not recognizable as part of a wireless facility, such as within a flagpole, steeple, chimney or similar structure.
  - (b) A regulated facility on an existing structure (whether or not it is conforming in terms of height), including but not limited to a guyed, lattice or monopole tower, fire tower or water tower, provided it does not increase the height of the existing structure.
  - (c) An antenna(s) located on an electric transmission and distribution tower, telephone pole and similar existing utility structure. The installation may increase the height of the existing structure by no more than 20 feet, except in designated historic districts (or other historic or scenic areas of the Town as shown on a map on file in the office of the Town Clerk) or within 150 feet of the paved portion of a Town road or state highway proposed for or designated as a scenic road or highway.
  - (d) May be located on a building or structure legally nonconforming with respect to height, provided it does not project either above the building or the height limit of the zoning district by more than 10 feet.
  - (e) Regulated facilities located on existing structures or co-located that do not qualify as a permitted use.
  - (f) All ground-mounted towers.

## C. General standards and requirements for all regulated facilities.

- (1) Location. Wherever feasible, regulated facilities shall be located on existing structures, including but limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, provided the installation preserves the character and integrity of those structures.
  - (a) Applicants are urged to consider use of existing telephone and electric utility structures as sites for regulated facilities.

- (b) The PI Production and Innovation District is considered a preferred location for new freestanding towers.
- (c) The following zoning districts are the least preferred locations for freestanding towers:
  - [1] Town Single Family.
  - [2] Town Center Residential.
  - [3] Town Center.
  - [4] Town Gateway.
  - [5] Highland Lake Districts.
  - [6] Rural Residential.
- (2) Site justification for ground-mounted tower. An application for a ground-mounted tower shall include a detailed site justification report which:
  - (a) Provides written documentation of all regulated facility sites in the Town and any facility sites outside of the Town that are within five miles of the proposed site, in which it has a legal interest, whether by ownership, leasehold or otherwise. From each such regulated facility site, it shall demonstrate with written documentation that these facility sites are not already providing, or do not have the potential by adjusting the site to provide, adequate coverage and/or adequate capacity to the Town.
  - (b) Demonstrates that the proposed location (which includes both tower positions and antenna height) is superior to other potential locations for the proposed uses.
  - (c) Documents that signal strength service objectives are consistent with accepted engineering practice for all proposed uses of the tower.
  - (d) Includes complete and accurate propagation plots in relation to scaled elevation drawings addressing all facilities to be installed on the tower.
  - (e) Demonstrates that for each proposed use of the tower the proposed height is the minimum necessary to provide adequate coverage as defined in federal guidelines and accepted engineering practice.
  - (f) Demonstrates that the tower can accommodate both the applicant's antennas and at least two other carriers' antennas and a municipal antenna if the tower is over 100 feet high.
- (3) Visibility; camouflage and color. The Commission shall apply the following standards and requirements to minimize the visual impact of proposed regulated facilities:
  - (a) Requirements for existing buildings or structures:
    - [1] Roof mount. Where a roof mount extends above the roof, the applicant shall demonstrate that every effort has been made to conceal

the mount within or behind existing architectural features to limit visibility from public streets.

- [2] Side mount. Side mounts shall blend with the existing architecture and, if over five square feet, shall be painted or shielded with material consistent with the design features and materials of the building.
  - [3] Mounts and antennas located on an historic structure shall be fully removable without diminishing the historic quality of the structure.
  - [4] Regulated facilities in an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (b) Requirements for proposed ground-mounted towers. Proposed ground-mounted towers shall provide a vegetated buffer of sufficient height and a depth of not less than 50 feet to screen the facility to the extent feasible. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility, or a combination of both. Where it is not feasible to fully buffer a facility, the applicant shall submit a landscape plan prepared by a Connecticut-licensed landscape architect. The landscape plan shall recommend the type of tree and plant materials and depth of buffer appropriate to the site, design, height and location of the facility. The Commission may require reasonable modifications to the landscape plan where it determines such are necessary to minimize the visual impact of the facility on the neighborhood and community character.
- (c) Scenic roads and areas.
- [1] The Commission may approve a ground-mounted tower located in an open area visible from a public road, recreational area or residential development only where it has been demonstrated by the applicant to the satisfaction of the Commission that the proposed service cannot be reasonably provided in a location on an existing structure or a co-location.
  - [2] A regulated facility located within 300 feet of a Town- or state-designated scenic road shall not exceed the height of vegetation at the proposed location.
- (d) Tree cover and sight line information. Where the Commission determines that tree cover and/or sight line information, including viewpoints (points from which view is taken) and visible points (points being viewed), are necessary to determine compliance with the standards in this section, it shall require the following:
- [1] Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
  - [2] Sight lines and photographs.

- [a] A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the regulated facility. Each sight line shall be depicted in profile, drawn at a scale of one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet, there shall be at least two sight lines from the closest habitable structures or public roads, if any.
  - [b] Existing (before) condition photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.
  - [c] Proposed (after) condition photographs. Each of the existing condition photographs shall have the proposed regulated facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- [3] Sight elevations. Sighting elevations, or views at-grade from the north, south, east and west for a fifty-foot radius round the proposed regulated facility, plus from all existing public and private roads that serve the subject property. Elevations shall be at either 1/4 inch equals one foot or 1/8 inch equals one foot scale and show the following:
- [a] Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
  - [b] If the security barrier will block views of the regulated facility, the barrier drawing shall be cut away to show the view behind the barrier.
  - [c] Any and all structures on the subject property.
  - [d] Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
  - [e] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contour above mean sea level.
- (4) Environmental and safety standards. No hazardous waste shall be discharged on the site of any regulated facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- (5) Radiofrequency radiation (RFR) standards and requirements. The applicant shall provide documentation that all equipment proposed for a regulated facility is

authorized according to FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines), or its successor publication.

D. Additional standards and requirements for ground-mounted tower special permit uses.

- (1) Feasible alternative. Where a ground-mounted tower is proposed, the applicant shall have the burden of proving that there are no feasible existing structures or co-location sites upon which to locate.
- (2) Lot size. All ground-mounted towers and their equipment shelters shall require a lot of not less than that required for the district zone in which the site is located. In addition, the following setbacks shall be required.
- (3) Setback. In order to ensure public safety, the fall district shall not include or encompass any property line, road, habitable dwelling, business or institutional use, or public recreational area or any other structure. In its consideration of the visual and safety impacts of a proposed ground-mounted tower, the Commission may reduce the required setback area (as required above) by not more than 50% or allow the setback to be measured into a neighboring property where:
  - (a) A monopole tower is proposed;
  - (b) Such reduction permits a tower site plan with better camouflage and overall design than alternative sites;
  - (c) The setback area within a neighboring property is not developed and will be subject to a legally binding agreement preventing development during the time the tower is in place.

E. Application filing requirements. The following shall be included with an application for a special permit or site plan application for all regulated facilities. The Commission may not require one or more of the following for a permitted use site plan application.

- (1) General filing requirements.
  - (a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
  - (b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the regulated facility.
  - (c) A licensed carrier shall either be an applicant or a co-applicant and shall provide documentation of qualifications as a "licensed carrier."
  - (d) Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, an original.
  - (e) Signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.
- (2) Location filing requirements.

- (a) Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads and street address, if any.
  - (b) Tax Map and parcel number of subject property.
  - (c) Zoning district designation for the subject parcel (submit copy of Town Zoning Map with parcel identified).
  - (d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
  - (e) A Town-wide map showing the other existing nonresidential wireless service facilities in the Town and outside the Town within three miles of its boundary.
  - (f) The proposed locations of all existing and future wireless service facilities in the Town on a Town-wide map for this carrier.
- (3) Site plan requirements. The following site plan requirements shall be in addition to any other requirements of these regulations regarding site plans. Where the requirements of this section are more restrictive than those elsewhere in these regulations, these requirements shall apply. For a permitted use, the Commission may determine that the information specified herein is not needed to determine compliance with this regulation. A one-inch-equals-40-feet vicinity plan shall be submitted showing the following:
- (a) Property lines for the subject property.
  - (b) Property lines of all properties adjacent to the subject property within 300 feet.
  - (c) Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on the subject property and all adjacent properties within 300 feet.
  - (d) Proposed location of antenna, mount and equipment shelter(s).
  - (e) Proposed security barrier, indicating type and extent as well as point of controlled entry.
  - (f) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet, including driveways proposed to serve the regulated facility.
  - (g) Distances, at-grade, from the proposed regulated facility to each building on the vicinity plan.
  - (h) Contours at each two feet AMSL (see the definition of "elevation" in § 415-53) for the subject property and adjacent properties within 300 feet. **[Amended at time of adoption of Code]**
  - (i) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

- (j) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
  - (k) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "sight lines" subsection below.
- (4) Design filing requirements.
- (a) Equipment brochures for the proposed regulated facility, such as manufacturer's specifications or trade journal reprints, shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
  - (b) Materials of the proposed regulated facility, specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
  - (c) Colors of the proposed regulated facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
  - (d) Dimensions of the regulated facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
  - (e) Appearance shown by at least two photographic superimpositions of the regulated facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth. The Commission may determine that this information is not needed for a permitted use.
  - (f) Landscape plan prepared by a Connecticut-licensed landscape architect, including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
  - (g) Within 21 days of filing an application for a special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of a ground-mounted tower. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 15 days, but not more than 21 days, prior to the test.
  - (h) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaires proposed.



- (5) Federal environmental filing requirements.
  - (a) The National Environmental Policy Act (NEPA) applies to all applications for wireless communication facilities. NEPA is administered by the FCC via procedures adopted as Subpart I, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any wireless communication facility proposed in or involving any of the following:
    - [1] Wilderness areas.
    - [2] Wildlife preserves.
    - [3] Endangered species habitat.
    - [4] Historical sites.
    - [5] Indian religious sites.
    - [6] Floodplains.
    - [7] Wetlands.
    - [8] High-intensity white lights in residential neighborhoods.
    - [9] Excessive radiofrequency radiation exposure.
  - (b) At the time of application filing, an environmental assessment that meets FCC requirements shall be submitted to the Commission for each regulated facility site that requires such an environmental assessment to be submitted to the FCC.
  - (c) For all special permit uses, the applicant shall identify and assess the impact of the proposed facility on areas recommended for conservation as presented in the Town Plan and State Plan of Conservation and Development.
  - (d) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the facility that are considered hazardous by the federal, state or local government.

F. Co-location.

- (1) Licensed carriers shall share facilities and sites where feasible and appropriate, thereby reducing the number of facilities that are standalone. All applicants for a special permit for a regulated facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
  - (a) A survey of all existing structures that may be feasible sites for co-locating wireless service facilities;
  - (b) Contact with all the other licensed telecommunication facility carriers operating in the service area of the proposed facility; and

- (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (2) In the event that co-location is found to be not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Commission. The Commission may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant as provided in the Town Ordinance on Land Use Fees. The Town may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- (3) If the applicant does intend to co-locate or to permit co-location, the Commission shall request drawings and studies which show the ultimate appearance and operation of the regulated facility at full build-out.
- (4) If the Commission approves co-location for a regulated facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit.
- G. Modifications. A modification of a regulated facility may require a special permit application where the following events apply:
  - (1) The applicant and/or co-applicant wants to alter the terms of the special permit by changing the regulated facility in one or more of the following ways:
    - (a) Change in the number of facilities permitted on the site; or
    - (b) Change in technology used for the regulated facility.
  - (2) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.
- H. Monitoring and maintenance. The applicant and co-applicant shall maintain the regulated facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- I. Abandonment or discontinuation of use.
  - (1) At such time that a licensed carrier plans to abandon or discontinue operation of a regulated facility, such carrier will notify the Commission by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the regulated facility shall be considered abandoned upon such discontinuation of operations.
  - (2) Upon abandonment or discontinuation of use, the carrier shall physically remove the facility within 90 days from the date of abandonment or discontinuation of use. "Physically removed" shall include, but not be limited to:

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- (a) Removal of antennas, mount, equipment shelters from the subject property.
  - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - (c) Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the "after" condition.
- (3) If a carrier fails to remove a regulated facility in accordance with this subsection of this regulation, the Town shall have the authority to enter the subject property and physically remove the facility. The Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the regulated facility in the event the Town must remove the facility.
- J. Reconstruction or replacement of existing towers and monopoles. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this regulation may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Commission finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Commission shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety and/or reduction in visual and environmental impacts.
- K. Term of special permit. A special permit issued for any ground-mounted tower over 50 feet in height shall be valid for the maximum period allowed by Connecticut General Statutes.

**§ 415-52. Wind and solar facilities.**

- A. Windmills. Windmills are allowed by special permit as accessory uses to any residential or commercial use when they meet all of the following requirements, in addition to the requirements for all special permits:
  - (1) The primary purpose of a proposed windmill(s) will be to provide power for the principal use of the property whereon said windmill(s) is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a windmill designed to meet the energy needs of the principal use.
  - (2) The windmill and its location on the lot shall be designed to eliminate any nuisances to surrounding properties and to limit any noise from said windmill from being heard off the property where said windmill is located. The actual side and rear yard setbacks for a windmill shall be determined by the Commission and shall be based upon the height of the proposed windmill.
  - (3) No variance shall be granted in connection with a proposed windmill to permit a height greater than 75 feet or the placement of a windmill so close to a lot line as to result in any portion of the windmill at any time, whether erect or in the event

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the windmill should fall or be toppled, to overhang, cross or otherwise extend beyond the lot line.

- (4) No windmill shall be located in any front or side yard.
  - (5) The minimum lot size required for the erection, construction or placement of a windmill is five acres.
  - (6) No windmill shall be allowed in any TSF, TC or TG District.
- B. Ground-mounted solar array. Solar arrays are allowed in connection with any residential or commercial use when they meet all of the following requirements, in addition to the requirements for all special permits:
- (1) Not allowed to be located in any front yard.
  - (2) Not allowed to be attached to the front facade of any structure or building.
  - (3) Wherever practical and possible, to be located on a property so as not to be visible from the public right-of-way.
- C. Roof-mounted solar array. Roof-mounted solar arrays are permitted via a zoning permit in all districts, provided they are mounted no higher than one foot above the roof on sloped residential roofs, but this requirement is exempt for flat roofs.
- D. Abandonment or discontinuation of use.
- (1) Upon abandonment or discontinuation of a windmill or solar array, the lot owner shall physically remove the facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
    - (a) Removal of all mounts and equipment shelters from the subject property.
    - (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
    - (c) Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the "after" condition.
  - (2) If a lot owner fails to remove a windmill or solar array in accordance with this section, the Town shall have the authority to enter the subject property and physically remove it. The Commission may require the applicant to post a bond at the time of construction to cover costs for the removal of the windmill or solar array in the event the Town must remove it.

