

BYLAWS OF THE TOWN OF WINCHENDON



Amended as of May 17, 2021

BYLAWS OF THE TOWN OF WINCHENDON

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Except when otherwise indicated or provided by law, prosecutions for offenses under the bylaws of the Town may be made by any police officer of the Town.

ARTICLE 1 TOWN MEETING

SECTION 1.1: NOTICE: SERVICE OF WARRANT

Every Town Meeting shall be notified by posting attested copies of the warrant calling the same at the Town Hall, Library and in a public place in each precinct in Winchendon at least seven days before the Annual Town Meeting and at least fourteen days before a Special Town Meeting. A postcard with information on how and where a copy of the warrant can be obtained and where it can be viewed (electronically and/or in person) shall be mailed to each household owned or occupied by a registered voter of the Town. Immediately upon the posting of the warrant, copies shall be provided to citizens on request and the warrant shall be posted on any Town electronic bulletin board and on the Town website. (Approved February 7, 1922) (Amended June 14, 1999 and May 17, 2021)

SECTION 1.2: ANNUAL ELECTION AND TOWN MEETING DATES

The annual town election shall be held on the first Monday in May. The annual town meeting for appropriating such sums of money as may be necessary for town purposes, and for transacting such other business as may legally be brought before it, shall be held no earlier than the first Monday in May and no later than the second Monday in June at a date to be determined by the Board of Selectmen.

SECTION 1.3: RULES OF TOWN MEETINGS

1. All questions submitted for the consideration of the town shall be in writing when so required by the Moderator.
2. Massachusetts General Laws specifically exempt the town meeting from the "Open Meeting Law". To ensure proper voting procedures, a person who is neither a registered voter nor a town official, shall be restricted to a clearly defined section of the hall
3. The powers and duties of the presiding officer not especially provided for by law, or this Bylaw or by the foregoing rules, shall be determined by the rules of practice contained in "Roberts Rules of Order," so far as they are adapted to the conditions and powers of the town.
4. A motion to reconsider a vote already taken, may be made only for a bona fide reason, as determined by the Moderator, such as information that was not known to the meeting at the time the vote was taken or the effect of subsequent meeting action. Passage of a motion to reconsider will require a simple majority if the action is moved within one hour of meeting time after the original vote and a two-thirds vote if moved thereafter. No vote may be reconsidered more than once.
5. On matters requiring a two-thirds vote by statute a count need not be taken. (Amended 5/11/19)

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SECTION 1.4: QUORUM (Amended 3/98)

The number of voters necessary to constitute a quorum at any town meeting shall be not less than seventy-five (75) persons currently registered as voters of the Town of Winchendon; provided, however, that a number less than a quorum may, from time to time, adjourn the meeting.

ARTICLE 2

TOWN ADMINISTRATION, GENERAL GOVERNMENT AND ENFORCEMENT

SECTION 2.1: FINANCIAL YEAR

The financial year of the town shall begin with the first day of July in each year and end on the thirtieth day of the following June.

SECTION 2.2: WRITTEN REPORTS

All departments of the town shall annually make a written report to the Selectmen and the Selectmen shall cause the same to be printed in the Annual Town Report.

SECTION 2.3: PUBLICATION OF VALUATION AND TAXES

The Board of Assessors shall cause to be published annually a list of the Valuation and Taxes of the Town which will be available for public viewing at the office of the Board of Assessors.

SECTION 2.4: COMPENSATION

Except as provided by Massachusetts General Law, members of all appointed Boards or Committees shall serve without compensation.

SECTION 2.5: FEES

All Town Officers shall pay into the Town Treasury all fees received by them by virtue of their office.

SECTION 2.6: ACTIONS AT LAW

The Board of Selectmen shall have full authority, as agents of the town, to institute and prosecute suits in the name of the town, and appear for and defend suits brought against it.

SECTION 2.7: CONVEYANCING

Whenever it shall be necessary to execute any deed conveying land or any other instrument required to carry into effect any vote of the town, the same shall be executed by the Board of Selectmen or a majority of them, in behalf of the town, unless the town shall otherwise vote in any special case.

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SECTION 2.8 : CHIEF PROCUREMENT OFFICER

Pursuant to the provisions of Chapter 30B, Section 2, of the Massachusetts General Laws, the Town Manager shall be designated and shall serve as the Chief Procurement Officer for the Town, its agencies and departments. (Adopted June 14, 1999) The Chief Procurement Officer is authorized to enter into contracts, leases, and other agreements for terms in excess of three years. (Sept. 30, 2002) only if said contracts, leases or other agreements are ratified by a majority vote of the Board of Selectmen.

SECTION 2.9: CAPITAL PLANNING COMMITTEE

(May 20, 2013)

A. Appointments. Consistent with the Winchendon Home Rule Charter, Section 2.3(d), the Committee shall be composed of five registered voters of the Town - one to be appointed by the moderator and one to be appointed by each of the following: Board of Selectmen, School Committee, Finance Committee and Planning Board. The Committee shall choose a chairman. Appointments shall be made following the Annual Town Meeting, for the period beginning July 1 through June 30 of each year. Vacancies shall be filled in the manner of the original appointment for the remainder of the unexpired term; provided, however that if 30 days pass after notice of the vacancy has been provided to the respective appointing authority, the committee may fill the position under Section 7-8 of the Town Charter. Each appointing authority shall consider the qualifications of applicants for appointment, and who will best be able to represent both Town employees and taxpayers. If possible, appointees shall include registered voters who are familiar with and experienced with financial principles.

B. Duties and Responsibilities. The Committee shall consider the capital needs of the Town including both long term and more immediate needs. It shall evaluate, coordinate and prioritize proposed capital improvements and other outlays involving major assets and projects, including proposed gifts to the Town that would incur future operating costs. It shall determine the method of funding for each capital need. It shall advise the Town Manager and Town Meeting.

C. Characteristics of a Capital Project. A "capital project" is one that:

1. Will have a useful life of three or more years or will not recur within three years
2. Will cost at least \$10,000, whether spread over one or more years; provided further that large projects shall not be divided into smaller projects to avoid this threshold.
3. May include but not be limited to: the purchase of land; the erection of new buildings and alterations to existing buildings; the construction of and major repairs to infrastructure such as highways, water mains and stormwater systems; the purchase of vehicles, machinery and heavy equipment; or the purchase and installation of technology and communications equipment.

D. Review of Capital Projects. All proposed Capital Projects shall be reviewed by the Committee, and requests therefor may be submitted at any time. Such review is not necessarily dependent on the annual budget cycle, and shall occur regardless of whether the project is included within the annual Town operating budget, will be funded through a grant, or is a proposed gift that will later incur operating or maintenance costs. The Committee in examining the need for capital improvements shall evaluate the need for the project, the urgency of the need, and the affordability of the project.

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E. Project Requests and Financial Impact Statements. Capital Project requests may be submitted by any Town agency or as set forth in a petitioned warrant article, and shall, if submitted by a Town agency, be accompanied by an estimated initial capital cost and a financial impact statement detailing increased operating costs reasonably necessary for the project to accomplish its intended purpose. The Committee may request, but not require, additional information or that the project proponent attend a meeting of the committee.

F. Recommendations. The Committee shall recommend to the Town Manager a proposed annual capital budget and five-year capital plan, prioritizing the capital budget requests it has reviewed, and proposing funding sources therefor. Such recommendation shall, to the extent possible, be submitted well in advance of the deadline for submission of a capital budget as required by Section 5-7 of the Town Charter. Notwithstanding the provisions of this bylaw, however, failure of the Committee to review a proposed Capital Project or to make a recommendation with respect to the same, shall not prohibit inclusion of the same in the capital budget prepared by the Town Manager or action of the Town Meeting with respect thereto. The Committee shall report at Town Meeting its recommendation on each capital project included in the warrant.

SECTION 2.10: NOTICE OF VACANCIES

Notice of Vacancies— Whenever a vacancy occurs in any Town agency, or in Town employment or when by reasons of a retirement or the expiration of a fixed term of office a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of the vacancy or impending vacancy to be posted on the Town bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office or position and listing of the necessary or desirable qualifications for appointment to fill it. No permanent appointment to fill an office or position shall be effective until at least fourteen days shall have elapsed following the date the notice was first posted in order to permit reasonable consideration of all applicants. This section shall not apply to positions covered under the civil service law and rules or if in conflict with the terms of a collective bargaining agreement. This section shall not be construed so as to prevent the appointment of a temporary officer when the public need or good so requires.

SECTION 2.11: BUDGET SUBMISSION

The Town Manager shall submit his proposed annual operating budget, not less than 45 days prior to the date of the Annual Town Meeting as provided in Articles 4 and 5 of the Town Charter of the Town of Winchendon, Massachusetts, the initial submission of which shall represent a balanced budget, whereby the total proposed expenditures do not exceed the total estimated revenues for the corresponding fiscal year. (June 12, 2000)

SECTION 2.12: TELEVISING OF MEETINGS

All meetings of the Board of Selectmen, Board of Health, School Committee, Planning Board, Zoning Board of Appeals, Finance Committee, and Conservation Commission shall be broadcast live over the local cable television network, unless there are emergency conditions or some substantial reason not to hold a live broadcast. The meetings shall be taped/recorded and made available for a period of three months for the benefit of those who do not have Cable TV. Nothing contained in this article shall be so construed as to conflict with the requirements of M.G.L. Chapter 30A, s18 et seq. (June 12, 2000)

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SECTION 2.13: COORDINATION OF TOWN GOVERNMENT

In order to provide the opportunity for the exchange of views and of information concerning the activities, plans and undertaking of the various Townagencies whose powers, duties and responsibilities are interrelated, the Board of Selectmen shall meet not less than quarterly with the School Committee, and not less than annually with the Finance Committee; the School Committee shall meet not less than quarterly with the Board of Selectmen, not less than quarterly with the Town's representative to the Regional Vocational School district, and not less than annually with the Finance Committee. In the event such meetings are not otherwise scheduled the Town Clerk shall call such meetings.

SECTION 2.14: NON-CRIMINAL DISPOSITION

Any bylaw of the Town of Winchendon, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may at the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws. The non-criminal fine for each violation, if not otherwise specified, shall be \$25.00.

"Enforcing person" as used in this bylaw, shall mean: any Town of Winchendon police officer with respect to any offense; as well as the Building Commissioner, the Conservation Agent, the Health Agent, the Sealer of Weights and Measures, the Animal Control Officer and such other officials as the Board of Selectmen may designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

SECTION 2.15: PROSECUTION UNDER THE BYLAWS

The Selectmen, Town Manager, constables and police officers shall, have the authority to prosecute every violation of the foregoing Bylaws by complaint before the District Court in the County of Worcester, or any other court having jurisdiction.