## ARTICLE V

**Glossary of Terms and Phrases****§ 415-53. Definitions.**

As used in these regulations, the following terms shall have the meanings indicated:

ABOVEGROUND — Any structure that is not buried and is fully visible for inspection.

**ACCESSIBILITY FEATURES** — Structures or building modifications intended to allow a person or persons with mobility impairments to access or utilize a building or property, in accordance with the provisions of the Americans with Disabilities Act.

**ACCESSORY APARTMENT** — A second dwelling unit that is part of an existing single-family detached dwelling, or is located in a separate accessory building on the same lot as the main dwelling, with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling unit is subordinate to the main dwelling.

**ACCESSORY BUILDING, STRUCTURE OR USE** — A building or structure or use which is subordinate and customarily incidental to the main building, structure and use on a lot. The term "accessory building" or "accessory structure," when used in connection with a farm, shall include all buildings and structures customarily used for farm purposes. No accessory building, structure or use shall be established in the absence of a principal building or use.

**ACCESSORY RESIDENTIAL USES** — Ancillary uses and structures to single- or multifamily uses, including, but not limited to, pool houses, maintenance sheds, detached garages, swimming pools and community centers (in TCR and TG Districts only), but shall not include accessory apartments. **[Amended at time of adoption of Code]**

**ADEQUATE CAPACITY** — Capacity is considered to be "adequate" if the grade of service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the personal wireless service facility in question. The GOS shall be determined by the use of standard Erlang B Calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

**ADEQUATE COVERAGE** — Coverage is considered to be "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmittal signal is greater than or equal to -95 dbm for at least 75% of the intended coverage area. It is acceptable for there to be "holes" within the area of adequate coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than or equal to -95 dbm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain a strength of greater than or equal to 95 dbm.<sup>15</sup>

**ADULT-ORIENTED ESTABLISHMENT** — Includes, without limitation, "adult bookstores," "adult motion-picture theaters," "adult mini-motion-picture theaters" and commercial establishments containing one or more "adult amusement machines," as defined in Chapter 162, Adult Entertainment, of the Town Code. "Adult-oriented establishment" further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls

15. Editor's Note: The following definitions, which immediately followed this definition, were repealed at time of adoption of Code: "adult amusement machine"; "adult bookstore"; "adult entertainment"; "adult mini-motion-picture theater"; and "adult motion-picture theater."

separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or any premises wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import. **[Amended at time of adoption of Code]**

**AFFORDABLE HOUSING (TOWN-SPONSORED/LOCAL NONPROFIT)** — Housing that is affordable as per C.G.S. § 8-30g.

**ALTER; ALTERATION** — As applied to a building or structure, means a change or rearrangement in the structural parts thereof, the movement of all or any part thereof, or the substantial reconstruction thereof, so as to produce a substantial change in appearance, character or construction; also means an enlargement, whether by increasing in height, coverage, volume or floor area. As applied to a use, means a change or enlargement in the character, area occupied by, intensity or scope of the use, including, but not limited to, the extension of hours of operation, the addition of other activities, equipment, functions or processes, or the extension into additional land or building area.

**ANTENNA** — The surface from which wireless radio signals are sent and received by a wireless service facility.

**AREA OF SPECIAL FLOOD HAZARD** — The land in a floodplain with a 1% or greater chance of flooding in any given year.

**ARTISAN PRODUCTION** — The manufacturing of products primarily by hand by persons trained in an artistic skill, including ceramics, pottery, glass blowing or sculptures.

**AVERAGE NATURAL GRADE** — The naturally existing mean grade measured at the corners of the structure or proposed structure prior to any excavation, leveling, grading or filling at the building foundation.

**BAKERY** — A commercial establishment for the making of baked goods where sales of such goods are to other establishments or to customers who are not served baked goods or other food or beverages in the establishment. A bakery where customers are served at tables or counters shall be classified as a restaurant.

**BANKS AND FINANCIAL INSTITUTIONS** — An establishment that provides retail banking, credit and mortgage, or insurance services to individuals and businesses. This classification includes firms, check cashing and currency exchange outlets and standalone automated teller machines. This does not include payday loan/alternative financial establishments.

**BANQUET FACILITY** — A facility or hall which is rented by individuals or groups to accommodate private or public functions, including, but not limited to, banquets, weddings, anniversaries, meetings or conventions. Such facility may serve food and beverages, including alcoholic beverages, for consumption during events. The facility may also have outdoor meeting spaces. In some instances, lodging or a restaurant may also be associated with the facility as either accessory or principal uses.

**BARN** — A building used for the shelter of livestock raised on the lot, the storage of agricultural products produced or consumed on the lot or the storage and maintenance of farm equipment and agricultural supplies used for the agricultural operations on the lot, but excluding retail sale of products.

**BASE FLOOD** — A flood having a 1% chance of being equaled or exceeded in any given year as shown on the most recent FEMA maps.

**BASEMENT** — That portion of a building having its floor subgrade (below ground level) on all sides.

**BED-AND-BREAKFAST** — Lodging rooms for paying transient visitors located in a single-family dwelling that meets these regulations.

**BEST MANAGEMENT PRACTICE** — Guidelines designed by a federal, state or other qualified agency which describe methods of building or operating a facility or of using land so as to minimize or eliminate pollution of ground- or surface water drinking supplies and other negative impacts to the environment or living organisms.

**BETTER SITE DESIGN** — Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural LID practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for LID.

**BOARDINGHOUSE** — A building, other than a hotel, having a shared kitchen, where lodging or rooms, or both, are provided for compensation, whether directly or indirectly for long-term residents.

**BREWERY, LARGE** — An establishment where beer and malt beverages are made on the lot at an annual beer production rate of 15,000 barrels or more. No ancillary merchandise sales are permitted. **[Amended at time of adoption of Code]**

**BREWERY, MICRO-** — An establishment where beer and malt beverages are made on the lot and then sold or distributed, and which produces less than 15,000 barrels (a barrel is approximately 31 gallons) of beer and malt beverages per year. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer. A microbrewery may engage in ancillary sales of merchandise promoting the products produced thereby.

**BREW PUB** — An establishment where beer and malt beverages are made on the lot in conjunction with a restaurant or bar and where 40% or more of the beer produced on site is sold on site. Where allowed by law, brewpubs may sell beer "to go" and/or distribute to off-site accounts.

**BUILDING** — An independent structure having a roof supported by columns or walls resting on its own foundation, and includes sheds, garages, stables, boathouses, canopies, greenhouses or other accessory buildings. When any portion of a building is separated from every other portion by a division wall, without openings, such separated portion shall be deemed a separate building.

**BUILDING AREA** — The ground enclosed by the walls of a building, including the area of all covered porches and other roofed portions, but excluding cornices, eaves, gutters,

chimneys and other like architectural details not projecting more than 30 inches, and further excluding any unroofed steps, balconies, porches and terraces.

**BUILDING HEIGHT** — The distance between a horizontal line at the average existing pre-development grade of the lot directly beside the structure, and the highest point of the coping of a flat roof, the top of a mansard roof, the midpoint of any pitched gable, hip or gambrel roof, or measured between the first (aboveground) floor ceiling and the peak of the roof on an "A" framed structure.

**BUILDING LINE** — A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise established by the Town, or where established by the owner and recorded in land records of the Town.

**BULK STORAGE FACILITY** — A facility whose primary purpose is the storage, distribution, mixing or transfer of flammable or combustible liquids, gases or solids, received or transferred by truck, train, tank vessel, pipelines, tank car, piping, portable tank or containers, or other method, including propane, methane, ethanol, gasoline, kerosene, oil, coal and other fuels. This definition shall not include filling stations used solely for distribution to individual consumers; nor shall it include fuel stored at or on an agricultural farm, residence, business or other facility where use of the same is limited primarily to on-site consumption.

**C.G.S.** — The Connecticut General Statutes, as amended.

**CAMOUFLAGED OR STEALTH FACILITY** — A wireless communication facility that is disguised to appear more in keeping with the landscape of the area in which it is located or is otherwise hidden or made to appear to be part of an existing or proposed structure, or is placed within an existing or proposed structure. For example, a wireless communication tower designed to have the appearance of a tree is considered a camouflaged or stealth wireless facility.

**CAMPSITE** — The parcel of land being developed, or a designated planning area in which the land development project is located and on which one occupied recreational vehicle may be legally maintained in an approved camp site as part of a commercial recreational facility. **[Amended at time of adoption of Code]**

**CAR WASH** — A building and surrounding area of a lot that provides vehicle washing facilities where there is an employee on site during all hours of operation and washing and related cleaning services are not self-service and are provided by automated washing equipment, including a blower, or other mechanical devices, and which may employ some hand labor.

**CARRIER** — A company that provides communication services.

**CEMETERY** — A burial ground for the interment of the human dead, including columbaria and mausoleums, but excluding crematories or mortuaries classified as undertaking, funeral and interment services.

**CERTIFICATION** — A signed, written approval on forms, authorized by the Planning and Zoning Commission and/or Zoning Board of Appeals, by the Enforcement Officer, designated agent of the Winchester Planning and Zoning Commission, or the Litchfield County Soil and Water Conservation District that a soil erosion and sediment control plan complies with the applicable requirements of these regulations. Each such certification shall be filed with the applicant's land record held by the Zoning Enforcement Officer and further



filed with the Town Clerk's Land Records as required by the Planning and Zoning Commission and/or the Zoning Board of Appeals.

**CLEAR-CUTTING** — The cutting of more than 50% of trees of six inches or greater in diameter at five feet above grade over a 2,000 square foot land area.

**CLUB** — An organization of persons incorporated pursuant to the provisions of the membership corporations law or the benevolent orders law, which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and includes the establishment so operated.

**CO-LOCATION** — The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**COLD STORAGE PLANT** — A facility for the cooling, freezing and cold storage of perishable food products and other perishables.

**COLLEGE** — An institution of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes personal instructional services.

**COMMENCEMENT** — The first placement of permanent construction of a structure on a site, such as pouring of slabs or footings or any work beyond the stage of excavation or the first permanent framing of assembly of the structure or any part thereof on its piling or foundation when a structure is without a basement or poured footings.

**COMMISSARY** — An establishment other than a restaurant in which food, containers or supplies are kept, handled, prepared, packaged or stored for transportation by mobile food establishments, and that serves as an operating base for a restaurant or catering business. A restaurant may serve as a commissary for a catering business which is owned and operated by the restaurant.

**COMMISSION** — The Planning and Zoning Commission of the Town of Winchester. A member of the Commission is a "Commissioner."

**COMMUNICATIONS FACILITIES** — Public, commercial and private electromagnetic and photoelectric transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network and wireless communications, including commercial earth stations for satellite-based communications. Facilities include antennas, commercial satellite dish antennas, and equipment buildings. See § 415-51, Telecommunications facilities.

**COMMUNITY CENTER, PRIVATE** — A building owned and operated by the owner of a lot in a TCR, TG or PI District for recreational and social activities for the owners or occupants of the lot. **[Amended at time of adoption of Code]**

**CONSTRUCTION TRAILER** — See "trailer, construction."

**CONTAINER** — A freestanding storage device used exclusively for refuse, recycling or compacting that meets the requirements of these regulations.

CONTINUING-CARE RETIREMENT COMMUNITY — As defined in the Connecticut General Statutes.

CONVALESCENT HOME/NURSING HOME — A residence for the aging, sick, whether temporary or permanent, that meets the requirements of these regulations.

COUNTRY INN — A facility having 10 or fewer guest rooms in which lodging is offered for compensation and meals for guest lodgers only may be offered, that meets the requirements of these regulations.

COUNTY SOIL AND WATER CONSERVATION DISTRICT — The Litchfield County Soil and Water Conservation District established under Subsection (a) of C.G.S. § 22a-315.

CULTURAL INSTITUTION — A nonprofit organization engaged primarily in the performing arts or in the display or preservation of objects of interest in the arts or sciences that is open to the public on a regular basis. This classification includes performing arts centers for theater, dance and events, museums, historical sites, art galleries, libraries and observatories.

DEMOLISHED — Any act or process that destroys, in part or in whole, a building or structure.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or permanent storage of materials or equipment.

DISTILLERY — A facility for distillation of fermented products to produce distilled beverages with high alcohol content. Such facility may include bottling, packaging, warehousing, distribution, tasting and tours as allowed by state law. When also allowed by state law, distillers may sell distilled spirits "to go" and/or distribute them to off-site accounts.

DISTURBED AREA — An area where the ground cover is destroyed or removed, leaving the land subject to accelerated erosion.

DRIVEWAY — A vehicular lane within a lot, or shared between two lots, usually leading to a rear yard, garage, other parking or loading area.

DRUG STORE, LARGE-FORMAT — A commercial establishment with a gross floor area of 5,000 square feet or greater, which fills a broad range of pharmaceutical prescriptions, and which primarily includes the display and sale of health and beauty products and general merchandise.

DRUG STORE, SMALL-FORMAT — A commercial establishment with a gross floor area of less than 5,000 square feet, which fills a broad range of pharmaceutical prescriptions, and which includes the display and sale of health and beauty products and general merchandise on at least 65% of its gross floor area.

DUSTLESS SURFACE (PERMANENT SURFACES) — The ground covered with concrete, asphalt or bituminous products.

DUSTLESS SURFACE (TEMPORARY SURFACES) — The ground treated with calcium chloride, crushed stone, turf grass or similar dust-inhibiting surfaces, and maintained in good condition at all times.

DWELLING — A building or portion thereof designed exclusively for residential occupancy, including single-family, two-family, multiple dwellings, townhouses, congregate dwelling and seasonal cottages, but not including hotels, motels, bed-and-breakfasts or an inn. **[Amended at time of adoption of Code]**

DWELLING UNIT — A building, structure, unit or portion thereof, providing complete housekeeping facilities, including only one kitchen for one household, living independently of each other. An additional kitchen unit is permitted through a special permit.

DWELLING, CONGREGATE — A dwelling containing two or more dwelling units occupied by persons 62 years of age or older, together with common facilities sufficient to meet the needs of all residents, which shall include a common kitchen, dining and meeting and laundry facilities, and may include other common facilities.<sup>16</sup>

DWELLING, SINGLE-FAMILY — The primary building on a lot designed for occupancy by one family, which for purposes of these regulations shall mean a building containing multiple single-family dwellings being separated horizontally by fire-resistive walls without openings and each having independent access to the exterior of the building in the ground story.

DWELLING, TWO-FAMILY (DUPLEX) — A detached dwelling designed for or occupied by two dwelling units. **[Amended at time of adoption of Code]**

ELEVATION — The elevation at grade or ground level may be given in many ways, usually "above mean sea level" (AMSL). The height of a wireless service facility is often given in "above ground level" (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.<sup>17</sup>

ENFORCEMENT OFFICER, INLAND WETLAND — The Town of Winchester Inland Wetlands Commission, acting as the designated agent for the Commission, or, to the extent that the Winchester Inland Wetlands Commission does not accept such designation, the Litchfield County Soil and Water Conservation District. **[Amended at time of adoption of Code]**

ENLARGEMENT; TO ENLARGE — Any addition to the floor area of an existing building, an increase in the size of any other structure or an increase in that portion of a tract of land occupied by an existing use. "To enlarge" is to make an enlargement.<sup>18</sup>

ENVIRONMENTAL ASSESSMENT (EA) — An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a wireless communication facility is placed in certain designated areas.

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

16. Editor's Note: The definitions of "dwelling, multifamily" and "dwelling, one-family," which immediately followed this definition, were repealed at time of adoption of Code.

17. Editor's Note: The definition of "employee" in relation to adult-oriented establishments, which immediately followed this definition, was repealed at time of adoption of Code.

18. Editor's Note: The definition of "entertainer" in relation to adult-oriented establishments, which immediately followed this definition, was repealed at time of adoption of Code.

**EROSION** — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**EXPAND; TO MAKE AN EXPANSION; EXTENSION** — An increase or amplification, as distinguished from establishment or inception. "Extension" shall be deemed to include the expansion in the seasons or periods of use of a nonconforming seasonal use, or of a seasonal dwelling on a nonconforming lot; and any increase in the normal days or hours of operation, or any increase in the scope of services offered, of any nonconforming, nonresidential use of land, buildings or structures. **[Amended at time of adoption of Code]**

**FALL DISTRICT** — The area on the ground within a prescribed radius from the base of a wireless communication facility. The fall district is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**FAMILY CHILD-CARE HOME** — As defined in C.G.S. § 19a-77(a)(3). **[Amended at time of adoption of Code]**

**FARM** — A tract of land containing at least five acres used for agriculture, as that term is defined in C.G.S. § 1-1(q), to produce agricultural, aquaculture, horticultural, floricultural, vegetable, tree or fruit products, and also including the raising of horses and other farm animals, but excluding the slaughtering of animals not raised on the lot. The term "farming" includes farm buildings and accessory farm buildings and structures and uses that are incidental to the normal farm operations.

**FARM STAND, PERMANENT** — A permanent structure, or a part of an existing structure, accessory to a farm at which farm produce is sold to the general public and meeting the requirements of these regulations.

**FARM WINERY** — Any premises on which fruit is grown and wine/wine products are manufactured, stored and sold, meeting the permit requirements of C.G.S. § 30-16 (as amended) and the applicable definitions and guidance of Title 22 (as amended) of the Connecticut General Statutes and in accordance with the requirements of these regulations.

**FARMING** — Activities incidental and related to occupation and use of a farm.

**FINISHED GRADE** — Any surface which has been cut to or built to the elevation indicated for that point. Surface elevation of lawn, driveway or other improved surfaces after completion of grading operations.

**FLOOD CONTROL** — The prevention or reduction of flooding and flood damage.

**FLOOD INSURANCE RATE MAP** — An official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the applicable risk-premium districts.

**FLOODING** — A local and temporary inundation or a rise in the surface of a body of water, such that it covers land not usually under water.

**FRONT FACADE** — The primary public-facing vertical surface of a building containing the primary pedestrian entrance to the building.

**FUNERAL, UNDERTAKING AND INTERMENT SERVICE** — An establishment primarily engaged in the provision of services involving the care, preparation or disposition of human dead. Typical uses include funeral parlors, crematories, mortuaries or columbaria.

**GRADING** — Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

**GREEN SPACE** — An area of grass, trees, landscaping or other vegetation set apart for recreational or aesthetic purposes and not containing any structures or driveways.

**GREENHOUSE/NURSERY, COMMERCIAL** — The retail display and sale of produce grown on the lot that complies with the requirements of these regulations.

**GROSS FLOOR AREA** — The sum of the horizontal areas of all the floors of a building or structure, measured from the exterior faces of exterior walls or from the center line of walls separating buildings, structures or uses, and shall include the area of basements used for purposes with the following exception: The floor area of a basement occupied by building utilities and equipment, such as heating or ventilating equipment, or other similar equipment accessory to the building shall not be included in the calculation of gross floor area. The horizontal area of each floor level devoted to stairwells and elevator shafts shall be included in the calculation of gross floor area.

**GROUND-MOUNTED TOWER** — A tower mounted on the ground (see "tower"). **[Amended at time of adoption of Code]**

**GROUNDWATER** — All water beneath any land surface, including water in the soil and bedrock beneath water bodies.

**GROUP DAY-CARE HOME** — A private family home which offers or provides a program of supplementary care to not less than seven nor more than 12 related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week.

**GUYED TOWER** — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**HABITABLE FLOOR AREA** — The sum of the total horizontal area of those portions of each floor of a dwelling which are used as measured from the exterior faces of the walls of the dwelling. It does not include basements, unenclosed porches, attics, garages or accessory buildings not used for human occupancy. In determining the habitable floor area of an accessory apartment or dwelling unit within a multifamily dwelling, the center line of the interior wall(s) shall be used in the calculation.

#### HAZARDOUS MATERIALS

- A. Any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume;
- B. Any hazardous waste as defined in Section 22a-449(c)-101 of the Regulations of Connecticut State Agencies;
- C. Any pesticide as defined in C.G.S. § 22a-47, which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; or

- D. Any oil or petroleum as defined in C.G.S. § 22a-448, which means oil or petroleum of any kind or in any form, including, but not limited to, waste oils and distillation products such as fuel oil, kerosene, naphtha, gasoline and benzene, or their vapors.

HAZARDOUS WASTE — As defined in Section 22a-449(c)-101 of the Regulations of Connecticut State Agencies.

HOME FARMING — The cultivation of the soil for the production of crops substantially for noncommercial home consumption on a lot as an accessory use to a single-family dwelling, which may include the breeding, raising or keeping of animals for personal and noncommercial purposes as an accessory use to a single-family dwelling, in accordance with the requirements of these regulations.

HOME OCCUPATION — A business, profession, occupation or trade conducted for gain or support entirely in a residential dwelling or a structure accessory thereto, which is incidental and secondary to the use of the dwelling and which does not change the essential residential character of the building. A home occupation shall include a "traditional home enterprise" and may require the issuance of a special permit prior to establishment. **[Amended at time of adoption of Code]**

HOSPITAL — A voluntary, not-for-profit, acute care and short-term general hospital licensed by the State of Connecticut; which provides medical, surgical, psychiatric and obstetrical care primarily to inpatients and emergency room, ambulatory and clinical care for outpatient diagnosis and treatment and other uses customarily associated with a hospital. A hospital shall include, but is not limited to, offices for hospital administrators and hospital employees, including physicians who work for or are under contract with the hospital; hospital support facilities, such as medical laboratories, diagnostic testing centers, physical therapy and inpatient pharmaceutical facilities; storage facilities for medical equipment and supplies; hospital operations and maintenance facilities, such as food service and laundry facilities, housekeeping and maintenance storage areas; extended-care facilities; overnight accommodations and cafeteria facilities for on-duty hospital employees and medical residents; medical libraries, research and educational facilities; cogeneration, incineration, water, electrical and heating equipment facilities; and off-street parking facilities.

HOTEL — A building providing lodging for persons, with or without meals, and intended primarily for the accommodation of transients.

HOUSEHOLD — A person living alone or two or more persons living together as a single housekeeping unit, as distinguished from two or more persons living together in any congregate or group housing. For purposes of these regulations, the following shall create a rebuttable presumption that the group is not a single housekeeping unit:

- A. Keyed lock(s) on any interior door(s) to prevent access to any area of the dwelling unit with sleeping accommodations.
- B. Members of the group have separate leases, or subleases and/or make separate rent payments to a landlord.
- C. The group significantly re-forms over the course of a twelve-month period by losing and/or gaining members.

IMPERMEABLE — Material impenetrable by water or other substances.

**IMPERVIOUS SURFACE** — Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: parking lots, sidewalks, rooftops, driveways, patios, and paved, gravel and compacted dirt surfaced roads. Decks constructed so as to allow water to flow through the surface using open boards, which sit over an otherwise pervious surface, are not considered impervious surfaces.

**INDEPENDENT LIVING RETIREMENT FACILITY** — Housing where the occupants, at least 50% of whom are 60 years of age or older, are capable of living independently, but where programs or services are provided on-site to support them in life enrichment and enjoyment and maintaining life skills that promote independent living.

**INDUSTRIAL HERITAGE REUSE** — See § 415-44, Industrial heritage reuse.

**INDUSTRIAL LAUNDRY** — An establishment containing commercial laundry machines and equipment for the cleaning and drying of clothing, towels, rags, mats and other linens used for or in connection with commercial purposes.

**INFILTRATION** — The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

**INSPECTION** — The periodic review of sediment and erosion control measures shown on the certified plan.

**JUNKYARD** — An establishment for the storage and dismantling of vehicles and equipment for sale of parts, as well as the collection, storage, exchange or sale of goods, including, but not limited to, any used building material, used containers or steel drums and similar or related articles or property.

**KENNEL** — Any lot on which four or more cats or dogs six months old or older are kept for commercial operations for boarding, grooming, training or sale.

**LABORATORY** — An establishment for scientific research, investigation, testing or experimentation, but not for manufacturing or sales of products, and not for the analysis of blood, tissue or other human or animal components associated with any medical use.

**LANDSCAPED AREA** — An open area, unoccupied, except by residential walks and driveways, except that nonresidential walks and driveways may cross a street yard. Landscaped areas shall be constructed and maintained in lawn, suitable evergreen ground cover or stone, slate or concrete paving not exceeding 40% of the required area. Deciduous and evergreen trees and shrubs shall also be provided as deemed appropriate and necessary by the Commission. Bituminous materials may be used only on areas where such surface is required for a specific recreational use, or for a permitted vehicular use.

**LANDSCAPED BUFFER** — An open, unoccupied area, as above, but requiring also a mixture of evergreen and deciduous trees, and other plant materials which will in a reasonable time produce a visual barrier between adjacent land uses of different types. Where landscaped buffers are required, a planting plan and plant list with types and sizes shall be required as part of the site development plan requiring approval.

**LATTICE TOWER** — A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

LICENSED CARRIER — A company authorized by the FCC to construct and operate a wireless communication facility.

LID (LOW-IMPACT DEVELOPMENT) — Low-impact development is a site design strategy intended to maintain or replicate pre-development hydrology through the use of small-scale controls integrated throughout the site to manage runoff as close to its source as possible. See the CT Stormwater Quality Manual, available on the CT DEEP website or in the Planning and Development Office, for more information.

LOT — A parcel of land occupied or capable of being occupied, in conformity with these regulations, by one principal building (or more than one principal building where specifically permitted hereunder) and accessory structures or uses customarily incident to it, including such open spaces as are required by these regulations.

LOT AREA — The total area within the boundary lines of a lot not covered by water.

LOT COVERAGE — The portion of a lot, expressed as a percentage, that is covered in buildings or other structures as to the total area of the lot.

LOT DEPTH — The horizontal distance between the front lot line and rear lot line of a lot measured perpendicular to the front lot line.

LOT FRONTAGE — The lot line(s) dividing the lot from the right-of-way of a street or streets. **[Amended at time of adoption of Code]**

LOT LINE — A line of record bounding a lot.

LOT LINE, FRONT — A lot line dividing a lot from a street. On a corner lot, only one street line may be considered as a front line and only one yard the front yard. The front lot line is the lot line directly opposite the front facade of a building. In the case of a rear lot, the front lot line shall be considered the line or lines most nearly parallel to and closest to a street or streets providing lot frontage. **[Amended at time of adoption of Code]**

LOT LINE, REAR — All lot lines other than front lot lines and side lot lines.

LOT LINE, SIDE — All lot lines extending from a street or a front lot line toward a rear lot line. The line or lines bounding a lot which extend from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, all lot lines other than the front lot line shall be considered side lot lines.

LOT, CORNER — A lot having two adjacent sides facing a street or streets, with an interior angle of intersection of not more than 120°, and a street line curve of less than 100 feet.

LOT, MINIMUM WIDTH OF — The distance between the side lot lines in a straight line at right angles to the mean direction of such side lot lines, which lines of measurement shall touch, but not be in front of the building line. In the case of a corner lot, the minimum width shall be measured at, but not on the street side of, the building line, and shall extend from the side lot line to the opposite street line.

LOT, REAR — A lot on which the buildable area is located generally to the rear of other lots having frontage on the same street and having access to the street via an accessway that is part of the rear lot.



LOT, THROUGH — A lot with two or more frontage lines that do not intersect.<sup>19</sup>

MAINTENANCE SHED — A freestanding permanent accessory building not exceeding 200 square feet in total floor area, designed and used for the storage or location of tools, materials and equipment associated with the maintenance of the lot, including all structures and ground area.

MANUFACTURED HOME — Prefabricated housing that is largely assembled in factories and delivered to a lot, but that is not a mobile home.

MANUFACTURING, HEAVY — The manufacture, compounding, assembly, fabrication, packaging or processing of goods and materials using processes that ordinarily create noise, smoke, fumes, odors, glare or health or safety hazards outside of the building or lot and where the outdoor storage of goods and materials used in such processes may exceed 25% of the floor area of all buildings on the property. Heavy manufacturing shall not include garbage and refuse incineration or dumping of matter not originating on the premises, except by the Town, distillation of bones, rendering of fat or reduction of animal matter, manufacture of glue, oil refining, stockyards, feeding pens or the slaughtering of animals.