SECTION 2.16: LIMITATION OF ACTION

No person shall be prosecuted or tried for any breach of the provisions of any bylaws of this town, unless complaint shall be instituted and commenced within six months from the time of committing such breach.

SECTION 2.17: PENALTIES

Unless specifically provided for by special provision of any bylaw, any person, firm or corporation violating or failing to comply with any provision of the Town Bylaws, including the Zoning Bylaws, shall be fined not less than \$1.00 nor more than \$50 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (1967)

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SECTION 2.18:

Any words used throughout these bylaws which impart the masculine gender shall be interpreted to include the feminine gender. (Adopted May 20, 1991)

ARTICLE 3 FINANCE COMMITTEE

SECTION 3.1

There shall be a Finance Committee, appointed by the Moderator, consisting of seven voters appointed for terms of three years each, which terms shall expire on June 30 and shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire each year. No person shall be eligible to membership who shall have the care, custody or expenditure of town funds, or the care, custody or disposal of town property, either as a town officer or member of any other committee, or an agent of such officer or committee.

SECTION 3.2

It shall be the duty of the Committee to investigate the financial affairs of the town, including receipts of and expenditures by the different departments, or any Town Officer; the methods in which the town business is conducted; the general conduct of the town affairs; and all the articles in town warrants for town meetings referred to it; and, in the discharge of its duties, shall have free access to all books of accounts, books of record and all accounts, bills, and vouchers on which money has been or may be paid from the town treasury. All articles that may hereafter be inserted in warrants for any town meetings, excepting articles for the choice of officers, are hereby referred to the Finance Committee.

SECTION 3.3

The Committee shall hold at least one public hearing to consider the articles in the warrant for each town meeting. The Selectmen shall, upon the closing of the warrant, notify the Finance Committee of its intention and the date thereof by letter; and the citizens of the town by a posting on the Town Hall bulletin board and the Town website of the subject matter of each of the articles that may be included therein, even if such is not yet in final form. A copy thereof shall be provided to any citizen on request. The Finance Committee upon receiving notice of the town meeting and after consultation with the Town Manager shall give at least five days notice of the required hearing by publication in a local newspaper. The required hearing shall be held no sooner than the fifth day following the closing of the warrant and no later than the day preceding the town meeting. Failure to comply with the requirements of this section shall not invalidate a special or annual town meeting called in accordance with the provisions of Section 1.1 and G.L. c 39, s. 10.

SECTION 3.4

The Committee shall report its recommendations on the articles in the warrant by including them in the mailed

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warrant for the town meeting or by a written document given to the voters at town meeting or verbally at the beginning of the consideration of each article. It may also report to the town meeting on any matters that it deems appropriate under an article for committee reports or a special article, if such is included in the warrant.

ARTICLE 4 BOARD OF HEALTH

There shall be a Board of Health, chosen as stated in the charter, consisting of five members serving for terms of three years each, which terms shall expire on the day after the adjournment of the Annual Town Meeting and shall be so arranged that as nearly an equal number of members as is possible shall expire each year.

The Board of Health shall have all the powers and duties conferred upon Boards of Health by General Laws and it shall have such additional powers and duties as may be authorized by the Charter, by Bylaw, or by other town meeting vote

ARTICLE 5 COUNCIL ON AGING

SECTION 5.1

There shall be a Council on Aging consisting of not less than seven (7) nor more than eleven (11) members to be appointed by the Board of Selectmen. The members shall be appointed for terms of three years to expire on June 30 and shall be so arranged that the terms of as nearly an equal number of members as is possible shall expire each year. The members of the Council shall be chosen from interested and representative groups in the Town.

SECTION 5.2

It shall be the duty of the Council to formulate and carry out programs designed to meet problems of the aging in coordination with programs of the Massachusetts Commission on Aging established under Massachusetts General Laws, Chapter 40, Section 8B.

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ARTICLE 6

GRAVEL AND SOIL REMOVAL (Rev. 10/20/97)

SECTION 6.1: PURPOSE

The purpose of this section is to protect the Town's natural resources due to the uncontrolled removal or redistribution of soils and earth materials. Unless otherwise provided for in this bylaw, this section shall not apply to the removal of less than nineteen (19) cubic yards of material from a lot for non-commercial purposes for maintenance or improvement of the lot or for excavation done in connection with the construction of a building or structure for which a valid building permit has been issued. This bylaw shall not apply to the removal of earth materials if required for constructing public ways or for constructing private ways and services in accordance with a subdivision plan approved or endorsed by the Planning Board, or in connection with the installation of a septic system approved by the Health Agent.

SECTION 6.2: GENERAL PROVISIONS

- A. Excavation, removal, stripping, or mining of any earth material or soil except as hereinafter permitted on any parcel of land, public or private, in Winchendon is prohibited without a permit from the Board of Selectmen.
- B. All earth removal operations in existence in Winchendon on the effective date of this section shall be subject to the requirements stated herein.
- C. An annual fee of One hundred dollars (\$100.00) or as determined by the Board of Selectmen shall be required for an earth removal permit.

SECTION 6.3: APPLICATION FOR SOIL, ROCK AND GRAVEL REMOVAL

All applicants for a Soil, Rock and Gravel Removal Permit must, at a minimum, submit the following materials to the Board of Selectmen:

- A. A plan or plans to scale, (1" = 40') prepared and stamped by a Registered Engineer and a Registered Land Surveyor, and subdivided into five acre lots showing the property lines of the parcel of land under consideration along with all abutters to the property, existing and final contours in two foot (2') elevation increments, existing and proposed final drainage of the site, including all culverts, streams, ponds, swamps, and siltation basins, and all wetlands pursuant to MGL Ch. 131, Sec. 40, means of entrance and egress from the property, locus map, and any other pertinent data deemed necessary by the Board of Selectmen.
- B. A complete list of the names and addresses of current abutters of the property where such removal is proposed.
- C. An operation schedule showing the active area (not to exceed five (5) acres) where the removal will begin and also how the total parcel will be developed in progressive five (5) acre increments.
- D. The full legal name and address of the owner of record, the operator of the removal

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operation and of the applicant.

SECTION 6.4: CONDITIONS

- A. Board of Selectmen may issue Soil, Rock and Gravel Removal Permits, and impose conditions thereon, in any location in which such use is allowed under the zoning by-law. If a special permit or variance from the Board of Appeals and/or Planning Board is necessary for said use, said zoning relief must have been obtained and (1) the appeal period has expired without the filing of an appeal or (2) any appeal filed has been resolved so that the zoning relief is upheld.
- B. All permits issued by the Board of Selectmen shall incorporate by reference any conditions imposed in any grant of zoning relief applicable to the site. No permit from the Board of Selectmen shall be deemed to override or supersede such zoning relief. The grant of a permit issued by the Board of Selectmen shall be an additional requirement which must be obtained prior to the commencement of the use or, for a use already in progress, upon the effective date of this by-law (January 1, 1998, or upon approval of the by-law by the Attorney General and publication as required by law, whichever is later).
- C. All permits issued by the Board of Selectmen shall incorporate by reference any conditions imposed in any grant of zoning relief applicable to the site. No permit from the Board of Selectmen shall be deemed to override or supersede such zoning relief. The grant of a permit issued by the Board of Selectmen shall be an additional requirement which must be obtained prior to the commencement of the use or, for a use already in progress, upon the effective date of this by-law (January 1, 1998, or upon approval of the by-law by the Attorney General and publication as required by law, whichever is later).
- D. The Board of Selectmen shall issue the permit for one (1) year. The Board may make the permit renewable for up to four (4) additional one (1) year terms; provided that any renewal for a one year term will only be allowed if: (1) the permit holder has complied with all terms and conditions of the Selectmen's permit and any special permit applicable to the operation; (2) the permit holder has paid all license fees on time. In any case, the Selectmen's permit may not extend past the expiration date of any applicable special permit.

SECTION 6.5: STANDARDS FOR REMOVAL AND RESTORATION

If the operation for which a permit is sought is subject to a special permit, all conditions contained in said special permit shall be part of the Selectmen's permit. The Board of Selectmen may impose additional conditions as long as said conditions do not conflict with conditions of the special permit.

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If the special permit contains no conditions, the Board of Selectmen shall impose conditions as to the following:

- A. Hours of operation, access limitations, safety precautions.
- B. Slopes, grades allowed in active area.
- C. Tree and stump removal, buffer zones, screening.
- D. Road maintenance/repair/restoration
- E. Site restoration

SECTION 6.6: SECURITY REQUIREMENTS

Upon approval of a permit, the applicant shall file with the Town Treasurer a bond or deposit of money in a form approved by the Board of Selectmen and Town Counsel in the minimum amount of five thousand dollars (\$5,000) per acre to be excavated, or other amount as deemed appropriate by the Board of Selectmen. After completion of the total project, and at the applicant's written request, the Board may grant a partial release of any security posted by the applicant. One (1) year after such a partial release is granted and if in the opinion of the Board of Appeals no damage or deterioration to the finished project has developed, the Board will issue a final release of the security. If, during the year following the date of a partial release, slumping, gullying, erosion, or any other unsatisfactory condition appears, the applicant shall be responsible for and shall make any necessary repairs before final release of security is granted. If the applicant fails to make such repairs, the Board may cause the work to be done using the bond or deposit. Any bonding agent shall be required to give the Board, by Registered or Certified Mail, a sixty (60) day notice prior to any termination or cancellation of the bond.

SECTION 6.7: ENFORCEMENT

- A. The permit shall be considered a non-transferable revocable permit to remove earth materials. If it is found that incorrect information was submitted in the application, or that conditions of the permit are being violated, or that the governing regulations are not being followed, the permit shall be suspended until all provisions have been met and a plan to remedy violations submitted to and approved by the Board of Selectmen. Failure of the permit holder to comply within any time specified by the Board of Selectmen for correction of violations shall cause the permit to be revoked.

Fines may be imposed for the violation of any of the terms and conditions of the permit. Fines shall be \$100 for the first offense and \$200 for the second and any subsequent offenses or the maximum allowed by law. The terms and conditions of the permit may be enforced by the Board of Selectmen, Town Manager, or Building Commissioner.

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ARTICLE 7 HIGHWAY AND POLICE REGULATIONS

SECTION 7.1

No building shall be removed over a public street without the written permission of the Selectmen.

SECTION 7.2

The owner of such building, or the person or persons removing the same, shall give bond in such penal sum and with such sureties as the Selectmen shall determine, with conditions to reimburse the town for all sums of money which it may be liable or compelled to pay in consequence of such use of the highway.