MANUFACTURING, LIGHT — The manufacture, compounding, assembly, fabrication, packaging or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare or health or safety hazards outside of the building or lot and where the outdoor storage of goods and materials used in such processes does not exceed 25% of the floor area of all buildings on the property. Light manufacturing shall not include hazardous materials treatment. No operation involving the rendering of fats, oils or viscera is permitted, unless:

- A. There is no danger to the public health, or of steam pollution created on or off the premises; and
- B. The waste products of such operation are properly processed to inhibit the release of objectionable or noxious solids, liquids and/or gases off the premises.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MEDICAL MARIJUANA DISPENSARY FACILITY — A secure, indoor facility where the production of medical marijuana occurs and is operated by a person to whom the Connecticut Department of Consumer Protection has issued a production facility permit under Public Act 12-155 and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.

MEDICAL MARIJUANA PRODUCTION FACILITY — A place of business where medical marijuana may be dispensed or sold at retail to qualifying patients and primary caregivers and for which the Connecticut Department of Consumer Protection has issued a dispensary facility permit under Public Act 12-155 and Sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.

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19. Editor's Note: The definition of "lot, vacant," which immediately followed this definition, was repealed at time of adoption of Code.

**MEDICAL OFFICE, LARGE-FORMAT** — A medical office facility with a gross floor area of 5,000 square feet or more, other than a hospital, where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: offices for physicians, dentists, chiropractors or other health care professionals; outpatient care facilities; urgent care facilities, emergency departments and associated helipads; and other allied health services. These facilities may also include incidental medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "professional offices." Patients are not provided with room and board and are not kept overnight on the lot. Medical services and medical clinics include medical and dental laboratories incidental to the medical office use. Clinics shall be allowed as an accessory use.

**MEDICAL OFFICE, SMALL-FORMAT** — A facility with a gross floor area under 5,000 square feet, other than a hospital, where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: offices for physicians, dentists, chiropractors or other health care professionals; outpatient care facilities; urgent care facilities; and other allied health services. These facilities may also include incidental medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "professional offices." Patients are not provided with room and board and are not kept overnight on the lot. Medical services and medical clinics include medical and dental laboratories incidental to the medical office use. Clinics shall not be allowed as an accessory use.

**METAL WASTE SALVAGE YARD** — See "junkyard."<sup>20</sup>

**MIXED-USE BUILDING** — A building or defined area in which a combination of uses that are permitted uses or allowed as special permits in the district in which the building is located. This includes one or more dwelling units above a commercial use on the first floor. The first floor shall be the floor closest to the same level as the primary street in front of the building.

**MOBILE HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling or for other purposes, with or without a permanent foundation, when connected to the required utilities. The term also includes recreational vehicles, park trailers, travel trailers and similar transportable structures installed on a site for 180 consecutive days or longer.

**MOBILE HOME PARK** — A parcel of land, subdivided into "sites," for the purpose of leasing, but not for the sale, of sites and/or trailers and sites.

**MONOPOLE TOWER** — The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass or concrete and a platform (or racks) for panel antennas arrayed at the top.

**MOTOR VEHICLE FUEL SALES** — A building or other structure on a tract of land, used for the direct retail sale of gasoline, diesel or other fuels for motor vehicles.

**MOUNT** — The structure or surface upon which antennas are mounted, including the following four types of mounts:

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20. Editor's Note: The definition of "minor," which immediately followed this definition, was repealed at time of adoption of Code.

- A. ROOF-MOUNTED — Mounted on the roof of a building.
- B. SIDE-MOUNTED — Mounted on the side of a building.
- C. GROUND-MOUNTED — Mounted on the ground.
- D. STRUCTURE-MOUNTED — Mounted on a structure other than a building.

MULTIFAMILY DWELLING — Not less than three dwelling units in a building or a group of buildings and uses accessory to such multifamily uses.<sup>21</sup>

MUNICIPALITY — As defined in C.G.S. § 22a-354h, means any town, consolidated town and city, consolidated town and borough, city or borough; for the purposes of these regulations, "municipality" means the Town of Winchester.

NEW CONSTRUCTION — Structures for which the "start of construction" commenced on or after the effective date of these regulations and includes any subsequent improvements to such structures.

NONCONFORMING BUILDING OR STRUCTURE — A building or structure that has legally existed since before the adoption of these regulations, or any relevant amendment thereto, and that does not meet one or more of these regulations.

NONCONFORMING LOT — A lot that has legally existed since before the adoption of these regulations, or any relevant amendment thereto, and that does not meet the requirements for the district in which the lot exists.

NONCONFORMING SITUATION — A nonconforming use, nonconforming building or structure, or nonconforming lot lawfully existing at the time of the adoption of these regulations, or any relevant amendment thereto, which does not conform to the requirements of these regulations or such amendment.

NONCONFORMING USE — A use of a lot, building or structure that has legally existed since before the adoption of these regulations, or any relevant amendment thereto, and that does not meet the use requirements for the district in which the nonconforming use or lot exists. A nonconforming use may be a nonconforming use of land only, of a building or structure only, or of a building, structure and land in combination.

NONPOINT SOURCE POLLUTION — Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

OFFICES, BUSINESS, LARGE-FORMAT — Includes space in the building that houses the principal use or a detached building on the same lot, which is used for management, operations or administrative functions associated with that use. Such offices shall have a gross floor area of 5,000 or more square feet.

OFFICES, BUSINESS, SMALL-FORMAT — Includes space in the building that houses the principal use or a detached building on the same lot, which is used for management,

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21. Editor's Note: The definition of "municipal building," which immediately followed this definition, was repealed at time of adoption of Code.

operations or administrative functions associated with that use. Such offices shall have a gross floor area of under 5,000 square feet.

**OFFICES, PROFESSIONAL, LARGE-FORMAT** — A facility with a gross floor area of 5,000 or more square feet for a firm or organization that primarily provides professional, executive, management or administrative services, such as accounting, advertising, architectural, city planning, computer software consulting, data management, engineering, medical, dental, chiropractors, or other health care professionals, environmental analysis, insurance, interior design, investment, graphic design, landscape design, law and real estate offices, drafting and recording studios. It excludes medical offices with more than two licensed health care professionals (see "medical office and clinic"), banks and savings and loan associations and offices that are incidental to retail, production, storage or other activities.

**OFFICES, PROFESSIONAL, SMALL-FORMAT** — A facility with a gross floor area of under 5,000 square feet for a firm or organization that primarily provides professional, executive, management or administrative services, such as accounting, advertising, architectural, city planning, computer software consulting, data management, engineering, medical, dental, chiropractors, or other health care professionals, environmental analysis, insurance, interior design, investment, graphic design, landscape design, law and real estate offices, drafting and recording studios. It excludes medical offices with more than two licensed health care professionals (see "medical office and clinic"), banks and savings and loan associations and offices that are incidental to retail, production, storage or other activities.

**OPEN SPACE** — Includes, but shall not be limited to: land left in its natural, undisturbed state; protected agricultural land; and similar land areas for wildlife habitat protection, groundwater recharge, scenic or historic preservation, and the like, and designated "open space" per C.G.S. § 12-107e, enabling a tax reduction allowance.

**OPEN SPACE SUBDIVISION** — See § 415-47, Open space subdivisions.

**OPERATION AND MAINTENANCE PLAN** — A plan that defines the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a LID management system to ensure that it continues to function as designed.<sup>22</sup>

**OUTDOOR DINING OR TASTING** — An area designed and used for patrons of an approved principal restaurant or tap/tasting room located on the subject property, or with permission of the authority if on an adjoining public sidewalk or street right-of-way, for the accessory use of dining or beverage tasting outside, which area is cordoned off from the general public, but which area does not allow other uses such as retail or entertainment.

**OWNER** — The owner or lessee of the lot or structure in question.

**PANEL ANTENNA** — A flat-surface antenna usually developed in multiples.

**PARAPET** — A low wall along the edge of a roof or the portion of a wall that extends above the roof line.

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<sup>22</sup> Editor's Note: The definition of "operator" in relation to adult-oriented establishments, which immediately followed this definition, was repealed at time of adoption of Code.

**PARKING AREA** — An area other than a street used for the parking of five or more vehicles.

**PARKING SPACE** — An off-street space having direct access to a street, available for the parking of one vehicle. Truck loading space, passageways and driveways shall not be included when computing area available for parking spaces.

**PATIO** — An improved or graded area located on the ground with no structural/supports other than subsurface base material and retaining walls. The concrete or other paved areas around a swimming pool which is the pool apron are considered a patio. A patio shall be flush to the ground with no air spaces beneath. A patio shall not be deemed a structure for purposes of total coverage except if the terrace or patio is three feet or more above the adjacent grade at any point, such as with a retaining wall.

**PERSON** — Any individual, firm, partnership, association, syndicate, company, trust, corporation, limited-liability company, municipality, agency, political or administrative subdivision of the state, federal agencies as permitted by law, or other legal entity of any kind.<sup>23</sup>

**PERVIOUS SURFACE** — A surface that presents an opportunity for precipitation to infiltrate into the ground. "Pervious surface" is defined to include any vegetated surface or any engineered pavement, concrete or modular system designed to allow the water quality volume, as defined by the 2004 CT Stormwater Quality Manual, as amended, to be infiltrated (first inch of runoff).

**PLOT PLAN** — A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets and other such information.

**POINT SOURCE** — Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container from which pollutants are or may be discharged.

**POOL HOUSE** — An accessory structure containing equipment used for a swimming pool and that may contain one or more full bathrooms, a living room and a kitchen, but not to be used for a household.

**PRIMARY BUILDING OR USE** — See "principal building" or "principal use."

**PRINCIPAL BUILDING** — That single building, or inter-related group of buildings, in which is conducted the principal use of the lot on which the building is situated.

**PRINCIPAL USE** — The primary purpose or function for which a premises is used, designed or intended to be used.<sup>24</sup>

**PUBLIC ADMINISTRATIVE SERVICES AND COURTS** — Offices for the administration and other functions of local government and related uses, including, but not limited to, post offices, public libraries and other governmental offices.

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23. Editor's Note: The definition of "pervious surface, a surface that allows water runoff to infiltrate into the ground," which immediately followed this definition, was repealed at time of adoption of Code.

24. Editor's Note: The definition of "professional and business offices," which immediately followed this definition, was repealed at time of adoption of Code.

**PUBLIC RECREATION FACILITY** — A park, playground, indoor or outdoor recreation facility and green space. This classification includes Town-owned or -operated community centers, playing fields, courts, gymnasiums, swimming pools, wave pools, spray grounds, picnic facilities, municipal golf courses and related food concessions.

**PUBLIC SAFETY FACILITY** — A facility for public safety and emergency services, including police and fire protection and police and fire training facilities, road and highway maintenance and snow removal, and other public works with no outside service yard or outside storage of supplies, which complies with all requirements of these regulations.

**PUBLIC UTILITY FACILITY** — An electric substation, transmitting, switching, distribution or relay station, telephone exchange, water and sewage pumping stations; other similar or related uses.

**RADIOFREQUENCY (RF) ENGINEER** — An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies. Note: When RF engineers are certified or licensed, they are known as "professional engineers."

**RADIOFREQUENCY RADIATION (RFR)** — The emissions from wireless communication facilities.

**RECHARGE** — The replenishment of underground water reserves.

**RECREATION** — Areas and facilities for noncommercial, nonprofit recreation, including both passive and active recreation.

- A. "Passive recreation" includes areas for hiking, horseback and bicycle trails, swimming and boating, but does not include the use of motorized vehicles. "Passive recreation" does not include facilities that require land clearing, earth moving or buildings other than those which are necessary for the above-stated permitted trails and other passive recreational uses.
- B. "Active recreation" includes parks, playgrounds, playing fields, golf courses and their associated access roads, parking lots and buildings.

**RECREATION AND ENTERTAINMENT FACILITY, INDOOR PRIVATE** — Theaters, bowling alleys, indoor tennis, health clubs and other similar recreation uses owned and operated by a private entity, where the principal use is located within a building; but excluding any sexually oriented business or club.

**RECREATION AND ENTERTAINMENT FACILITY, OUTDOOR PRIVATE** — Outdoor recreation uses include country clubs and other private recreation facilities when not operated for a profit, where the principal use is not located within a building.

**RECREATION FACILITY, COMMERCIAL** — A commercial establishment where participatory athletic, recreational or physical fitness facilities are provided for gain or profit, and includes, without limiting the generality of the foregoing, a commercial health fitness and exercise spa or club, a commercial ice or roller skating rink, a commercial squash, tennis or golfing facility and a commercial outdoor recreation area, but does not include a riding stable, amusement center or amusement park.

**RECREATIONAL VEHICLE (RV)** — Also known as a "motorhome," "camper," "camping trailer," and similar terms. A vehicle intended for road travel which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**RECYCLING FACILITY** — A building, or enclosed area screened from public view, used for the collection and processing of recyclable materials. "Processing" means the preparation of material for shipment, or an end user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning and remanufacturing. Processing facilities include temporary storage and loading areas located entirely on the processing center site.

**REGULATED FACILITY** — The equipment, towers, mounts, antennas and other structures related to wireless telecommunications facilities subject to local zoning regulation. This includes all telecommunication services not exempt from local regulation under the provisions of the Connecticut General Statutes and the authority of the Connecticut Siting Council or not exempt from local regulation pursuant to the Telecommunication Act of 1996 or such other federal legislation or a federal authority. **[Amended at time of adoption of Code]**

**REGULATED FACILITY, SERVICE AND/OR SITE** — All facilities, including mounts, towers and antennas, and the site(s) these facilities are located on relating to personal communication services and any other wireless telecommunication service subject to local zoning regulation.

**RESEARCH AND DEVELOPMENT FACILITY** — An establishment or complex of structures located in a building whose dimensions are intended to foster physical, chemical and biological research and/or experimentation involving, but not limited to, controlled simulation of factors, development of prototypes, chemicals, commodities, pharmaceuticals, information technology, electronics and instrumentation for academic and industrial purposes. Light manufacturing may be included as an ancillary use depending on the impact of activity on neighboring property and scale of the premises.

**RESTAURANT** — A food service establishment that meets all of the following criteria:

- A. Customers are served only when seated at tables, counters or in dedicated outdoor dining areas as approved;
- B. No customers are served in motor vehicles; and customers are not served primarily at takeout -type counters, regardless of whether the food is intended to be consumed on or off the premises; and
- C. Any food take-out service is clearly accessory to the principal permitted use of serving customers seated at tables or counters.