SECTION 7.3

No persons except the Selectmen or the town officers having charge of highways, in the lawful performance of their duties, or of those acting under their orders, shall break or dig up ground in any street or public way in the town, without first obtaining a written permit from the Selectmen; and all persons acting under such permit shall put up and maintain suitable railing or fence around the part of the street so broken up, so long as the same shall remain unsafe or inconvenient for travelers, and post such bond as the Selectmen may require to secure the proper completion of such work keep one or more lights, reflective barrels, or other such devices placed around the sections dug up so long as such street or way shall be or remain unsafe or inconvenient; and post such bond as the Selectmen may require to secure the proper completion of such work. (Amended May 20, 1991)

SECTION 7.4

No person shall ride or drive a horse in any street or way in the town at a rate faster than eight miles an hour.

SECTION 7.5

No person shall use any Town sidewalk to propel, drive, wheel or haul any self-propelled or motorized vehicles. This shall include, but is not limited to bicycles, tricycles, carts, roller skates, or skateboards so as to impede pedestrian traffic. Carriages, strollers, motorized wheelchairs, or similar equipment used for the transportation of infants, the elderly, or disabled persons are exempt. Livestock shall not be driven over, tethered, or otherwise allowed to obstruct any town sidewalk. (Amended May 20, 1991)

SECTION 7.6

No person shall hitch or fasten any horse to any ornamental tree standing or growing on or near any sidewalk, or to the boxing or guard about said tree without the consent of the owner thereof.

SECTION 7.7

No person shall, without a written license from the Board of Selectmen, place or cause to be placed, or suffer to remain within the limits of a street or upon any sidewalk, any obstruction whatsoever. Any person who is licensed to place a construction lean-to or similar temporary structure on or partly on a town sidewalk so that the remaining sidewalk is less than five feet in width shall be responsible for prompt removal of snow or any other

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material which obstructs the remaining sidewalk. The Board of Selectmen may temporarily prohibit vehicle parking next to such a construction area. They may also require the licensee to install temporary ramps or other structures so as to allow persons with disabilities to negotiate the area.

SECTION 7.8

Loud crying of wares or merchandise, or hallooing, hooting, or making loud and unseemly noises, or distributing handbills or other papers, on public street or square of the town, to the annoyance of the citizens, is prohibited.

SECTION 7.9

No persons shall behave in a rude, indecent, or disorderly manner, or use profane, indecent or insulting language in any public place or on any sidewalk or street in the town, to the disturbance of any other person there being or passing in a peaceful manner, or be, or remain upon any sidewalk, street or crossing, or about doorways or places of business, to the annoyance or disturbance of any person.

SECTION 7.10

Three or more persons shall not continue to stand or remain in a group, near to each other, on any sidewalk or street or crossing, or in any public place, in such a manner as to obstruct a free passage for foot passengers, after having been requested to move on.

SECTION 7.11

No persons shall be or remain in any doorway or upon any stairs, door-step, portico, or other projection, from any house or building, or upon any wall or fence on or near any street or public place after having been requested by the owner or occupant of the premises or by any constable or police officer to remove therefrom.

SECTION 7.12

No person shall make any figure, or write, paint, print or cut any word or words upon or deface any public property or property of another.

SECTION 7.13

No persons shall extinguish any street light, or extinguish or remove any light placed to denote any obstruction or a defect in any street or way, without proper authority.

SECTION 7.14

Sledding on any of the public streets of the town is prohibited.

SECTION 7.15 REPAIR OF PRIVATE WAYS

Upon receipt of a petition signed by a majority of the abutters on a private way, or by ten such abutters, whichever number shall be the lesser, the Town Manager, with the recommendation of the DPW Superintendent shall make a determination whether temporary repairs are required by public necessity. If it is determined that such repairs are necessary the Town shall make the same which shall be limited to the filling of holes in the subsurface of such

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ways and repair to the surface materials thereof except that drainage facilities may be provided or improved where public safety requires the same. These provisions shall not be applicable to any private way which shall not have been open to public use for a period of at least six consecutive years. The Town shall not be liable for damage caused by such repairs to any greater extent than if such work was done on a public way.

SECTION 7.16 REMOVAL OR TRIMMING OF TREES

Whenever the Town shall remove or trim trees and other vegetation located within the highway limits or on land of an adjoining owner, the materials so removed shall become the property of said owner, or if the owner indicates he does not want said materials, the department responsible for its cutting shall dispose of the same by public sale or sealed bid after giving at least seven days notice of such sale by posting at the Town Hall, except that if the value of the material shall be estimated to be less than fifty dollars, it may be sold, or otherwise disposed of, without such notice and in such manner as the department may determine.

SECTION 7.17 STREET NAMES AND NUMBERS Street numbers shall be attached to each dwelling, business, industry and other building in the Town of Winchendon.

The number shall be made of permanent, weather-proof materials, in a color contrasting with the background, shall be at least three (3) inches in height, and shall be clearly visible from the street or roadway upon which the structure fronts.

Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway that services such structure.

The numbers posted shall be those assigned to each structure by the Planning Board . The Planning Board shall advise the owners of the property of any changed number in writing within thirty days. If a building has not had a number assigned to it, the Planning Board will do so within thirty days after the request. The board shall send copies of any such notice to the town clerk, the assessors, the police department, the fire department and the building commissioner in case of changes or new assignments of numbers to existing structures.

It shall be the responsibility of each property owner in the Town of Winchendon to obtain, display and maintain the assigned street number.

This bylaw shall be enforced by the Police Department. Failure to comply with this bylaw shall subject property owners to a fine of twenty-five dollars (\$25) for each offense. Each day shall constitute a separate offense.

The names of all new or existing ways, whether public or private, shall be approved by the planning board. No sign which appears to indicate a street name shall be placed or remain so as to mark any street, way, or driveway with a name other than that approved by the planning board for that street or way.

If the planning board feels the name of any existing street or way, public or private, is so similar to that of another way that the similarity may lead to confusion particularly in the dispatch of emergency personnel, or

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that the numbering of the properties on such a way is likely to cause confusion to persons seeking a particular address, the board may propose to change the name or numbering of such street or way and hold a public hearing thereon. Notice of The hearing shall be given by publication once in each of two successive weeks in a local newspaper the first publication to be at least fourteen days before the hearing, by posting a copy on the town hall bulletin board at least fourteen days before the hearing, and by mailing a notice thereof to each household/business likely to be affected thereby as shown by the most recent street listing. If, after the hearing, the board finds the public safety and convenience so require, it shall order the change, forthwith file a copy of the order effecting the change in the office of the town clerk, and cause a copy thereof to be filed in the Worcester registry of deeds. Copies of the order shall be provided to the assessors, the police department, the fire department, the Department of Public Works, and the building commissioner. If a street name is changed, the Department of Public Works shall, within thirty days, place street signs showing the new street or way at each intersection with another street. If the street affected is not a public way, the cost of such signs may be assessed upon the owner of the way.

SECTION 7.18 WINTER BAN Parking is prohibited on all public ways between the hours of 11:00 p.m. and 6:00 a.m., annually from December 1st through April 15th. In addition, any vehicle, other than one acting in an emergency, parked, day or night, on any street in the Town, so as to interfere with the work of removing or plowing snow, removing ice, or sanding the street may be removed or towed away under the authority, discretion and direction of the Chief of Police or the Chief's designee. The registered owner of a motor vehicle which is removed pursuant to this bylaw shall be fully responsible for all charges and expenses incurred for the removal and storage of said motor vehicle. (May 21, 2012)

SECTION 7.19 SNOW AND ICE REMOVAL No person, other than an employee of the Town acting in an official capacity, shall direct, discharge, dump, plow, blow, shovel, or deposit snow, ice, or water subject to freezing onto, into, or across any sidewalk or public way, or cause, direct, sanction, or authorize any such activity involving snow, ice, or water on a sidewalk or public way. Violation of this Bylaw shall be punishable by a fine of \$25 for the first offense, \$50 for a second offense, and \$100 for each subsequent offense. "Enforcing persons" for purposes of this Bylaw shall be the Public Works Director and any police officer of the Town of Winchendon. (May 21, 2012)

SECTION 7.20 DISCHARGE OF WATER ONTO TOWN WAYS OR TO THE SANITARY SEWAGE SYSTEM No owner of a property or building, or his agent having care thereof, shall cause, pump or direct water, in any form, from said property or the building itself, including the roof, onto or across any sidewalk or public way in such a manner as to affect the public safety or create a public nuisance.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer unless permitted to do so by the Public Works Director.

Violation of this Bylaw shall be punishable by a fine of \$25 for the first offense, \$50 for a second offense, and \$100 for each subsequent offense. "Enforcing persons" for purposes of this Bylaw shall be the Public Works Director and any Police Officer of the Town of Winchendon. (May 21, 2012)

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ARTICLE 8

LITTERING BY-LAW (May 20, 2013)

No person shall throw, discard, deposit, or abandon upon any public way or other property owned by the Town or on the property of another any litter, except in a designated waste receptacle or as may otherwise be directed by the Town or the property owner. For purposes of this bylaw, the term "litter" shall include but is not limited to: paper wrappers; paper bags; paper towels or napkins; paper or plastic cups; cup lids; plastic bags; plastic or glass bottles; beverage cans; cigarette butts; cigarette packs; gum packs; tissues; fruit skins and containers; and any other items that would be considered trash. Enforcement: The provisions of this bylaw may be enforced by the Agent of the Board of Health and any Police Officer of the Town of Winchendon, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to M.G.L. c. 40 §21D. Each day a violation exists shall constitute a separate offense. For the purposes of non-criminal disposition, the following fine schedule shall apply:

First offense: \$ 50.00

Second offense: \$ 250.00

Third and each subsequent offense: \$ 300.00

ARTICLE 9

REGULATING CEMETERY TRUST FUNDS

SECTION 9.1

The Town of Winchendon may take and hold any gift, grant, donation, or bequest of any money or property upon trust, and apply the same, or the income thereof, for the improvement or embellishment of any cemetery or burial place in said town, or for the preservation or renewal of any monument, fence or other erection, or for the planting and cultivation of any trees, shrubs or plants, in or around any lot or for improving any cemetery or burial place, or either of them in any manner and form consistent with the purposes for which said gift, grant, donation, or bequest may have been made.

SECTION 9.2

Whenever any such gift, grant, donation or bequest shall be made to the Town by the owner of any lot or lots in any burial ground or cemetery in the Town for the repair, preservation or embellishment of any such lot or lots, or the erections thereon, the Town, acting through the Town Manager, shall give to such owner, or his legal representatives, an agreement or obligation in such form as to bind the Town, to preserve and keep in repair such lots forever, or for such term and in such manner as may be designated by the grantor, to the extent of the income of such gift, grant, donation or bequest.