**RESTAURANT, HIGH-TURNOVER/FAST-FOOD** — An establishment or use where customers are served food or beverage primarily in paper, plastic or other disposable containers from within an enclosed building which use may include a food and beverage

take-out service from within the building (excluding take-out and/or drive-in window service).

**RESUBDIVISION** — A change in a map of an approved or recorded subdivision or resubdivision if such change:

- A. Affects any street layout shown on such map;
- B. Affects any area reserved thereon for public use; or
- C. Diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

**RETAIL, CONVENIENCE** — A general merchandise and grocery store usually with less than 3,000 square feet of gross floor area and open for business for extended hours. A convenience store generally attracts patrons because of the speed in which items may be purchased and because of the extended hours for which such stores are open for business. Fast food may be served as an accessory use, along with table seating for up to 20 customers provided for their convenience.

**RETAIL, GROCERY, LARGE-FORMAT** — A retail establishment of 15,000 square feet or greater for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, ready-to-eat food products, bakery products, dairy products and similar items for human consumption, and may include a bakery, delicatessen or prescription pharmacy.

**RETAIL, GROCERY, SMALL-FORMAT** — A retail establishment of less than 15,000 square feet, but not a convenience store, for the display and sale of meat, fruits, fresh and packaged foods, cleaning supplies, paper goods, pet supplies, health and beauty products, ready-to-eat food products, bakery products, dairy products and similar items for human consumption, and may include a bakery, delicatessen or prescription pharmacy.

**RETAIL, LARGE SHOP** — An establishment of 10,000 square feet or greater engaged in sales of goods, including, but not limited to: alcoholic beverage sales, furniture and home furnishings, electronics and appliances, clothing and shoes, jewelry, luggage and leather goods, sporting goods and hobbies, books, periodicals and music, tobacco sales, department stores, florists, office supplies and stationary, gifts and novelties, pets, hardware, pawn shops, video stores and auto parts. This classification includes the retail sale or rental of merchandise not specifically listed under another use classification.

**RETAIL, PERSONAL SERVICES** — Personal service shops or stores with hazardous materials; includes, but is not limited to, beauty salons, shoe repairing, laundromats, dry cleaners and tailors.

**RETAIL, SMALL SHOP** — An establishment of less than 10,000 square feet engaged in sales of goods, including, but not limited to: alcoholic beverage sales, furniture and home furnishings, electronics and appliances, clothing and shoes, jewelry, luggage and leather goods, sporting goods and hobbies, books, periodicals and music, tobacco sales, department stores, florists, office supplies and stationary, gifts and novelties, pets, hardware, pawn shops, video stores and auto parts. This classification includes the retail sale or rental of merchandise not specifically listed under another use classification.



**RUNOFF** — Rainfall, snowmelt or irrigation water flowing over the ground surface.

**SCHOOL** — A facility for accredited public or private educational purposes that offers a general course of study at primary, middle, high school levels and vocational and trade programs that are incidental to the operation of the school.

**SCREENING** — Any combination of:

- A. Generally opaque planting materials;
- B. Solid walls and fencing of uniform color, constructed with materials of suitable appearance, extending not less than five feet nor more than eight feet above the ground level of the area to be enclosed with the screen; or
- C. Earthen berms and other similar features.

**SEASONAL COTTAGE** — A detached dwelling intended and designed for human occupancy by a single family for a seasonal or recreational use, and not for permanent residence, but having an approved, safe water and sewage disposal system.

**SECURITY BARRIER** — A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

**SEDIMENT** — Solid material, either mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

**SEPARATION** — The distance between one carrier's array of antennas and another carrier's array.

**SETBACK, FRONT** — The required minimum clear distance between a front lot line and a structure.

**SETBACK, REAR** — The required minimum clear distance between the rear lot line and a structure.

**SETBACK, SIDE** — The required minimum clear distance between each side lot line and a structure.<sup>25</sup>

**SHOPFRONT** — The portion of a frontage composed of the display window and/or entrance and its components, including windows, doors, transoms and sill pane that is inserted into various frontage types, such as a shopfront or gallery, to accommodate retail uses.<sup>26</sup>

**SIGN** — Any natural or artificial structure, device, light, material or object which shall use any letter, word, number, banner, flag, pennant, insignia, logo or device to attract attention to identify, advertise, announce or represent any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, business or industry and which is intended to be seen from a street or highway, parking area, driveway or sidewalk.

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25. Editor's Note: The definition of "sexual activities," which immediately followed this definition, was repealed at time of adoption of Code.

26. Editor's Note: The definition of "shopping center," which immediately followed this definition, was repealed at time of adoption of Code.

**SIGN AREA OR FACE** — The plane defined by one continuous perimeter of that rectangle, triangle or circle having the smallest area which encompasses all the lettering, wording, design or symbols, together with any frame or background different from the balance of the surface on which it is located, if such frame or background is designed as an integral part of and related to the sign. Such perimeter, however, shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. For the purposes of these regulations, two-sided signs where the sides are back-to-back and located no more than 18 inches apart and parallel shall be considered to have only one sign face. See § 415-21, Sign types.

**SIGN, AWNING** — A sign painted on or attached flat or flush against the surface of an awning. See example below. Design, materials, color and content not regulated.



**SIGN, FREESTANDING** — A permanently affixed sign that is wholly independent of a building for support and is attached along its entire width to a continuous pedestal. See example below. Design, materials, color and content not regulated.



**SIGN, MONUMENT** — A ground sign generally having a low profile with little or no open space between the ground and the sign and having a structure constructed of masonry, wood or materials similar in appearance. See example below. Design, materials, color and content not regulated.



**SIGN, PROJECTING** — A sign mounted perpendicular to and extending more than one foot from a building facade (similar to a bracket sign). See example below. Design, materials, color and content not regulated.



**SIGN, SANDWICH BOARD** — A portable and temporary sign that is ordinarily in the shape of an "A" with back-to-back sign faces, an easel or a similar configuration. This sign type is typically used to announce daily specials, sales or point to shops off the sidewalk. See example below. Design, materials, color and content not regulated.



**SIGN, WALL** — A sign that is flat against the facade consisting of individual cut letters applied directly to the building, or painted directly on the surface of the building. See example below. Design, materials, color and content not regulated.



**SINGLE-FAMILY DWELLING** — A building or structure designed or used exclusively for residence purposes by one household; each dwelling being separated by open space or yards.

**SITE PLAN, MAJOR** — An application for development on a commercial/industrial lot, or as required in these regulations, consisting of new development, additions over 5,000 square feet and/or 10 new parking spaces, or as otherwise required by the Commission.

**SITE PLAN, MINOR** — An application involving any development on a commercial/industrial lot or as defined in these regulations, not rising to the level of a site plan, major.

**SOIL** — Any unconsolidated material or organic material of any origin.

**SOIL EROSION AND SEDIMENT PLAN** — A scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

**SOLAR ARRAY** — A special structure comprised of one or more solar panels that produce electricity for the principal use of the lot on which the solar electric system is located, but does not include solar panels affixed to a roof of a building. See § 415-52, Wind and solar facilities.

**SPECIAL PERMIT; SPECIAL EXCEPTION** — Special permits and exceptions are utilized to allow certain uses or activities that require a higher lever of scrutiny. Special permit applications are heard by the Planning and Zoning Commission; special exceptions are heard by the Zoning Board of Appeals. Both shall utilize the special permit requirements of § 415-24, as well as any other applicable sections of these regulations.

**SPECIAL STRUCTURE** — Special structures are communications facilities, solar arrays and windmills.<sup>27</sup>

**STABLE, COMMERCIAL** — A stable where horses are kept for profit or gain, including, but not limited to, boarding horses, riding instruction or renting of horses.

**STABLE, PERSONAL** — A stable used solely for horses owned by the resident occupant, except that occasional and temporary boarding of horses not for gain, direct or indirect, is permissible.

**STORAGE BUSINESS, OUTDOOR LIMITED** — The storage of materials outside of a structure other than fencing, either as an accessory or primary use.

**STORAGE TANK** — A stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials, including without limitation concrete, steel, fiberglass or plastic.

**STORAGE, PERSONAL AND MINI-WAREHOUSE** — Structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand.

**STREET** — A public thoroughfare more than 10 feet in width which has been dedicated to the public for public use and which affords the principal means of access to abutting lots.

**STREET LINE** — A lot line dividing a lot from an abutting street, private way or alleyway.

**STRUCTURE** — A structure is anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

**SUBDIVISION** — The division of a tract or parcel of land into three or more parts or lots made subsequent to the effective date of Subdivision Regulations for the purpose, whether immediate or future, of sale or building development, expressly excluding development for municipal, conservation or agricultural purposes, and including resubdivision.

**SUBSTANTIAL IMPROVEMENT** — Any combination of repairs, reconstruction, alteration or improvements to a structure taking place over a ten-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should be either the appraised value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, a substantial improvement is

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27. Editor's Note: The definitions of "specified anatomical areas" and "specified sexual activities," which immediately followed this definition, were repealed at time of adoption of Code.

considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

**SWIMMING POOL** — Any indoor or outdoor accessory structure intended for swimming, wading or recreational bathing, which may be constructed, installed or located in-ground, partially in-ground and may include permanent or storable swimming pools, hot tubs and spas.

**TAP/TASTING ROOM** — A room or outdoor tasting area that is ancillary to the production of beer and malt beverages or alcoholic beverages at a microbrewery, brewpub, large brewery or distillery, where the public can purchase and/or consume only the alcohol products produced on site and ancillary sales of retail merchandise.

**TAVERN** — A place for retail sale of beer and of cider not exceeding 6% of alcohol by volume and wine to be consumed on the premises of a tavern, with or without the sale of food. "Tavern" means a place where beer and wine are sold under a tavern permit.

**TERRACE** — A surfaced area adjacent to a building which serves as an outdoor extension of the use of that building, which is open both vertically and horizontally, and which does not exceed a height of eight inches (0.67 foot) above the average grade taken adjacent to all sides of the structure.

**TOWER** — A support structure intended to support antennas and associated equipment, including a guyed tower, lattice tower and monopole tower.

**TOWN** — The Town of Winchester.

**TOWN PLANNER** — The planner employed by the Town or under contract by the Town to perform planning and zoning services, but not the Zoning Enforcement Officer. In the event that the Town does not have a Town Planner, the Town Manager shall be deemed to be the Town Planner for all purposes hereof.

**TOWNHOUSE** — A building containing multiple single-family dwellings being separated horizontally by fire-resistive walls without openings and each having independent access to the exterior of the buildings on the ground story.

**TRADITIONAL HOME ENTERPRISE** — An accessory use of a dwelling involving the creation and sale of homemade arts, crafts and goods, which by the nature of the activity will generate only a very low level of foot or vehicular traffic.

**TRAILER, CONSTRUCTION** — A vehicle which can be drawn or be carried on a motor vehicle, whether on temporary or permanent supports. Trailers used for business, office and storage purposes in connection with a bona fide construction operation within the Town may be used for such purposes in any district for a period of time not to exceed the duration of the construction contract.

**UNATTENDED DONATION CONTAINERS** — Any unattended container, bin, box or similar receptacle that is located on any lot within the Town that is used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, similar to a trash container or

dumpster, governed or regulated by the zoning regulations or any unattended donation box not located within a building.

**UNDERGROUND** — A structure or structure component which is below the surface of the ground or is not fully visible for inspection. Facilities which are not considered to be underground include tanks and piping in underground areas such as basements, cellars, shafts, tunnels or vaults with manned access.

**USABLE SITE AREA** — Land other than regulated inland wetlands and watercourses, 100-year flood hazard areas as defined by the Federal Emergency Management Agency and as shown on Flood Hazard Areas Maps on file in the office of the Commission, land subject to existing easements which prohibit building or development, and 50% of all land with a slope in excess of 25% as delineated on a site plan map showing topographic contours based upon a field or aerial survey and certified by a Connecticut-licensed surveyor.

**USE** — The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied and maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**VEHICLE** — A "vessel" as defined by C.G.S. § 15-170, which means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on land or water, and any vehicle propelled or drawn by any nonmuscular power, including without limitation an automobile, aircraft, all-terrain vehicle or snowmobile.

**VEHICLE SALES AND SERVICE, PERSONAL** — A facility for the sale or rental of automobiles, motorcycles and pickup trucks and vans and accessories therefor, including storage and incidental maintenance and repair and maintenance.

**VEHICLE SALES AND SERVICE, PLEASURE** — A facility for the sale or rental of motor homes, recreational vehicles and campers, boats and personal watercraft, and similar equipment and accessories therefor, including storage and incidental maintenance and repair.

**VEHICLE SALES AND SERVICE, PROFESSIONAL** — A facility for the sale or rental of tractors, construction or agricultural equipment, semi-trucks and trailers and similar equipment and accessories therefor, including storage and incidental maintenance and repair.

**VEHICULAR** — See "vehicle."

**VETERINARY HOSPITAL** — A building for the medical and/or surgical care of sick or injured animals.

**WAREHOUSE, LARGE** — A facility for the storage of commercial goods within an enclosed building for distribution by truck, including, but not limited to, bulk mail handling facilities, larger than 20,000 square feet in gross floor area.

**WAREHOUSE, SMALL** — A facility for the storage of commercial goods within an enclosed building for distribution by truck, including, but not limited to, bulk mail handling facilities, no larger than 20,000 square feet in gross floor area.

**WATER POLLUTION** — An activity having a harmful thermal effect on or contaminating or rendering unclean or impure any waters, including groundwater, of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters.

**WATER SURFACE ELEVATION** — The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

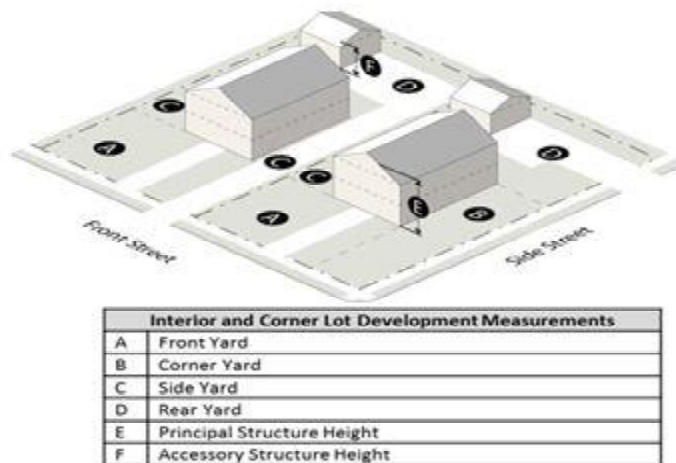
**WATERS** — As defined in C.G.S. § 22a-423, means all rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, marshes, drainage systems and all other surface or underground streams, bodies or accumulations of water, natural or artificial, public or private, which are contained within, flow through or border upon this Town or any portion thereof.