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SECTION 9.3

Any sum or sums of money so received by the Town, shall be invested in any securities in which the Town may invest under applicable law, as determined by the Town Collector/Treasurer, unless otherwise provided for by the terms of such gift, grant, donation, or bequest and the income thereof may, subject to town meeting appropriation, be expended in such manner as shall, in the opinion of the Town Manager or his designee, best promote the purposes for which such gift, grant, donation, or bequest shall have been made. Nothing herein contained shall be held to prevent the deposit of all such funds in a single account.

SECTION 9.4

The Town shall maintain a record of the names of each person making any such gift, grant, donation or bequest, together with the date of the same, the number of the lot or lots owned by such person and the identity of the fund or account in which the same shall be invested.

SECTION 9.5

The Town Treasurer shall at all times be the custodian of the funds, and the income thereof, and shall keep proper records thereof and pay out such funds in accordance with the provisions of the law relating to town expenditures.

ARTICLE 10 PERSONNEL ADMINISTRATION

The Town Manager is responsible for all Town personnel and its administration consistent with MGL, Charter and Town Bylaws.

*Editor's Note: Personnel policies and procedures are adopted by the Board of Selectmen from time to time and are on file with the Town Clerk.

ARTICLE 11 WATER DEPARTMENT ASSESSMENTS

Special assessments may be levied to meet the whole or part of the cost incurred of laying pipes in public and private ways for the conveyance of distribution of water to the inhabitants of the Town of Winchendon. An owner of land which receives benefit from the laying of water pipes in public or private ways upon which his land abuts shall pay such proportionate part of the cost, not already assessed, of extending such water supply to his land as may be determined by the Board of Selectmen. The amount to be charged against each parcel of land receiving such benefit shall include the cost of pipes and other material and of the labor in laying them and other expenses

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incidental thereto and shall be ascertained, assessed and certified by the Board of Selectmen of the Town of Winchendon. Assessment for the cost or providing and laying water pipes in public and private ways shall be made upon the several parcels of land receiving benefits from the laying of such pipes by a fixed uniform rate based upon the estimated average cost of all the water pipes therein and the laying thereof according to the frontage of such land on any way on which a water pipe is laid. Whenever the Town votes to lay water pipes in public and private ways, and to make assessments for the construction of such improvement, the Board of Selectmen shall forthwith cause to be recorded in the Worcester District Registry of Deeds a statement of the vote adopted by the Town specifying the ways in which such water pipes are to be laid, and the estimated assessment per foot of frontage of land abutting thereon. No assessment shall be levied in excess of the benefit to the land assessed from the laying of the water pipes for which the assessment is levied or in excess of the estimate as recorded in the Registry of Deeds. The Board of Selectmen may extend the time of payment of the assessment in accordance with the provisions of General Laws, Chapter 80, and if the order for assessment is upon land not built upon, shall extend the time of payment of the assessment and interest thereon at the rate of 4% per annum until said land is built upon for a fixed time, and the assessment and interest shall be paid within three months after such land is built upon or at the expiration of such fixed period.

ARTICLE 12 REGULATION OF WATER CRAFT

SECTION 12.1 REQUIRED SAFETY EQUIPMENT

- A. All boats in use must be equipped with a Coast Guard-approved life preserver for each person aboard, and all motorboats in use must be equipped with an efficient whistle or horn.
- B. All motorboats with enclosed decks, bilges or other spaces where explosive gasses may accumulate must carry a Coast Guard-approved fire extinguisher.

SECTION 12.2 OPERATION UNDER INFLUENCE OF ALCOHOL OR DRUGS

No person shall operate any motorboat or sailboat while he is under the influence of intoxicating liquor, narcotics or harmful drugs, as defined by statute.

SECTION 12.3 NEGLIGENCE; OPERATION AT NIGHT

No person shall operate any motorboat or use any water skis, surfboards or similar devices negligently or willfully so as to endanger the lives or safety of the public or use water skis, surfboards or similar devices thereon in the nighttime.

SECTION 12.4 TOWING OF PERSONS

No person shall operate any motorboat towing a person or persons on water skis, a surfboard or other similar

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device, unless there is in such motorboat a competent person, in addition to the operator, in a position to observe the person or persons being towed and unless such motorboat is equipped with a ladder, steps or similar means by which any person being towed can be taken from the water and a Coast Guard-approved lifesaving device for each person.

SECTION 12.5 OPERATION AT SAFE DISTANCE REQUIRED

All motorboats must be operated at a safe distance to prevent their wash from being thrown into or causing excessive rocking to other boats, rafts, floats or bathing beaches. When passing within one hundred (100) feet of any raft, float, dock, bathing beach or other boat, motorboats shall be operated at a reduced and reasonable speed so as not to cause inconvenience or danger to others.

SECTION 12.6 OPERATION WHEN VISION IS OBSCURED

Where the operator's vision is obscured or on bends and curves, motorboats shall be operated at not more than headway speed [six (6) miles per hour].

SECTION 12.7 RUNNING LIGHTS REQUIRED AT DARK

All boats operating between sunset to sunrise must be equipped with proper running lights as prescribed by the state boating laws.

SECTION 12.8 RIGHT-OF-WAY

- A. In crossing situations, the boat to starboard (right) shall have the right-of-way.
- B. In meeting situations, each boat shall turn to starboard (right) and pass port-to-port.
- C. In passing situations, the vessel being overtaken has the right-of-way.
- D. Sailing craft and unpowered boats shall have the right-of-way over motorboats.

SECTION 12.9 CASES NOT COVERED

In all cases not covered by this Article, United States Coast Guard Regulations or when applicable Massachusetts General Laws. Ch.90B will apply.

SECTION 12.10 PENALTY

Whoever violates any of the provisions of this bylaw, shall be subject to a fine not more than \$50. for each offense. As an alternative to initiating criminal proceedings, violations of this article may also be prosecuted in a noncriminal manner pursuant to the provision of MGL CH 40, sec 21D.

SECTION 12.11 ENFORCEMENT

The provisions of this bylaw may be enforced by any Police Officer of the Town of Winchendon.

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ARTICLE 13

JUNK DEALERS: SECOND HAND ARTICLES

(May 21, 2007, Rev. May 23, 2011, Rev. May 21, 2012)

SECTION 13.1

The Board of Selectmen may license suitable persons to be collectors of, dealers in, or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles, pursuant to the provisions of Chapter 140 of the General Laws of the Commonwealth of Massachusetts.

SECTION 13.2

All such licenses may be revoked for cause after a hearing and shall expire on April 30th of each year.

SECTION 13.3

Every keeper of a shop for the purchase, sale or barter of junk, old metal or second hand articles, excluding clothing, furniture, books, and magazines shall at the time of every transaction use a form prescribed by the Town of Winchendon to record the purchase of any such article; a description thereof including the name, age, and residence of the person from whom, and the day and hour when such purchase was made. A copy of all transactions recorded on said form shall be kept by the shopkeeper in a book. All items purchased shall be photographed, and itemized on said form with descriptions and markings along with serial and model numbers; penny weight, troy ounce, and or karat if applicable; the size shape and type of any precious stones or metals; and gross weight in pounds or tons in the case of scrap metal. Such books shall at all times be open to the inspection of any police officer of the town, or of any person authorized by the Board of Selectmen to make such inspection. Every shop keeper shall obtain a valid identification card and make a photocopy of same in the area designated on prescribed form, to be attached to the sale either by name, number or receipt of the seller. (May 21, 2012)

SECTION 13.4

Every keeper of such shop shall put in a suitable and conspicuous place on his shop, a sign having his name and occupation legibly inscribed thereon in letters at least two inches high. Such shop and all articles of merchandise therein, and any place, vehicle or receptacle used for the collection or keeping of the articles aforesaid may be examined at all times by any police officer of the town, or by any person authorized by the Board of Selectmen to make such examination. Every such shop shall be closed except from 7:00 o'clock a.m. to 9:00 o'clock p.m. of each day, and no keeper thereof and no junk collector shall purchase or sell any of the articles aforesaid during such hours.

SECTION 13.5

No dealer in junk, old metals or second hand articles shall directly or indirectly purchase or receive by way of barter or exchange such goods, or allow such goods to be deposited upon or within his premises, shop or vehicle, by any minor, knowing or having reason to believe him to be such.

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SECTION 13.6

No dealer in junk, old metals or second-hand articles shall sell any items within ten days of purchase.

SECTION 13.7

No dealer in junk, old metals or second-hand articles shall carry on his business in any other place than that designated for his license, unless a consent to his removal be granted by the Board of Selectmen.

SECTION 13.8

Dealers shall forward (hand deliver or Email) an itemized list of all transactions on the form prescribed by the Town of Winchendon, including all pertinent seller information to the Winchendon Police Department on the first Monday following each transaction. In the event that the first Monday following said transaction is a holiday, the shopkeeper shall submit a copy of said transactions on the next business day.

SECTION 13.9

No dealer in junk, old metals or second-hand articles shall keep in the open in any area of the Town of Winchendon any junk, old metals or second hand articles described in sections 1 and 3. No junk, old metals and second hand articles shall be deemed to be in the open if it is totally screened from view of a public way, or any way which the public has access.

ARTICLE 14

UNUSED OR UNREGISTERED MOTOR VEHICLES

SECTION 14.1

No person, tenant or entity, corporate or otherwise, as owner(s) or one(s) in control of premises, shall keep in the open in any area of the Town of Winchendon an unregistered motor vehicle(s), except, those on the premises of a licensed dealer of motor vehicles who is actively engaged in promoting its business, or any motor vehicle parts shall be parked, kept or stored within 100 feet of a public way or within 50 feet of a property line, except within a garage, barn or other completely enclosed structure so that said vehicle or part(s) are not visible from public ways or property lines.

SECTION 14.2

(a): Notwithstanding the foregoing provisions, the Town Manager may, after investigation by the Police Department, and upon the payment of a fee to be determined by the Board of Selectmen, issue a permit for the storage of one motor vehicle which does not comply with the above requirements, where at least one of the following applies:

1. The vehicle is owned by a college student; upon verification of enrollment, a one year renewable permit.
2. For racing cars; upon verification of the owner's membership in a racing association, a one-year

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permit;

3. For antique cars, as defined by the Registry of Motor Vehicles, a one-year renewable permit;

4. For motor vehicles in the process of being restored, a one-year renewable permit;

5. For persons in active military service or in attendance at a military school or academy, a permit for the duration of such service or attendance without the payment of any fee;

6. For a motor vehicle used as a source of spare parts for another motor vehicle belonging to the same owner, for such period of time as the Town Manager may prescribe, but not to exceed one year and to be non-renewable.