**WHOLESALE AND DISTRIBUTION BUSINESS** — A facility for storage and wholesale distribution of merchandise and bulk goods and nonretail store sales, including electronic shopping, mail-order houses and other direct-selling establishments. This use classification excludes retail sale of goods at discount prices for individual consumption.

**WINDMILL** — A special structure that captures kinetic energy from the wind to drive an electrical generator with typical components including blades, a tower and an accelerator platform or nacelle body. See § 415-52, Wind and solar facilities.

**WORSHIP PLACE** — An establishment for religious worship and other religious ceremonies, including accessory religious education, rectories and parsonages, offices, social services, columbaria and community programs.

**YARD** — The area between the interior setback line on a lot and a lot line. See below.



**YARD, FRONT** — A space extending across the full width of a lot between the front lot line and the front of a principal building.

**YARD, MINIMUM FRONT** — An open space extending the full width of the lot between a front lot line and the building line. Rear lots shall have a minimum front yard requirement measured from any front lot line parallel to any street from which the rear lot gains access. All tables in these regulations indicating front yard requirements shall mean minimum front yard requirements.

**YARD, MINIMUM REAR** — An open space extending across the full width of the lot between the rear lot line and a parallel line within the lot set back a distance equal to the



minimum rear yard requirements. On a lot with no rear yard, the side yard shall extend to the opposite lot line. All tables indicating rear lot requirements shall mean the minimum rear yard requirements.

**YARD, MINIMUM SIDE** — An open space extending from the front lot line to the rear lot line between the side lot line and a parallel line set back within the lot a distance equal to the minimum side yard requirement. On a lot with no rear yard, the side yard shall extend to the opposite lot line. All tables in these regulations indicating side yard requirements shall mean minimum side yard requirements.

**YARD, REAR** — A space extending across the full width of the lot between the rear lot line and the rear of the principal building.

**YARD, SIDE** — A space extending for the full depth of a lot between any side lot line and the side of the principal building.

**ZBA or ZONING BOARD OF APPEALS** — The Zoning Board of Appeals established in accordance with § 415-25B(1) of these regulations. See Appendix B.<sup>28</sup> **[Amended at time of adoption of Code]**

**ZEO** — See "Zoning Enforcement Officer."

**ZONING ENFORCEMENT OFFICER** — One or more employees of the Town, or his/her designee(s), who shall hereby be authorized to inspect premises regulated under this regulation and to take the required actions authorized by this regulation in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

**ZONING MAP, OFFICIAL** — The Town of Winchester Planning and Zoning Commission Official Zoning Map showing zoning districts prepared in accordance with maps adopted pursuant to C.G.S. § 8-3.

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28. Editor's Note: Appendix B is included as an attachment to this chapter.



## ZONING REGULATIONS

## 415 Attachment 1

## Town of Winchester

**Appendix A**  
**Table of Uses and Minimum Parking Requirements**  
**[Amended at time of adoption of Code]**

**Key:**  
P = Permitted  
SP = Special Permit Required  
Blank Box = Not Permitted

|                                                              | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|--------------------------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Accessory Apartment                                          | SP                         | SP                                 |                                                 | SP                               |                                      | SP                    | SP                    |                                       | 1 additional per accessory<br>apartment unit                                                                                           |
| Accessory Residential<br>Uses                                | P                          | P                                  |                                                 | P                                | P                                    | P                     | P                     |                                       | N/A                                                                                                                                    |
| Affordable Housing                                           | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    |                                       | 0.75 per bedroom                                                                                                                       |
| Adult-Oriented<br>Establishment                              |                            |                                    |                                                 |                                  |                                      |                       |                       | P                                     | 1 per 100 square feet                                                                                                                  |
| Artisan Production                                           |                            |                                    |                                                 |                                  |                                      | P                     | P                     | P                                     | 1 per 1,000 square feet                                                                                                                |
| Bakery                                                       |                            |                                    |                                                 |                                  |                                      | P                     | P                     | P                                     | 1 per 400 square feet                                                                                                                  |
| Banks and Financial<br>Institutions with Drive-<br>Through   |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    |                                       | 1 per 300 square feet + 5<br>stacking spaces per drive-<br>through lane                                                                |
| Banks and Financial<br>Institutions without<br>Drive-Through |                            |                                    |                                                 |                                  |                                      | P                     | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Banquet Facility                                             | SP                         |                                    | SP                                              |                                  |                                      | SP                    | SP                    |                                       | 1 per 600 square feet                                                                                                                  |
| Bed-and-Breakfast                                            | SP                         | SP                                 | SP                                              | SP                               | SP                                   | SP                    | SP                    |                                       | 2 per dwelling unit + 1 per<br>bedroom for rent                                                                                        |

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Final Draft (v.3), Feb 2023

## WINCHESTER CODE

|                                         | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|-----------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Boardinghouse                           |                            |                                    |                                                 |                                  | SP                                   |                       |                       |                                       | 1 per room for rent + 0.25 guest<br>space per unit                                                                                     |
| Brewery, Large                          |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | P                                     | 1 per 600 square feet                                                                                                                  |
| Brewery, Micro-                         |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | P                                     | 1 per 300 square feet                                                                                                                  |
| Brewpub                                 |                            |                                    | SP                                              |                                  |                                      | SP                    | SP                    | P                                     | 1 per 50 square feet                                                                                                                   |
| Bulk Storage Facility                   |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 2,000 square feet                                                                                                                |
| Car Wash                                |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 300 square feet + 5<br>stacking spaces per drive-<br>through lane                                                                |
| Cemetery                                | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    | SP                                    | 1 per acre                                                                                                                             |
| Club                                    | SP                         | SP                                 | SP                                              | SP                               |                                      | SP                    | SP                    |                                       | 1 per 600 square feet                                                                                                                  |
| Cold Plant Storage                      |                            |                                    |                                                 |                                  |                                      |                       |                       | P                                     | 1 per 2,500 square feet                                                                                                                |
| College                                 |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    |                                       | 1 per full-time faculty + 0.50<br>per enrolled student                                                                                 |
| Commercial Recreation                   | SP                         |                                    |                                                 |                                  |                                      |                       |                       |                                       | 1 per 600 square feet of interior<br>space                                                                                             |
| Commissary                              |                            |                                    |                                                 |                                  |                                      | P                     | P                     | P                                     | 1 per 2,000 square feet                                                                                                                |
| Community Center,<br>Private            |                            |                                    |                                                 |                                  | P                                    |                       | P                     | P                                     | 1 additional per 600 square feet                                                                                                       |
| Congregate Residence                    | SP <sup>2</sup>            |                                    |                                                 |                                  | SP                                   | SP                    | SP                    |                                       | 0.50 per bedroom                                                                                                                       |
| Continuing-Care<br>Retirement Community |                            |                                    |                                                 |                                  | SP                                   | SP                    | SP                    |                                       | 0.75 per unit                                                                                                                          |
| Convalescent<br>Home/Nursing Home       |                            | SP                                 |                                                 |                                  | SP                                   | SP                    | SP                    |                                       | 0.50 per bed                                                                                                                           |
| Country Inn                             | SP                         | SP                                 | SP                                              | SP                               | SP                                   | P                     | P                     |                                       | 1 per room for rent                                                                                                                    |
| Cultural Institution                    |                            |                                    |                                                 |                                  |                                      | P                     | P                     |                                       | 1 per 250 square feet                                                                                                                  |
| Distillery                              |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | P                                     | 1 per 2,000 square feet                                                                                                                |
| Drug Store, Large-Format                |                            |                                    |                                                 |                                  |                                      |                       | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Drug Store, Small-Format                |                            |                                    |                                                 |                                  |                                      | P                     | P                     |                                       | 1 per 300 square feet                                                                                                                  |
| Earth Excavation                        | SP                         |                                    |                                                 |                                  |                                      |                       | SP                    | SP                                    |                                                                                                                                        |

415 Attachment 1:2

Final Draft (v.3), Feb 2023

## ZONING REGULATIONS

|                                               | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|-----------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Family Child-Care Home                        | P                          | P                                  |                                                 | P                                | P                                    | P                     | P                     |                                       | 1 per 4 persons at maximum<br>occupancy                                                                                                |
| Farm                                          | P                          |                                    |                                                 |                                  |                                      |                       | P                     | P                                     | N/A                                                                                                                                    |
| Farm Stand, Permanent                         | SP                         | SP                                 |                                                 |                                  |                                      |                       | SP                    | P                                     | 2 per stand                                                                                                                            |
| Farm Winery                                   | SP                         | SP                                 |                                                 |                                  |                                      |                       | SP                    |                                       | N/A                                                                                                                                    |
| Funeral, Undertaking and<br>Interment Service |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | SP                                    | 1 per 4 persons at maximum<br>occupancy                                                                                                |
| Greenhouse/Nursery,<br>Commercial             | SP                         | SP                                 |                                                 |                                  |                                      |                       | SP                    | SP                                    | 1 per 600 square feet of interior<br>space                                                                                             |
| Group Day-Care Home                           | SP                         |                                    |                                                 | SP                               |                                      | SP                    | SP                    |                                       | 1 per 4 persons at maximum<br>occupancy                                                                                                |
| Home Farming                                  | P                          | P                                  |                                                 | P                                | P                                    | P                     | P                     |                                       | N/A                                                                                                                                    |
| Home Occupation                               | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    |                                       | N/A                                                                                                                                    |
| Hospital                                      |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    |                                       | 1 per 500 square feet                                                                                                                  |
| Hotel                                         |                            |                                    | SP                                              |                                  |                                      | SP                    | SP                    |                                       | 1 per room for rent                                                                                                                    |
| Independent Living<br>Retirement Facility     |                            |                                    |                                                 |                                  | SP                                   | SP                    | SP                    |                                       | 1.0 per unit                                                                                                                           |
| Industrial Heritage Re-<br>Use                |                            |                                    |                                                 |                                  | SP                                   | SP                    | SP                    | SP                                    | N/A                                                                                                                                    |
| Industrial Laundry                            |                            |                                    |                                                 |                                  |                                      |                       |                       | P                                     | 1 per 2,000 square feet                                                                                                                |
| Junkyard                                      |                            |                                    |                                                 |                                  |                                      |                       |                       |                                       | 1 per 600 square feet of interior<br>space                                                                                             |
| Kennel                                        | SP                         |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 600 square feet of interior<br>space                                                                                             |
| Laboratory                                    |                            |                                    |                                                 |                                  |                                      |                       |                       | P                                     | 1 per 1,000 square feet                                                                                                                |
| Manufacturing, Heavy                          |                            |                                    |                                                 |                                  |                                      |                       |                       | SP                                    | 1 per 2,500 square feet                                                                                                                |
| Manufacturing, Light                          |                            |                                    |                                                 |                                  |                                      | SP                    | DP                    | P                                     | 1 per 2,000 square feet                                                                                                                |
| Manufactured Home                             | SP                         |                                    |                                                 | SP                               |                                      |                       |                       |                                       | 2 per unit + 1 guest space per 8<br>home sites                                                                                         |

## WINCHESTER CODE

|                                                                       | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|-----------------------------------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Marina, including Boat<br>Sales and/or Storage,<br>Repair and Fueling |                            |                                    | SP                                              |                                  |                                      |                       |                       |                                       | 1 per 1,500 square feet                                                                                                                |
| Medical Marijuana<br>Dispensary Facility                              |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | SP                                    | 1 per 300 square feet                                                                                                                  |
| Medical Marijuana<br>Production Facility                              |                            |                                    |                                                 |                                  |                                      |                       |                       | SP                                    | 1 per 2,000 square feet                                                                                                                |
| Medical Office or Clinic,<br>Large-Format                             |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Medical Office or Clinic,<br>Small-Format                             |                            |                                    |                                                 |                                  |                                      | P                     | P                     |                                       | 1 per 300 square feet                                                                                                                  |
| Mixed-Use Building                                                    |                            |                                    | SP                                              |                                  | SP                                   | SP                    | SP                    |                                       | See requirements for each<br>specific use                                                                                              |
| Motor Vehicle Fuel Sales<br>with Convenience Retail                   |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | SP                                    | 1 per 300 square feet                                                                                                                  |
| Motor Vehicle Fuel Sales<br>without Convenience<br>Retail             |                            |                                    |                                                 |                                  |                                      |                       | SP                    | SP                                    | N/A                                                                                                                                    |
| Multiple-Family Dwelling                                              |                            |                                    | SP                                              |                                  | SP                                   | SP                    | SP                    |                                       | 1.5 per unit + 0.25 guest space<br>per unit                                                                                            |
| Office, Business, Large-<br>Format                                    |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | P                                     | 1 per 300 square feet                                                                                                                  |
| Office, Business, Small-<br>Format                                    |                            |                                    |                                                 |                                  |                                      | P                     | P                     | P                                     | 1 per 300 square feet                                                                                                                  |
| Office, Professional,<br>Large-Format                                 |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Office, Professional,<br>Small-Format                                 |                            |                                    |                                                 |                                  |                                      | P                     | P                     |                                       | 1 per 300 square feet                                                                                                                  |
| Open Space Subdivision                                                | SP                         |                                    |                                                 | SP                               |                                      |                       |                       |                                       | Off-street parking required                                                                                                            |
| Outdoor Dining<br>(accessory use)                                     |                            |                                    |                                                 |                                  |                                      | SP                    |                       |                                       | 1 per 100 square feet                                                                                                                  |