(b): In each case where a permit is granted under Section 14.2(a) the Town Manager shall set forth appropriate conditions for the storage of said vehicles or parts, taking into consideration the nature of the neighborhood, lot size, proximity of proposed storage location to nearby public ways and property lines, availability of garages or other structures for storage, and appropriate screening devices such as fencing or shrubbery.

(c): If the applicant is 65 years of age or over, any fee may be waived at the discretion of the Town Manager.

(d): Nothing contained herein shall be applicable to

(1) a motor vehicle used exclusively for agriculture, or

(2) a motor vehicle used for construction purposes where said vehicles are temporarily parked or stored on the property while said construction is being performed.

SECTION 14.3

Any violation of the provisions of this bylaw shall be subject to a fine of not more than \$50.00 for each offense. Each day such violation is committed or continues shall constitute a separate offense.

ARTICLE 15 HISTORIC DISTRICT

Establishing a Historic District and a Historic District Commission under the provisions of Chapter 40C, General Laws, as amended by Chapter 359 of the Acts of 1971.

SECTION 15.1 PREAMBLE

The purpose of this bylaw is to promote the educational, cultural, economic, and general welfare of the public in keeping with the provisions of the General Laws of the Commonwealth, Chapter 40C, as amended, through the preservation and protection of the distinctive outward appearance and characteristics of

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buildings and places significant in the history of the town; through maintenance of the appearances and settings of such buildings and places; and through the encouragement of design and construction compatible therewith.

SECTION 15.2 LOCATION OF DISTRICT

There is hereby established an Historic District in that part of Winchendon known as "Winchendon Centre", hereinafter called "Winchendon Centre Historic District", under the provisions of General Laws, Chapter 40C, as amended, bounded and described as follows:

1. Commencing at an iron pipe on the west side of High Street on the north boundary of land now owned by Omer J. Dionne;
2. Thence southerly along a stone wall, crossing the road leading to the hospital and continuing to a point north of the First Congregational Church;
3. Thence westerly along same stone wall to a corner and thence southerly to a corner; and thence westerly along the wall to a corner; and thence southerly along same stone wall to a junction in the wall SW of a house now owned by Marshall Smith;
4. Thence westerly along a stone wall to the NW corner of the Day House lot;
5. Thence southerly along the west boundary of the Day House lot and continuing on the same line across Hale Street to the end of a stone wall located on the east side of the Baldwinville Road and being the north boundary wall on land owned now or formerly by Marshall Smith;
6. Thence S74 E, 189 feet along aforesaid stone wall to a junction in the wall on land owned now or formerly of Ralph G. Diehl;
7. Thence easterly to the junction of Teel Road and Cummings Road to an iron stake located on the north side of Teel Road and on land owned now or formerly by Mary L. Diehl;
8. Thence northerly to the SE corner of the old town cemetery;
9. Thence northerly along the stone wall east boundary of the old town cemetery to the NE corner of the same cemetery;
10. Thence northerly to an iron stake on the east side of a barn owned by James J. Hunt, Jr., and located on the former Hall farm;
11. Thence northwesterly to a bar way in a stone wall on the east side of Hall Road, and north of James J. Hunt, Jr. house;
12. Thence southerly along the west side of Hall Road to a stone wall on the north boundary of the Old Training Ground;
13. Thence westerly along the stone wall to a junction of the wall along a stone wall on land of William D. Brown to a corner in the wall;
14. Thence westerly along the wall to a point on the east side of High Street;

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15. Thence southerly along the west side of High Street to a point of beginning. The foregoing metes and bounds are shown on a map entitled "Winchendon Centre Historic District, Established 1974" filed with the Town Clerk, and the Worcester County Registry of Deeds.

Said map is designated as the map required for filing in accordance with the fourth paragraph of Section 3 of said Chapter 40C, as amended. The sources of said map are United States Geological Survey, Winchendon Quadrangle, 1954, and on-site survey of November, 1972.

SECTION 15.3 POWERS, DUTIES AND AUTHORITY (May 20, 2013)

There is hereby established an Historic District Commission, hereinafter called "The Commission", under the provisions of General Laws, Chapter 40C, as amended, It shall also have the powers and duties of an historical commission as provided in M.G.L. Chapter 40, section 8D and Chapter 40C, Section 14. It shall consist of five (5) members, and two (2) alternate members, appointed by the Board of Selectmen. Before making any appointment, the Board of Selectmen shall in writing request the names of two (2) nominees from the Winchendon Historic Society, Inc., two (2) nominees from the Chapter of the American Institute of Architects covering Winchendon; and two (2) nominees from the Board of Realtors covering Winchendon. One appointment shall be made from the two (2) nominees named by each such organization. If any such organization shall fail to name two (2) nominees within thirty (30) days of such request, the Board of Selectmen may make the appointment without nomination from such organization. The remaining appointments may be made without nomination from any independent organization. At least one or more members so appointed shall be a resident of, or owner of, property within the Historic District. The terms of three (3) years will be so arranged that as equal a number as possible will expire each year. Their successors shall be appointed in like manner for terms of three (3) years. The filling of vacancies in the membership of the Commission, designation of alternate members to serve as required, and the election of officers shall be in accordance with the provisions of General Laws, Chapter 40C, as amended.

- a. The Commission shall have all the powers and perform all the duties conferred and imposed on Historic District Commissions by the General Laws of the Commonwealth.
- b. In accordance with Section 16 of the General Laws, Chapter 40C, as amended, the Commission shall have the powers and duties of an Historical Commission as provided by General Laws, Chapter 40, Section 8D.
- c. The Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of General Laws, Chapter 40C, as amended, and may, subject to appropriation, employ clerical and technical assistance of consultants and may accept money gifts and expend same for such purposes.
- d. In case any section, paragraph, or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.
- e. In case any section, paragraph, or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

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ARTICLE 16 PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

SECTION 16.1 INTENT AND PURPOSE

This bylaw is enacted for the purpose of preserving and protecting significant buildings within the town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this bylaw.

SECTION 16.2 DEFINITIONS

1. Applicant—Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.
2. Application—An application for the demolition of a building.
3. Building—Any combination of materials forming a shelter for persons, animals or property.
4. Building Commissioner—The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.
5. The Winchendon Historical Commission or its designee.
6. Demolition—Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.
7. Demolition Permit—The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.
8. Preferably Preserved—Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period of this bylaw.
9. Significant Building—Any building within the town which is in whole or in part fifty years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:
 1. The building is listed on, or is within an area listed, the National Register of Historic Places; or
 2. The building has been found eligible for the National Register of Historic Places; or
 3. The building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
 4. The building is historically or architecturally important (in terms of period, style, method of building

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construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

SECTION 16.3 PROCEDURE

No demolition permit for a building which is in whole, or in part, fifty years or more old shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over 50 years old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner an application containing the following information: _

1. The address of the building to be demolished.
2. The owner's name, address and telephone number.
3. A description of the building.
4. The reason for requesting a demolition permit.
5. A brief description of the proposed reuse, reconstruction, or replacement.
6. A photograph or photographs of the building.

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may proceed to issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at a public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one days of the public hearing, the Building Commissioner may issue the demolition permit.

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Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot or vacant lot, a site plan review shall be required, or if for a vacant lot use, until plans been filed with the Building Commissioner showing the vacant lot use and detailing the plans to remove or fill any foundation or other subsurface structure, including sanitary septic components, wells, and dry wells, and including proper regarding of the site. All approvals necessary for the issuance of a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the twelve months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the twelve-month delay period, the Building Commissioner may issue the demolition permit.

SECTION 16.4 ADMINISTRATION

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule or reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

SECTION 16.5 EMERGENCY DEMOLITION

If after an inspection, the Building Commissioner finds that a building subject to this bylaw poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner building and the basis for his decision which shall be forwarded to the Commission.

SECTION 16.6 ENFORCEMENT AND REMEDIES

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof. Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission. If a building subject to this bylaw is demolished without first obtaining a demolition permit, no

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building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless otherwise agreed to by the Commission.

Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of a landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this By-law better serves the intent and purpose of this By-law, it may, prior to the expiration of said period of two years, but no sooner than six months from the date of completion of any demolition in violation of this By-law, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purpose of this By-law, and may so notify the Building Commissioner

SECTION 16.7 HISTORIC DISTRICT ACT

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic District Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District act, Massachusetts General Laws Chapter 40C. If any of the provisions of this bylaw do so conflict, that act shall prevail.

SECTION 16.8 SEVERABILITY

In case any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect. (adopted May 18, 2009)

ARTICLE 17 ANIMAL CONTROL BYLAW

SECTION 17.1 PASTURING OF CATTLE OR OTHER ANIMALS ON STREETS OR WAYS

No person shall pasture any cattle, goat or other animal upon any street or public way in said town, either with or without a keeper, except within the limits of such way adjoining his own premises, and field drivers are instructed to enforce this bylaw.

SECTION 17.2 DOGS

A. DEFINITION OF TERMS

- (1) "Dogs" shall mean all animals of the canine species, both male and female.
- (2) "Owner" shall mean any person or persons, firm, association or corporation owning, keeping, or harboring a dog as herein defined.
- (3) "Keeper" shall mean any person, corporation or society, other than the owner, harboring or having in his possession any dog.

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- (4) "Run at large" shall mean free to wander on public or private ways at will, or on the property of another.
- (5) "Public Nuisance" Any dog shall be deemed a "public nuisance" when attacking persons or domestic animals or deer while said dog is on property other than that of the dog owner and when destroying property; and, after a hearing by the Selectmen, said dog may be deemed a "public nuisance" when it is persistently and prolongedly barking or howling without provocation for an extended period of time, or between the hours of 10:00 p.m. and 7:00 a.m. for more than two consecutive days. Each twenty-four-hour period thereafter shall constitute a separate violation.

B. LICENSING

- (1) Beginning on January 1, 1994, all owners or keepers of dogs six months of age or older shall license said dogs at the office of the town clerk.
 - (2) All owners or keepers of dogs shall produce proof of up-to-date rabies vaccination before such a license can be issued.
 - (3) The Board of Health shall establish and may update from time to time fees for licensing of dogs and of kennels, and may establish fines for late licensing.
 - (4) The yearly sums collected pursuant to the provisions of the previous section shall be accounted for and paid to the Town Treasurer. (Rev. 6/95)
 - (5) Dog license fees shall be paid to the Town Clerk by April 1 of each calendar year. Any dog license paid after the deadline shall pay a late licensing penalty of twenty (dollars) in addition to the cost of the license.
- (See Section I on Alternative Procedures under MGL 140, Section 137- 173E)

C. PERMITTING A DOG TO RUN AT LARGE

- (1) No owner or keeper of a dog shall permit such dog, whether licensed or unlicensed, to run at large within the Town of Winchendon, except that a dog may, for the purpose of sporting events, (such as hunting, field trials or training purposes) or for agricultural assistance, or while working as a canine guard of a mercantile, commercial, or industrial establishment, be exempt from the restraining order during such period of time as the dog is actually engaged in the event, sport, agricultural function, or guard work.
- (2) Dogs may be taken from the owner's premises provided that such dogs are on a leash or under the control of the owner or keeper.

D. PUBLIC NUISANCES PROHIBITED

No owner or keeper or any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town of Winchendon.

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E. NOTICE TO OWNER AND RELEASE

If such dog so impounded has upon it the name and address of the owner thereof, or if the name of said owner is otherwise known by tag or other means, then the Animal Control Officer shall immediately notify the owner but if the owner is not known, the Animal Control Officer will make reasonable attempts to locate the dog's Owner or Keeper. The owner of any dog so impounded may reclaim such dog upon payment of the sum of ten dollars (\$10.00) per day for daily care for each day or part thereof that the dog is impounded, and twenty-five dollars (\$25.00) for the first reclaiming and fifty dollars (\$50.00) for the second, or as determined by the Board of Health, provided, however, if the dog is not licensed that before release to any person, license as required by the Town of Winchendon be secured.

F. DISPOSITION OF FUNDS

The sums collected pursuant to the provisions of this bylaw shall be accounted for and paid to the Town Treasurer; however, under the provisions of the State Law, the Animal Control Officer shall be entitled to all fees paid to him for the care of impounded dogs by the owners thereof.

G. DISPOSITION OF UNCLAIMED DOGS

Any dog not claimed after seven (7) days shall become the property of the town of Winchendon, under the custody of the Animal Control Officer. The dog may then be placed for adoption, released to a state approved shelter/rescue for adoption, or euthanized in accordance with MGL. 140 s. 151A as deemed necessary by the Animal Control Officer in consultation with a veterinarian.

H. ENFORCEMENT

The Animal Control Officer or Officers duly appointed shall enforce the provisions of this bylaw relating to dogs, and shall attend to all complaints or other matters pertaining to dogs in the Town of Winchendon.

I. ALTERNATIVE PROCEDURES UNDER GENERAL LAWS, Ch. 140 SEC. 136A- SEC. 174E

Notwithstanding any provisions of the General Laws to the contrary, any Animal Control Officer who takes cognizance of a violation of

(1) This Bylaw

(2) Failure to license dogs pursuant to General Laws, Chapter 140, 141 Section 137; failure to acquire kennel license pursuant to General Laws, Chapter 140, Section 137A.-137C(3) Failure to vaccinate against rabies pursuant to General Laws, Chapter 140, Section 145B.

May issue or mail a Notice of Complaint of Violation of Municipal Dog Control Law to the owner or keeper of such dog or dogs, and if the owner or keeper of such dog or dogs in a minor, the parent or guardian of such minor shall be liable for any violation of the bylaw.

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J. PROCEDURE

The procedure set forth above shall also include the provisions of paragraphs 2-4 of General Laws, Chapter 140, Section 173 as amended.

K. PENALTY

Any Owner or Keeper found in violation of any of the provisions of this bylaw shall be subject to a fine of fifty dollars (\$50.00) for the first offense, one hundred (\$100.00) for the second offense and three hundred (\$300.00) for the third offense. Further, if the Owner or Keeper of a dog is a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

SECTION 17.3 REGULATIONS FOR THE REMOVAL AND DISPOSAL OF CANINE WASTE

(Pooper-Scooper Law) (May 2014)

SECTION 1 – AUTHORITY

1. These regulations are made pursuant to Chapter III of Massachusetts General Law MGL, Section 31, to protect the public health of the residents of Winchendon.
2. Evidence demonstrates that canine waste can cause serious health problems.

SECTION 2 – REMOVAL AND DISPOSAL OF CANINE WASTE

A. REMOVAL/DISPOSAL

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, gutter, street, park or other public area, or on any private property neither owned nor occupied by said person. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, gutter, street, park or other public area, or on any private property neither owned nor occupied by said person, without the means of removal of any feces left by such dog. For the purpose of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up or containing such feces in a manner that such feces shall be unexposed to said person in public. Disposal shall be accomplished by transporting such feces to a suitable place.

B. PENALTIES

Any person who violates or permits a violation of the CHAPTER shall be subject to a fine of FIFTY (\$50.00) DOLLARS to be assessed for each and every violation. All fines shall be payable to the Town of Winchendon through the Town Clerk's office. The Chief of Police may, as an alternative to initiating criminal proceedings, treat violations of this chapter in a non-criminal manner pursuant to the provision of MLG CH40, Sec 21 D.

C. AUTHORIZED ENFORCEMENT PERSONNEL

The following person shall be authorized enforcement: Police Officer, Animal Control Officer, or Board of Health Agent, or act in relation thereto. (submitted by the Board of Health)

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ARTICLE 18 MISCELLANEOUS PROVISIONS

SECTION 18.1 SOLICITORS, PEDDLERS, ETC.

No solicitor, peddler, hawker, itinerant merchant, transient vendor or purchaser of merchandise shall go in or upon any private residences or premises in the Town of Winchendon, Massachusetts for the purpose of the sale or purchase of goods, wares, or merchandise, or for the soliciting of orders for the sale of purchases of the same, or for the purpose of disposing of, peddling or hawking the same, without first having been expressly authorized to do so in writing by the Board of Selectmen of the Town. Everyone violating this bylaw shall be punished by a fine of \$50.00 for each offense, which shall be recovered by any means available in law or in equity, including non-criminal disposition in accordance with the provisions of MGL Chapter 40, Section 21D. This bylaw may be enforced by any police officer of the Town of Winchendon.

SECTION 18.2 PUBLIC DRINKING

No person shall drink any alcoholic beverage, as defined in Chapter 138, Section 1 of the General Laws, while on a public way, or while on any other public property, or in or on any place to which members of the public have access as invitees or licensees, or on private property without the consent of the owner or other person duly authorized by the owner to be in control thereof. The foregoing prohibition shall not apply to the consumption of alcoholic beverages in or on Town owned property pursuant to a special license issued by the Town licensing authority pursuant to the General Laws. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until adjudication of the charge against the person or persons summoned before the Court, at which time they shall be returned to the person entitled to lawful possession thereof. Any person who violates the provisions of this bylaw shall be punished by a fine of not more than fifty dollars (\$50.00).

SECTION 18.3 PUBLIC CONSUMPTION OR USE OF MARIJUANA OR TETRAHYDROCANNABINOL

A. No person, whether in or upon a vehicle, motor vehicle, conveyance, or on foot, shall burn, smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any area owned by or under the control of the Town, including but not limited to, any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school, school grounds, cemetery, or parking lot; or in or upon any place to which the public has a right of access as invitees or licensees.

B. Any marijuana or tetrahydrocannabinol burned, smoked, ingested, or otherwise used or consumed in violation of this bylaw shall be seized, held, and disposed of in accordance with G.L. c. 94C, § 47A.

C. Whoever is found in violation of this bylaw shall, when requested by an official authorized to enforce this bylaw, state his true name and address to said official.

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D. This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by non-criminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer.

E. The fine for a violation of this bylaw shall be three hundred dollars (\$300.00) for each offense. A penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

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

ARTICLE 19

ABANDONED, NON-COMPLETED OR NULL AND VOID PERMITS (May 24, 2010)

INTENT

A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the Building Commissioner from thereafter requiring a correction of errors in plans, construction, or violations of building code.

1. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 6 months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 6 months after the time the work is commenced.
2. If work has commenced and the permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work.
3. If a new permit is not obtained within 180 days from the date the initial permit became null and void, the Building Commissioner is authorized to require that any work which has been commenced or completed be removed from the building site by the holder of the original permit. Alternately, a new permit may be issued upon application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new permit.
4. Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process.

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5. The fee for renewal, re-issuance and extension of a permit shall be set forth in the Building Commissioner's Permit Fee Schedule, as it may be amended from time to time.
6. At the discretion of the Building Commissioner, such discretion to be neither capricious nor arbitrary in its application, any person or entity may be denied a new project permit if at the time of application for the new project permit that person or entity is the holder of three (3) or more permits that are either abandoned, non-completed or otherwise null and void. Such denial of new project permit application shall remain in effect until the person or entity seeking the new permit cures the defect(s) in the previously issued permits.

ARTICLE 20

WATER USE RESTRICTION (Amended June 12, 2000)

SECTION 20.1 AUTHORITY

This bylaw is adopted by the Town of Winchendon under its police powers to protect public health and welfare and its powers under M.G.L. Chapter 40, Section 21. and implements the Town's authority to regulate water use pursuant to M.G.L. Chapter 41, Section 69B. This bylaw also implements the Town's authority under M.G.L. Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection (DEP).

SECTION 20.2 PURPOSE

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the DEP.

SECTION 20.3 DEFINITIONS

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

"State of Water Supply Emergency" shall mean a State of Water Supply Emergency declared by the DEP under M.G.L. Chapter 21G, Sections 15-17.

"State of Water Supply Conservation" shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this bylaw.

"Water Users or Water Customers" shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

SECTION 20.4 DECLARATION OF A STATE OF WATER SUPPLY CONSERVATION

The Town, through its Board or Selectmen, may declare a State of Water Supply Conservation upon a

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determination by a majority vote of the Board or Selectmen that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water customers. Public notice of a State of Water Supply Conservation shall be given under Section 6 of this bylaw before it may be enforced.

SECTION 20.5 RESTRICTED WATER USES

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

- 1) Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- 2) Outdoor Watering Ban: Outdoor watering is prohibited.
- 3) Outdoor Water Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- 4) Filling Swimming Pools: Filling of swimming pools is prohibited.
- 5) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

SECTION 20.6 PUBLIC NOTIFICATION OF A STATE OF WATER SUPPLY CONSERVATION

Notification of any provision, restriction, requirement or condition imposed by the Town as a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the DEP.

SECTION 20.7 TERMINATION OF A STATE OF WATER SUPPLY CONSERVATION: NOTICE

A State of Water Supply Conservation may be terminated by a majority vote of the Board or Selectmen, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

SECTION 20.8 STATE OF WATER SUPPLY EMERGENCY: COMPLIANCE WITH DEP ORDERS

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency.