## ZONING REGULATIONS

|                                                              | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|--------------------------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Parking Lot                                                  |                            |                                    |                                                 |                                  |                                      | SP                    |                       |                                       | N/A                                                                                                                                    |
| Public Administrative<br>Services and Courts                 |                            |                                    |                                                 |                                  |                                      | P                     | P                     | P                                     | 1 per 300 square feet                                                                                                                  |
| Public Recreation Facility                                   | SP                         | SP                                 | SP                                              | SP                               | SP                                   | SP                    | SP                    | SP                                    | N/A                                                                                                                                    |
| Public Safety Facility                                       | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    | SP                                    | N/A                                                                                                                                    |
| Public Utility Facility                                      | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    | SP                                    | N/A                                                                                                                                    |
| Recreation and<br>Entertainment Facility,<br>Indoor Private  |                            |                                    |                                                 |                                  |                                      | SP                    | SP                    | P                                     | 1 per 600 square feet                                                                                                                  |
| Recreation and<br>Entertainment Facility,<br>Outdoor Private | SP                         | SP                                 | SP                                              | SP                               | SP                                   | SP                    | SP                    | SP                                    | N/A                                                                                                                                    |
| Recycling Facility                                           |                            |                                    |                                                 |                                  |                                      |                       |                       | SP                                    | 1 per 2,000 square feet                                                                                                                |
| Research and<br>Development Facility                         |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 600 square feet                                                                                                                  |
| Restaurant                                                   |                            |                                    | SP                                              |                                  | SP                                   | P                     | P                     |                                       | 1 per 100 square feet                                                                                                                  |
| Restaurant, High Turn-<br>Over/Fast-Food                     |                            |                                    |                                                 |                                  |                                      |                       | SP                    | SP                                    | 1 per 100 square feet + 5<br>stacking spaces per drive-<br>through                                                                     |
| Retail, Convenience                                          |                            |                                    | SP                                              |                                  |                                      |                       | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Retail, Grocery, Large-<br>Format                            |                            |                                    |                                                 |                                  |                                      |                       | SP                    |                                       | 1 per 250 square feet                                                                                                                  |
| Retail, Grocery, Small-<br>Format                            |                            |                                    | SP                                              |                                  |                                      | P                     | P                     |                                       | 1 per 400 square feet                                                                                                                  |
| Retail, Large Shop                                           |                            |                                    |                                                 |                                  |                                      |                       | SP                    |                                       | 1 per 300 square feet                                                                                                                  |
| Retail, Personal Service                                     |                            |                                    | SP                                              |                                  |                                      | P                     | P                     |                                       | 1 per 300 square feet                                                                                                                  |
| Retail, Small Shop                                           |                            |                                    | SP                                              |                                  |                                      | P                     | P                     |                                       | 1 per 300 square feet                                                                                                                  |
| Roadside-Oriented<br>Limited Retail Enterprise               | SP                         |                                    |                                                 |                                  |                                      |                       | P                     |                                       | N/A                                                                                                                                    |
| School                                                       | SP                         | SP                                 |                                                 | SP                               | SP                                   | SP                    | SP                    | SP                                    | 1 per 2 classrooms                                                                                                                     |

## WINCHESTER CODE

|                                            | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area)                          |
|--------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Seasonal Cottages                          | P                          | P                                  |                                                 |                                  |                                      |                       |                       |                                       | 1 per cottage                                                                                                                                                   |
| Single-Family Dwelling                     | P                          | P                                  |                                                 | P                                | P                                    |                       | P                     |                                       | Off-street parking required                                                                                                                                     |
| Stable, Commercial                         | SP                         |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 5,000 square feet of<br>interior space<br>1 for each 5 users of, or visitors<br>to, the lot, including spectators<br>for horse shows or similar<br>events |
| Storage Business,<br>Outdoor Limited       |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 300 square feet of office +<br>0.25 per unit for rent                                                                                                     |
| Storage, Personal and<br>Mini-Warehouse    |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 300 square feet of office +<br>0.25 per unit for rent                                                                                                     |
| Tap/Tasting Room                           |                            |                                    | SP                                              |                                  |                                      | SP                    | SP                    | P                                     | 1 additional per 100 square feet                                                                                                                                |
| Tavern                                     |                            |                                    |                                                 |                                  |                                      | SP                    |                       |                                       | 1 per 100 square feet                                                                                                                                           |
| Telecommunications<br>Facilities           | SP                         | SP                                 | SP                                              | SP                               | SP                                   | SP                    | SP                    | SP                                    |                                                                                                                                                                 |
| Two-Family Dwelling<br>(Duplex)            |                            |                                    |                                                 | SP                               | SP                                   |                       | SP                    |                                       | 2 per unit                                                                                                                                                      |
| Vehicle Sales and<br>Service, Personal     |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 1,500 square feet of<br>interior space, not including<br>display area                                                                                     |
| Vehicle Sales and<br>Service, Pleasure     |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 1,500 square feet of<br>interior space, not including<br>display area                                                                                     |
| Vehicle Sales and<br>Service, Professional |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 1,500 square feet of<br>interior space, not including<br>display area                                                                                     |
| Veterinary Hospital                        | SP                         |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 400 square feet                                                                                                                                           |
| Warehouse, Large                           |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 2,000 square feet                                                                                                                                         |
| Warehouse, Small                           |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 2,000 square feet                                                                                                                                         |



## ZONING REGULATIONS

|                                                                                     | RR<br>Rural<br>Residential | HL<br>Highland<br>Lake<br>District | HLB<br>Highland<br>Lake<br>Business<br>District | TSF<br>Town<br>Single-<br>Family | TCR<br>Town<br>Center<br>Residential | TC*<br>Town<br>Center | TG<br>Town<br>Gateway | PI<br>Production<br>and<br>Innovation | Off-Street Parking<br>Requirements <sup>1</sup><br>(minimum, in number of<br>spaces; square footages are<br>based on gross floor area) |
|-------------------------------------------------------------------------------------|----------------------------|------------------------------------|-------------------------------------------------|----------------------------------|--------------------------------------|-----------------------|-----------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Wholesale and<br>Distribution Business                                              |                            |                                    |                                                 |                                  |                                      |                       | SP                    | P                                     | 1 per 2,000 square feet                                                                                                                |
| Wind and Solar Facilities<br>(accessory to any<br>residential or commercial<br>use) | SP                         | SP                                 | SP                                              | SP                               | SP                                   | SP                    | SP                    | SP                                    |                                                                                                                                        |
| Worship Place                                                                       | SP                         |                                    |                                                 | SP                               | SP                                   |                       | SP                    | P                                     | 1 per 4 persons at maximum<br>occupancy                                                                                                |

## NOTES:

<sup>1</sup> Notwithstanding the off-street parking requirements by use set forth in the table above, no off-street parking is required for any uses in the TC District.

<sup>2</sup> Public water and sewer required.



ZONING REGULATIONS

*415 Attachment 2*

**Town of Winchester**

**Appendix B  
Zoning Board of Appeals**

1. Establishment. There shall be a Zoning Board of Appeals pursuant to the provisions of C.G.S. Chapter 124 (C.G.S. § 8-1 et seq.).
2. Powers and duties. The Zoning Board of Appeals shall have the following powers and duties:
  - a. Appeals. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of these regulations.
  - b. Variances. To determine and vary the application of these regulations in harmony with their general purpose and intent, and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not generally affecting the district in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and public safety and welfare secured.

No variance shall be granted by the Zoning Board of Appeals unless it finds the following:

- i. The variance would be in harmony with the purposes of these regulations, as set forth in § 415-1 of these regulations;
- ii. The literal enforcement of these regulations would result in unusual hardship, as the same has been defined by the courts of the State of Connecticut and as summarized;
- iii. The hardship recognized by the law is that of the property, due to its unique shape, topography, or other inherent condition; the personal hardship of the owner, such as age or family condition, is not a legal hardship which would support the granting of a variance; except to the extent required by the Americans with Disabilities Act.
- iv. The hardship must not be merely financial, such as that the owner would make more money or lose less money if the variance were granted, as financial hardship is personal and not inherent in the property itself.
- v. The hardship must be unique to the property, in the sense that it is a characteristic which is not exhibited by other properties in the area or in the district, and which makes it appropriate for special treatment. Merely being too small or too narrow is not a legal hardship unless it restricts the property from being put to a reasonable use permitted in the subject district.

WINCHESTER CODE

- vi. The hardship must not be created by the owner or his/her predecessor in title, such as by dividing a parcel to create lots which cannot support the desired use; or creating a topographic condition by excavation, fill or other measures which render the property unusable for its highest use without a variance; or by building a structure which, for whatever reason, violates a current zoning regulation.
- vii. In accordance with Connecticut case law, the Board is prohibited from varying any condition or requirement set forth in these regulations for a special exception use, such uses being permitted in the subject district only when all conditions or requirements contained here are satisfied.
- viii. The burden is on the applicant to demonstrate that the requirements for a variance have been met.
- ix. Variances are to be granted sparingly, and only to the minimum extent necessary to allow property to be used for the least intense use which is permitted in the subject district.
- c. Use Variance. No use variance shall be granted merely because the permitted uses result in a particular difficulty or provide less than the highest and best return to the owner. The Zoning Board of Appeals may, upon application by the owner, grant variances authorizing otherwise prohibited uses if the applicant makes an affirmative showing that:
  - i. A dimensional variance will not relieve the exceptional difficulty or hardship;
  - ii. In view of the available alternatives, the public interest would be best served by permitting such use at the proposed location; and
  - iii. The public interest cannot reasonably be served by location of such use in a district in which it is permitted.
- d. Other Duties. The Zoning Board of Appeals shall hear and decide all matters referred to it and upon which it shall be required to pass under any provision of these regulations or the Connecticut General Statutes.

ZONING REGULATIONS

*415 Attachment 3*

**Town of Winchester**

**Appendix C  
Zoning Map  
[Amended 7-24-2017]**

The boundaries of districts established hereunder are shown on certain maps entitled, “Zoning Map City of Winsted Winchester Connecticut Scale one inch equals 1600 feet Map 1 of 2” and “Zoning Map Winchester Central Business District Winchester Connecticut Scale one inch equals 800 feet Map 2 of 2,” both approved November 7, 2016, as now or hereafter amended, referred to in these regulations as the “Official Zoning Map” or “Zoning Maps.” The Official Zoning Map is hereby declared part of these regulations. When, in accordance with the provisions of these regulations, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map, together with an entry on the Official Zoning Map, in the “Revision” block, indicating the revision number, the designation of the old zone, the designation of the new zone, the effective date of the revision and the initials of the Chairman of the Commission. The Official Zoning Map shall be filed in the Office of the Town Clerk, and an updated copy shall be displayed in the office of the Commission.



# **DERIVATION TABLE**





## Chapter DT

### DERIVATION TABLE

#### § DT-1. Derivation Table.

**In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where the sections of the former compilation of Town ordinances have been included in the 2022 Code, or the reason for exclusion.**

#### § DT-1. Derivation Table.

##### KEY:

- NCM = Not Code material (legislation is not general or permanent in nature).  
 REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.  
 NI = Not included in Code but saved from repeal.  
 NLP = New legislation is pending.

| Section From Ordinance Compilation                                          | Location in 2022 Code     |
|-----------------------------------------------------------------------------|---------------------------|
| Section 1, Signs and awnings                                                | REP                       |
| Section 2, Door not to swing over sidewalk                                  | Ch. 340, Art. II          |
| Section 3, Structures, encroachments and excavations endangering the public | Ch. 274                   |
| Section 4, Excavation in street, highway and sidewalk                       | Ch. 340, Art. I           |
| Section 5, Hatchway entrance through sidewalk                               | Ch. 340, Art. III         |
| Section 6, Supervision of sidewalks                                         | Ch. 340, Art. IV          |
| Section 7, Snow, plantings and debris removal from sidewalks                | Ch. 340, Art. V, § 340-13 |
| Section 8, Sanding ice-covered sidewalks                                    | Ch. 340, Art. V, § 340-14 |
| Section 9, Meddling with water works                                        | Ch. 285, Art. III         |
| Section 10, Operation of vehicles on sidewalks                              | Ch. 367, Art. VII         |
| Section 11, Loitering                                                       | REP                       |
| Section 12a, Peddling                                                       | Ch. 288, Art. II          |
| Section 12b, Solicitors of orders for future delivery                       | Ch. 288, Art. III         |
| Section 12c, Itinerant vendors and auctioneers                              | Ch. 288, Art. IV          |
| Section 13, Display of merchandise                                          | Ch. 288, Art. I           |

| Section From Ordinance Compilation                                 | Location in 2022 Code                                                                         |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Section 14, Distribution of advertising and newspapers             | Ch. 165                                                                                       |
| Section 15, Sale of alcoholic liquor near recreation grounds       | Ch. 172, Art. I                                                                               |
| Section 16, Sunday sale of alcoholic liquor                        | Repealed effective 7-7-1986                                                                   |
| Section 17, Public billiard and pool rooms                         | Repealed effective 7-7-1986                                                                   |
| Section 18, Public exhibitions to be licensed                      | Ch. 207, Art. I                                                                               |
| Section 19, Carnivals and operation of Ferris wheels regulated     | Ch. 207, Art. II                                                                              |
| Section 20, Coasting on streets regulated                          | Ch. 285, Art. I                                                                               |
| Section 21, Ball playing in streets prohibited                     | Ch. 285, Art. II                                                                              |
| Section 22, Garbage District and disposition of garbage and refuse | Repealed effective 3-31-1980                                                                  |
| Section 23, Keeping of swine regulated within City                 | Repealed effective 7-7-1986                                                                   |
| Section 24, Keeping of cattle regulated within City                | Repealed effective 7-7-1986                                                                   |
| Section 25, Inspection of meat                                     | Repealed effective 4-15-1977                                                                  |
| Section 26, Food inspection; sale of food regulated                | Repealed effective 9-1-1977                                                                   |
| Section 27, Junk dealers, licensing of                             | Ch. 249                                                                                       |
| Section 28, Fire District                                          | Repealed effective 4-15-1977                                                                  |
| Section 29, Penalty                                                | Ch. 285, Art. II; Ch. 285, Art. III;<br>Ch. 288, Art. I; Ch. 340, Art. II; Ch.<br>340, Art. V |
| Section 30, Recreation Board created and powers granted            | Ch. 118                                                                                       |
| Section 31, Town dump                                              | Repealed effective 4-15-1977                                                                  |
| Section 32, New streets and highways: opening and acceptance       | Repealed effective 4-15-1977                                                                  |
| Section 33, Selectmen's meetings                                   | Ch. 130, Art. I                                                                               |
| Section 34, Parking Meter Ordinance                                | Repealed effective 7-7-1986                                                                   |
| Section 35, Sale and distribution of milk regulated                | Repealed effective 9-1-1977                                                                   |
| Section 36, Traffic at fire, or alarm of fire, regulated           | Ch. 367, Art. II                                                                              |
| Section 37, Mechanical amusement devices regulated                 | Ch. 175                                                                                       |
| Section 38, Building Code                                          | Repealed effective 4-15-1977                                                                  |