SECTION 20.9 PENALTIES

Any person violating this bylaw shall be liable to the Town in the amount of fifty dollars (\$50.00) for the first

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violation and one hundred dollars (\$100.00) for each subsequent violation which shall inure to the Town for such uses as the Board or Selectmen may direct. Fines shall be recovered by indictment, or a complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

SECTION 20.10 SEVERABILITY

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

ARTICLE 21

LICENSES AND PERMITS OF DELINQUENT TAXPAYERS (rev. of 5/98)

SECTION 21.1

Any board, officer, or department shall deny any application or revoke or suspend any local license or permit, including renewals and transfers, for any person, corporation, or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterment, or any other municipal charge, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event, or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

SECTION 21.2

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterment and other municipal charges, hereinafter referred to as the Tax Collector, shall upon request furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits, including renewals and transfers, the identity of any person, corporation or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterment or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

SECTION 21.3

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event, or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to

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intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterment or other municipal charges, payable to the municipality as the date of issuance of said certificate.

SECTION 21.4

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

SECTION 21.5

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is not direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268A in the business or activity conducted in or on said property.

ARTICLE 22

SEWER USE REGULATIONS (amended 9/98)

The provisions of this bylaw shall not apply to any of the licenses and permits exempted by M.G.L. Chapter 40, Section 57.

These regulations govern the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, and the discharge of storm water and groundwater to the public storm drain; and provide penalties for violations thereof;

SECTION 22.1 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in these regulations shall be as follows:

- 1.1 "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

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- 1.2 "Board of Selectmen" has jurisdiction over, and is the governing authority for, the wastewater collection and treatment system in the Town of Winchendon.
- 1.3 "Building Drain" shall mean that part of the lowest piping of a drainage system which receives the discharge of wastewater from inside the walls of the building and extends to ten (10) feet outside the inner face of the building wall.
- 1.4 "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house or building connection.
- 1.5 "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- 1.6 "Floatable Oil" shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- 1.7 "Garbage" shall mean the animal and vegetable waste resulting from the handling preparation, cooking, and serving of foods.
- 1.8 "Grease, Oil and Sand Interceptors" shall mean devices used to prevent grease, oil and sand from entering the waste stream.
- 1.9 "Industrial Wastes" shall mean the wastewater from industrial processes, trade, or business as distinct from domestic (sanitary) wastes.
- 1. 10 "May" is permissive (see "Shall", 1. 120).
- 1. 11 "Natural Outlet" shall mean any outlet, including storm sewers into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- 1.12 "Person" shall mean any individual, firm, company, association, society, corporation, partnership, group, or any political subdivision of the Commonwealth.
- 1.13 "pH" shall mean the negative logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .
- 1.14 "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.
- 1.15 "Public Sewer" shall mean a common sewer controlled by a governmental agency or public entity.
- 1.16 "(Sanitary) Sewer" shall mean a conduit that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- 1.17 "Septage" shall mean the wastes from holding tanks such as chemical toilets, campers, or trailers, and wastes from septic tanks and cesspools.
- 1.18 "Sewage" is the used water of a community. The preferred term is "wastewater", (see

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- 1.27).
- 1.19 "Sewer" shall mean a pipe or conduit that carries wastewater.
- 1.20 "Shall" is mandatory (see "May", 1. 10).
- 1.21 "Slug" shall mean any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds five (5) times the average twenty-four (24) hour concentration of normal operating flow for more than fifteen (15) minutes and adversely affects the collection system and/or the performance of the wastewater treatment works.
- 1.22 "Storm Drain" (sometimes termed "storm sewer") shall mean a conduit for conveying stormwater, groundwater, subsurface water, or unpolluted water from any source.
- 1.23 "Superintendent" shall mean the authorized deputy, agent, or representative of the Board of Selectmen.
- 1.24 "Suspended Solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- 1.25 "Town" shall mean the Town of Winchendon, Massachusetts or any duly authorized officer, agent or representative of the Town of Winchendon.
- 1.26 "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sewers and wastewater treatment facilities provided.
- 1.27 "Wastewater" shall mean the used water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water, and stormwater that are not admitted intentionally.
- 1.28 "Wastewater Facilities" shall mean the structures, equipment, and processes required to collect, transport, and treat domestic and industrial wastes and dispose of the effluent.
- 1.29 "Wastewater Treatment Works" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment facility" or "wastewater treatment facility" or "water pollution control facility".
- 1.30 "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

SECTION 22.2 USE OF PUBLIC SEWERS REQUIRED

- 2.1 It shall be unlawful to discharge directly to any natural outlet within the Town of Winchendon, or in any area under the jurisdiction of said Town, any wastewater or other polluted water, without the applicable state and federal discharge permits.

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- 2.2 Except as hereinafter provided, it shall be unlawful for property owners to construct or repair any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater where a public sewer is within one hundred (100) feet of the property line and where permission to enter such sewer can be obtained from the authority having jurisdiction over it.
- 2.3 The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sewer of the Town, are hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of these regulations within ninety (90) days after date of receipt of official notice from the Board of Health of the Town of Winchendon acting under the provisions of Title 5 of the "State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" or regulations relative thereto, provided that the public sewer is within one hundred (100) feet of the property line. Said connections shall be made without exception, unless for reasons as determined by the Town of Winchendon Board of Health.

SECTION 22.3 PRIVATE SEWAGE DISPOSAL

- 3.1 Where a public sewer is not available under the provisions of Section 2.3, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of the Board of Health of the Town of Winchendon acting under the provisions of Title 5 of the "State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage" or regulations relative thereto, and/or the Massachusetts Department of Environmental Protection (DEP).

SECTION 22.4 BUILDING SEWERS AND INSTALLATION: PERMITS Regarding any sewer or installation permit and land easements; No such permit shall be valid until all land easements have been approved by the Board of Selectmen and properly recorded at the Worcester County Registry of Deeds.

- 4.1 No person(s) shall uncover (excavate), connect or cause to be connected to, or make any opening into, use, alter, or disturb any building sewer, public sewer, or appurtenances thereof except by written permit from the Superintendent of Public Works. Any person proposing a new discharge into the public sewer or a substantial change in the volume or character of pollutants that are being discharged into the public sewer shall notify the Department of Public Works (DPW) at least forty-five (45) days prior to the proposed

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change or connection. A permit must also be obtained for any repair work to existing building sewers if said work is not performed by the DPW.

- 4.2 There shall be two (2) classes of building sewer installation permits: (a) for residential and/or commercial service and (b) for service to establishments producing industrial waste flow (see "Industrial Waste," Section 1. 9). In either case, the owner(s) or his agent shall make a permit application in writing to the Superintendent. The permit application shall be supplemented by plans, specifications, or other information considered pertinent in the judgment of the Board of Selectmen. A permit application fee, which shall include the routine costs associated with the inspection of the building sewer installation by the Superintendent or his representative, shall be paid to the Town at the time the application is filed. Permit application fees shall be established from time to time by the Board of Selectmen.
- 4.3 Permits are not transferable and are valid for ninety (90) days from the date of issue. If no work commences within said ninety-day period a new permit must be obtained.
- 4.4 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 in any way be constructed to the rear building. In this case, the front building sewer may be extended to the rear building and the whole considered as one building sewer. No such connection shall be made without a special permit from the Superintendent. Any connection made without such a permit shall be discontinued and any sewer use fees paid shall be forfeited. The Town does not and shall not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- 4.5 Under no circumstances may one building sewer be allowed to connect and serve more than one house or block on streets where public sewers are laid, except by written permission of the Superintendent.
- 4.6 Existing (old) building sewers shall not be used in connection with new building sewer construction, except by written permission of the Superintendent.
- 4.7 The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures as set forth in appropriate specifications of the

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American Society of Testing Materials (ASTM), the Water Pollution Control Federation (WPCF) Manual of Practice No. 7 "Operation and Maintenance of Wastewater Collection Systems," WPCF Manual of Practice No. FD-5, the American Society of Civil Engineers (ASCE) Manuals and Reports in Engineering Practice No. 60 "Gravity Sanitary Sewer Design and Construction", and WPCF Manual of Practice No. FD-4 "Design of Wastewater and Stormwater Pumping Stations" shall apply.

- 4.8 The Superintendent has the right to require, at his discretion, any building, existing or proposed, to construct, as a part of their building sewer, and at every building sewer connection to the public sewer where said building has more than one connection, a metering/sampling manhole. This manhole, located adjacent to the public sewer, with frame and cover brought to grade, and just upon the owner's property, shall be constructed for the purpose of allowing the Superintendent the ability to enter upon said property to inspect the constituents in and quantity of flow being discharged to the public sewer. This metering/sampling manhole shall conform to the requirements and specifications of the sewer program and shall be a mandatory requirement of the sewer installation permit, and shall be subject to the inspection and approval of the Superintendent. In the absence of code provisions or in amplification thereof, the materials and procedures as set forth in appropriate specifications of ASTM, the WPCF Manual of Practice No. 7, the WPCF Manual of Practice No. FD-5, the ASCE Manuals and Reports on Engineering Practice No. 60, and WPCF Manual of Practice No. FD-4 shall apply.
- 4.9 Whenever possible, the building sewer shall be installed to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, the wastewater carried by such building drain shall be pumped by an approved means and discharged to the building sewer or public sewer. Shop drawings of proposed pumping equipment shall be submitted to the Board of Selectmen for approval by the Superintendent.
- 4.10 No person(s) shall make connection of roof downspouts, foundation drains, sump pumps, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to the public sewer. Any persons found discharging said sources shall be subject to penalties as set forth in Article 8 of these Regulations.
- 4.11 The Superintendent or his representative reserves the right to inspect any property to confirm that there are none of the aforementioned unauthorized connections to the public sewer.
- 4.12 Any person(s) found discharging non-contact cooling waters to the public sewer shall be

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subject to penalties as set forth in Article 8 of these Regulations.

- 4.13 The connection of the building sewer to the public sewer shall conform to the requirements of the sewer program and the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the ASTM, the WPCF Manual of Practice No. 7, the WPCF Manual of Practice No. FD-5, the ASCE Manuals and Reports on Engineering Practice No. 60, and WPCF Manual of Practice No. FD-4. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Board of Selectmen before installation. Non-approved material shall be required to be removed and replaced at the expense of the applicant.
- 4.14 The applicant for the building sewer permit shall notify the Board of Selectmen when the sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his representative, and no backfilling is allowed until all appropriate inspections are made. Otherwise, the pipe shall be exposed for inspection.
- 4.15 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Any person, other than the DPW, who, during the installation of a sewer connection, shall excavate or otherwise disturb the roadway and/or sidewalk shall obtain the written permission of the Superintendent prior to the commencement of work. A performance bond at least equal to the cost of restoring said roadway and/or sidewalk to its prior condition shall be required before such permission is granted. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to its original condition in a manner satisfactory to the Town.