| Section From Ordinance Compilation                                                                                                                                                  | Location in 2022 Code         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Section 39, Building permit fees                                                                                                                                                    | See Ch. 195, Art. I           |
| Section 40, Parking on streets regulated                                                                                                                                            | Ch. 367, Art. III             |
| Section 41, Parking in municipal parking lots regulated                                                                                                                             | Ch. 367, Art. I               |
| Section 42, Collection and transportation of garbage regulated                                                                                                                      | Ch. 373, Art. I               |
| Section 43, Operation of watercraft at Highland Lake regulated                                                                                                                      | Ch. 240, Art. I               |
| Section 44, Registration of motorboats at Highland Lake regulated                                                                                                                   | Repealed effective 4-15-1977  |
| Section 45, Consumption of intoxicating beverages in parks regulated                                                                                                                | Repealed effective 11-4-1995  |
| Section 46, Planning Commission created                                                                                                                                             | REP; see Ch. 103              |
| Section 47, Designation of Planning Commission as the Planning and Zoning Commission                                                                                                | REP; see Ch. 103              |
| Section 48, Zoning Board of Appeals regulated                                                                                                                                       | Ch. 155                       |
| Section 49, Sewer Ordinance                                                                                                                                                         | Ch. 323                       |
| Section 50, Parking on sidewalks prohibited                                                                                                                                         | Ch. 367, Art. IV              |
| Section 51, Parking in alleys and private roads regulated                                                                                                                           | Ch. 367, Art. V               |
| Section 52, Authority to impound                                                                                                                                                    | Ch. 367, Art. VI              |
| Section 53, Development and Industrial Commission established                                                                                                                       | Ch. 30, § 30-1                |
| Section 54, Flood and Erosion Control Board established                                                                                                                             | Repealed effective 9-21-1984  |
| Section 55, Redevelopment Agency created                                                                                                                                            | Repealed effective 10-10-1984 |
| Section 56, Parking Authority created                                                                                                                                               | Ch. 96                        |
| Section 57, Alternative members of Planning and Zoning Commission provided for                                                                                                      | REP; see Ch. 103              |
| Section 58, Number of Justices of the Peace regulated                                                                                                                               | Ch. 63                        |
| Section 59, Ordinances Prohibiting the peddling of soft drinks, candy, cakes, fruits, pastries, ice cream, or food of any description to school children in the vicinity of schools | Ch. 288, Art. V               |
| Section 60, Uniform fiscal year                                                                                                                                                     | Ch. 40, Art. I                |

| Section From Ordinance Compilation                                                                                     | Location in 2022 Code         |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| Section 61, Payment of taxes                                                                                           | Ch. 350, Art. I               |
| Section 62, Board for Admission of Electors                                                                            | Ch. 33, Art. I                |
| Section 63, Ordinance establishing a retirement plan for the Town employees                                            | Ch. 91, Art. I                |
| Section 64, Ordinance creating a Sewer Authority                                                                       | Ch. 136                       |
| Section 65, Ordinance regulating hours of parks and beaches at Highland Lake                                           | Ch. 240, Art. II              |
| Section 66, Ordinance authorizing participation in regional planning                                                   | Repealed effective 4-28-1980  |
| Section 67, Housing Code                                                                                               | Repealed effective 3-8-1982   |
| Section 68, Intention of Town to join with interested municipalities in the formation of a Regional Airport Commission | REP                           |
| Section 69, Conservation Commission established                                                                        | Ch. 16                        |
| Section 70, Abandoning and storage of junked vehicles prohibited; removal of same                                      | Ch. 297, Art. I               |
| Section 71, Installation of private fire alarm systems in apartment houses, convalescent homes and nursing homes       | REP                           |
| Section 72, Coordinating Commission established                                                                        | Ch. 19                        |
| Section 73, Housing Authority established                                                                              | Ch. 52                        |
| Section 74, Annual budget meeting                                                                                      | REP                           |
| Section 75, Regional Refuse Disposal District established                                                              | Ch. 373, Art. II              |
| Section 76, Development Agency established                                                                             | Ch. 30, § 30-2                |
| Section 77, Operating of snowmobiles or all-terrain vehicles at Highland Lake regulated                                | Ch. 240, Art. III             |
| Section 78, Sewer charges                                                                                              | Repealed effective 10-28-1987 |
| Sections 79 to 84, Bylaws and rules of Town cemeteries                                                                 | Repealed 9-4-2012             |
| Sections 85 to 99, Water                                                                                               | Ch. 377, § 377-1 - § 377-15   |
| Section 100, Rates for water                                                                                           | Repealed 5-6-2013             |
| Section 101, Extensions of service                                                                                     | Ch. 377, § 377-16             |

| Section From Ordinance Compilation                                                               | Location in 2022 Code       |
|--------------------------------------------------------------------------------------------------|-----------------------------|
| Sections 102 to 112, Fire Department and Fire Districts                                          | Ch. 43, Art. I              |
| Section 113, Ordinance regulating dogs                                                           | Ch. 178, Art. I             |
| Section 114, Ordinance creating an Inland Wetlands and Watercourse Agency                        | Ch. 58, Art. I              |
| Section 115, Ordinance regulating rooming houses                                                 | Ch. 310                     |
| Section 116, Ordinance for the regulation of special events                                      | Ch. 334                     |
| Section 117, Ambulance service                                                                   | Ch. 5                       |
| Section 118, Ordinance exempting solar energy heating or cooling assessment                      | Ch. 350, Art. II            |
| Section 119, Flood damage prevention                                                             | Ch. 231                     |
| Section 120, Street numbers                                                                      | Ch. 199                     |
| Section 121, Disposition of garbage and refuse                                                   | Ch. 258                     |
| Section 122, Withdrawal from Litchfield Hills Regional Planning Agency                           | NCM                         |
| Section 123, Municipal liability for ice and snow on public sidewalks                            | Ch. 340, Art. VI            |
| Section 124, Property Maintenance Code                                                           | Ch. 297, Art. II            |
| Section 125, Waiver of minimum taxes                                                             | Ch. 350, Art. III           |
| Section 126, Municipal District and Convention and Visitors Commission for Northwest Connecticut | Ch. 144                     |
| Section 127, Penalties for violations of parking regulations                                     | Ch. 367, Art. VIII          |
| Section 128, Regulation of conduct at recreation facilities                                      | Ch. 281, Art. I             |
| Section 129, Laurel City Commission                                                              | Ch. 69                      |
| Section 130, Ordinance for the regulation of trash and rubbish dumpsters                         | Ch. 373, Art. III           |
| Section 131, Highland Lake Commission                                                            | Repealed effective 4-7-1997 |
| Section 132, Adoption of Code of Ethics                                                          | Ch. 36                      |
| Section 133, Bazaars and raffles                                                                 | Ch. 182                     |
| Section 134, Health standards for volunteer firefighters                                         | Ch. 43, Art. II             |

| Section From Ordinance Compilation                                                                    | Location in 2022 Code |
|-------------------------------------------------------------------------------------------------------|-----------------------|
| Section 135, Town of Winchester membership in the Northwest Hills Council of Governments              | Ch. 84                |
| Section 136, Possession of opened containers of alcoholic beverages prohibited                        | Ch. 172, Art. II      |
| Section 137, Soldiers' Monument Commission created and powers granted                                 | Ch. 140               |
| Section 138, Bicycle ordinance                                                                        | Ch. 186, Art. I       |
| Section 139, Highland Lake, protection of quality of water at regulation of activities on said waters | Ch. 240, Art. IV      |
| Section 140, Additional tax assessment exemption for the blind                                        | Ch. 350, Art. IV      |
| Section 141, Trucks on Case Avenue                                                                    | Ch. 367, Art. IX      |
| Section 142, Driveway ordinance                                                                       | Ch. 222               |
| Section 143, Ordinance regulating business establishments which allow adults to carry in alcohol      | Ch. 172, Art. III     |
| Section 144, Disposition of found, claimed, and unclaimed property by Winchester Police Department    | Ch. 107, Art. I       |
| Section 145, Town Clerk: adaptation of salary provisions and Personnel Code                           | Repealed 5-18-1992    |
| Section 146, Rental conditions, certificate of apartment occupancy                                    | Ch. 305               |
| Section 147, Town procurement                                                                         | Ch. 111               |
| Section 148, Senior Citizens Commission                                                               | Ch. 133               |
| Section 149, Planning and Zoning Commission application fees                                          | REP; see Ch. 103      |
| Section 150, Blasting ordinance                                                                       | Ch. 190               |
| Section 151, Fire alarms                                                                              | Ch. 169, Art. I       |
| Section 152, Citation hearing procedure                                                               | Ch. 215, Art. I       |
| Section 153, Publication of proposed changes to the regulations of Town boards and commissions        | Ch. 87, Art. I        |
| Section 154, Alarm systems                                                                            | Ch. 169, Art. II      |
| Section 155, Ordinance exempting specially adapted motor vehicle from personal property taxation      | Ch. 350, Art. V       |

| Section From Ordinance Compilation                                                                                                                                                                                                                                                                   | Location in 2022 Code |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Section 156, Ordinance to allow total exemption for residence with respect to which veteran has received assistance for special adapted housing under Title 38 of United States Code and also under the State of Connecticut, "Laws Affecting Veterans and Their Dependents", Section 12-81 [21-(c)] | Ch. 350, Art. VI      |
| Section 157, Polystyrene food containers and packaging                                                                                                                                                                                                                                               | Ch. 294               |
| Section 158, Local Veterans Advisory Committee                                                                                                                                                                                                                                                       | Ch. 77                |
| Section 159, Swimming pools - inaccessible to small children                                                                                                                                                                                                                                         | Ch. 345               |
| Section 160, Shade Tree Committee                                                                                                                                                                                                                                                                    | Ch. 356               |
| Section 161, Ordinance to insure compliance with Section 1703 of the Charter of the Town of Winchester                                                                                                                                                                                               | Repealed 12-20-1993   |
| Section 162, Docks, swim flats, boat lifts, walkways, personal watercraft lifts/floats, mooring buoys and markers at public bodies of water within the Town of Winchester                                                                                                                            | Ch. 380               |
| Section 163, Motorized recreation vehicles                                                                                                                                                                                                                                                           | Ch. 367, Art. X       |
| Section 164, Naming of streets                                                                                                                                                                                                                                                                       | Ch. 340, Art. VII     |
| Section 165, Open burning upon the waters of Highland Lake prohibited                                                                                                                                                                                                                                | Ch. 240, Art. V       |
| Section 166, Attendance at board and commission meetings                                                                                                                                                                                                                                             | Ch. 81, Art. I        |
| Section 167, Use of Town vehicles                                                                                                                                                                                                                                                                    | Ch. 148               |
| Section 168, Discharging firearms prohibited - exemptions                                                                                                                                                                                                                                            | Ch. 228               |
| Section 169, Concerning persons owing past due property taxes                                                                                                                                                                                                                                        | Ch. 40, Art. II       |
| Section 170, Concerning property on which property taxes are past due                                                                                                                                                                                                                                | Ch. 255, Art. I       |
| Section 171, Redevelopment Agency                                                                                                                                                                                                                                                                    | Ch. 121               |
| Section 172, Civil Service Board                                                                                                                                                                                                                                                                     | Ch. 12                |
| Section 173, Highland Lake winter events                                                                                                                                                                                                                                                             | Ch. 240, Art. VI      |

| Section From Ordinance Compilation                                                                                                                                       | Location in 2022 Code |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Section 174, An ordinance authorizing tax exempt status for property of the former Winsted Memorial Hospital leased to non-profit hospital and health care organizations | Ch. 350, Art. VII     |
| Section 175, Commission for Persons with Disabilities                                                                                                                    | Ch. 99                |
| Section 176, The sale of town owned property                                                                                                                             | Ch. 145, Art. I       |
| Section 177, Tax exempt property                                                                                                                                         | Ch. 350, Art. VIII    |
| Section 178, Auger ordinance                                                                                                                                             | Ch. 240, Art. VII     |
| Section 179, Adult entertainment ordinance                                                                                                                               | Ch. 162               |
| Section 180, Anti-blight ordinance                                                                                                                                       | Ch. 297, Art. III     |
| Section 181, Underage drinking                                                                                                                                           | Ch. 172, Art. IV      |
| Section 182, Skateboards, in-line skates and scooters                                                                                                                    | Ch. 186, Art. II      |
| Section 183, Rules of order for Annual Town Budget Meeting                                                                                                               | Ch. 40, Art. III      |
| Section 184, Scenic road ordinance                                                                                                                                       | Ch. 319               |
| Section 185, Senior citizen and disabled persons tax relief regulations                                                                                                  | Ch. 350, Art. IX      |
| Section 186, Open burning                                                                                                                                                | Ch. 203               |
| Section 187, Inland Wetlands and Watercourses Agency fees                                                                                                                | Ch. 58, Art. II       |
| Section 188, Senior citizen tax freeze                                                                                                                                   | Ch. 350, Art. X       |
| Section 189, Citation fines and procedures for zoning violations                                                                                                         | Ch. 215, Art. II      |
| Section 190, Citation fines and procedures for inland wetlands and watercourses violations                                                                               | Ch. 215, Art. III     |
| Section 191, Removal of officers                                                                                                                                         | Ch. 91, Art. II       |
| Section 192, Tax abatement for housing of low or moderate income persons                                                                                                 | Ch. 350, Art. XI      |
| Section 193, Naming of Town facilities                                                                                                                                   | Ch. 145, Art. II      |
| Section 194, Cemetery rules and regulations                                                                                                                              | Ch. 211               |
| Section 195, Noise regulation                                                                                                                                            | Ch. 270               |
| Section 196, Motor vehicle delinquency fee                                                                                                                               | Ch. 350, Art. XII     |



# **DISPOSITION LIST**



## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Winchester adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2023 publication of the Code was an ordinance adopted December 5, 2022.

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#### § DL-1. Disposition of legislation.

##### KEY:

BOS            =    Board of Selectmen  
 ConCom      =    Conservation Commission  
 PZC           =    Planning and Zoning Commission  
 TM            =    Town Meeting

| Adopted by | Adoption Date | Subject | Disposition | Supp. No. |
|------------|---------------|---------|-------------|-----------|
|            |               |         |             |           |



# INDEX