The DPW reserves the right to shut off the public sewer for the purpose of making alterations or repairs.

SECTION 22.5 USE OF THE PUBLIC SEWERS

No person(s) shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any public sanitary sewer. In general, only sanitary sewage shall be discharged to the common sewer.

No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

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- 5.2.1 Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, whether singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment facility.
- 5.2.2 Any water or waste having a pH lower than 6.0, or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facilities.
- 5.2.3 Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, paper dishes, cups, milk containers, either whole or ground by garbage grinders or other similar products.
- 5.2.4 Any septage (see Section 1.17).
- 5.2.5 Sludges or deposited solids resulting from an industrial or pretreatment process.
- 5.3 No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:
 - 5.3.1 Any liquid or vapor having a temperature higher than 150°F (65°C).
 - 5.3.2 Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0 and 65°C).
 - 5.3.3 Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

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- 5.3.4 Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- 5.3.5 Any waters or wastes containing iron, chromium, copper, zinc, antimony, arsenic, barium, beryllium, boron, cadmium, lead, manganese, mercury, nickel, selenium, silver, tin, and similar objectionable or toxic metal substances; or wastes exerting an excessive chlorine requirement, unless treated to reduce their concentrations to the minimum levels attainable by chemical precipitation process or other equally effective methods.
- 5.3.6 Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may, after treatment of the composite sewage, fail to meet the requirements of the state, federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
- 5.3.7 Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board of Selectmen in compliance with applicable state or federal regulations.
- 5.3.8 Any waters or wastes having a pH in excess of 9.5.
- 5.3.9 Materials which exert or cause:
- 5.3.9.10 Unusual concentration of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
- Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- 5.3.9.4 Unusual volume of flow or concentration of wastes constituting "slugs" (see Section 1.21).
- 5.3.10 Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment works effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- 5.3.11 The following are the wastewater characteristic thresholds that may not be exceeded:
BOD: 250 mg/l
TSS: 250 mg/l

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- 5.4 If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in Section 5.3, or which, in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- 5.4.1 Reject the wastes,
 - 5.4.2 Require pretreatment to an acceptable condition for discharge to the public sewers,
 - 5.4.3 Require control over the quantities and rates of discharge, and/or
 - 5.4.4 Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or sewer user charges under the provisions of Section 5.9. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Board of Selectmen and subject to the requirements of all applicable local, state and federal codes, regulations and laws.
- 5.5 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 floatable oil in excessive amounts, as specified in Section 5.3.2, or any flammable wastes, sand, or 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 Board of Selectmen and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Board of Selectmen. Any removal and handling of the collected materials not performed by owner(s)' personnel must be performed by currently licensed waste disposal firms.
- 5.6 Where pretreatment or flow-equalizing facilities are provided or required any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- 5.7 When required by the Board of Selectmen, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such control structure, when required, shall be constructed in accordance with plans approved by the Board of Selectmen. The structure shall be

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installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

- 5.8 All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control structure provided, or upon suitable samples taken at said control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a property is appropriate or whether a grab sample or grab samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH is determined from periodic grab samples).
- 5.8.1 All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized employees of the Town may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be made available, upon request by the Superintendent, to other agencies having jurisdiction over discharges to the receiving waters.
- 5.9 No statement contained in this Article 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, therefore, by the industrial concern.

SECTION 22.6 USE OF THE PUBLIC STORM DRAIN: PERMITS

- 6.1 No person(s) shall uncover (excavate), connect or cause to be connected to, or make any opening into, use, alter, or disturb any building storm drain, public storm drain, or appurtenances thereof except by written permit from the Superintendent of Public Works. Any person proposing a new discharge into the public storm drain shall notify the Department of Public Works (DPW) at least

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forty-five (45) days prior to the proposed change or connection. A permit must also be obtained for any repair work to existing building drains if said work is not performed by the DPW.

- 6.2 Only the connection of roof downspouts, foundation drains, sump pumps, areaway drains, or other sources of surface runoff or groundwater shall be allowed to be made to the public storm drain, upon approval by the Superintendent.
- 6.3 No person(s) shall discharge or cause to be discharged any polluted waters such as sewage, septage, industrial process waters, or garbage. In general, only surface runoff or ground water shall be discharged to the public storm drain.
- 6.4 Any storm water discharged to the public storm drain shall conform to the standards set forth in the DEP administered regulations: 314 CMR 9.00 (401 Water Quality Certification), 314 CMR 3.00 (Surface Water Discharge Permit Program), 314 CMR 4.00 (Surface Water Quality Standards), 314 CMR 5.00 (Groundwater Discharge Permit Program), and 314 CMR 6.00 (Groundwater Quality Standards).
- 6.5 The connection of the building storm drain to the public storm drain shall conform to the requirements of the sewer program and the building and plumbing code or other applicable rules and regulations of the Town.
- 6.6 The applicant for the building drain permit shall notify the Board of Selectmen when the drain is ready for inspection and connection to the public storm drain. No connection shall be put to use and no back-filling is allowed until all appropriate inspections are made by the Superintendent or his/her representative, and by building, plumbing, and electrical inspectors.

SECTION 22.7 PROTECTION FROM DAMAGE

- 7.1 No person(s) shall maliciously willfully, or negligently break, damage, destroy, uncover, deface, or tamper with the structures, mains, or other appurtenances or equipment which is a part of the sewerage system or wastewater facilities. Any person(s) violating this provision shall be subject to all civil or criminal penalties as provided by Massachusetts General Laws or these regulations.

SECTION 22.8 POWERS AND AUTHORITY OF INSPECTORS

- 8.1 The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter, at reasonable times, all private properties connected with public sewers for the purposes of inspection, observation

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measurement, sampling, and testing pertinent to discharge to the wastewater facilities in accordance with the provisions of these regulations.

- 8.2 The Superintendent or other duly authorized employees or agents are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater facilities. The industry may withhold information considered confidential. However, the industry must establish that disclosure of the information in question to the public might result in an advantage to competitors.
- 8.3 While performing the necessary work on private properties referred to in Section 7. 1, the Superintendent or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the companies.
- 8.4 The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

SECTION 22.9 PENALTIES

- 9.1 Whenever on the basis of information available to it, the Town finds any person to be violating any provision of these regulations, the Town may take any or all of the following actions:
 - 9.1.1 Issue an order to cease and desist any such violation;
 - 9.1.2 Issue an implementation schedule ordering specific actions to be taken and time schedule;
 - 9.1.3 Any person violating any of the foregoing regulations shall be subject to a fine not exceeding \$50.00 for each violation. Each day a violation shall continue shall be deemed a separate offence.
 - 9.1.4 Bring a civil or criminal action as provided by law;
 - 9.1.5 Take any action available to it under federal, state, or local laws or regulations.
- 9.2 Any person violating the provisions of these regulations shall become liable to the Town for any expense, loss, or damage incurred by the Town by reasons of such violation, including but not limited to any attorney's fees incurred in the enforcement or defense of actions under or relative to this bylaw and fines, charges, or assessments made or imposed on the Town by federal, state, or local agency.

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SECTION 22.10: SEWER CHARGES AND PAYMENT

- 10.1 Sewer use charges shall be determined by a vote of the Board of Selectmen. Bills shall be rendered semi-annually in January and July, concurrent with the semi-annual water bill. Failure to receive a bill shall not excuse non-payment of same.
- 10.2 All bills issued by the Treasurer/Collector shall be due and payable on the thirtieth day after mailing. Amounts which remain unpaid after the thirtieth day shall accrue interest at a rate to be determined based on the vote of the Board of Selectmen. There shall be added charge of \$5.00 for water and sewer on each bill for which a demand notice is sent. Owners of property shall be responsible for sewer use charges incurred by their tenants, agents, or licensees.
- 10.3 The Treasurer/Collector shall be notified upon conveyance of property which is connected to the public sewer system. Such notification shall include the names of the Grantor, the Grantee, and the party currently billed if different than the Grantor. The meter shall be read on the date of conveyance, or as close to same as is practical and/or convenient, and a bill shall be rendered at that time to the Grantor. The Grantee shall be liable for usage from that special reading.
- 10.4 The Board of Selectmen, acting through the Town Manager, shall have full authority to take any action available under local by-law or state statute to collect rates and charges and to enforce these regulations.
- 10.5 The Board of Selectmen reserves the right to revise the charges for use of the public sewers. Upon approval of this bylaw the Board of Selectmen shall forthwith determine sewer use charges. These charges and regulations shall be effective January 1, 1999. All previous charges will be thereby rescinded.

SECTION 22.11 ABATEMENT PROCESS

- 11.1 An abatement request, with supporting documentation, shall be submitted to the Town Manager's office by the affected owner on or before the thirtieth day after the date on which the bill was sent. The Town Manager may refer the matter to the Superintendent for an investigation. The Superintendent shall report to the Town Manager within ten days. The Town Manager will make a recommendation to the Board of Selectmen within ten days, who shall act upon such abatement. A copy of the Board of Selectmen decision will be sent to the owner and to the Treasurer/Collector's office.

SECTION 22.12 VALIDITY

The invalidity of any section, clause, sentence, or provisions of these regulations shall not affect the validity of any other part of these regulations, which can be given effect without such invalid part or parts.

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SECTION 22.13 APPEALS

- 13.1 The Board of Selectmen shall receive appeals for arbitration of differences between the Superintendent and sewer users on matters concerning interpretation and execution of the provisions of this bylaw by the Board of Selectmen.

SECTION 22.14 ASSESSMENTS

The Board of Selectmen shall determine the method of assessment of the cost of public sewers to sewer users.

SECTION 22.15 PERMIT APPLICATIONS

- 15.1 Applications for residential or commercial building sewer installation permits and applications for service to establishments producing industrial waste flow (See "Industrial Waste" Section 1.9) shall be made in writing on forms approved by the Board of Selectmen.

ARTICLE 23 SOLID WASTE AND RECYCLING

SECTION 23.1 GENERAL

In order to ensure that solid waste materials are disposed of in an environmentally responsible manner in the Town, and that such disposal is done in compliance with state-mandated waste bans, no person or entity shall dispose of any recyclable materials, as defined under section 2 of this article, in any landfill located within the Town of Winchendon or any waste disposal facility outside of the Town, if access to such disposal is provided by the Town. This bylaw will serve to bring the Town of Winchendon into compliance with state waste disposal policies.

SECTION 23.2 RECYCLABLE MATERIALS

The Town Manager shall promulgate regulations, which he may revise from time to time, designating which items shall be separated for recycling and how such items shall be handled at the landfill, transfer station or left for pickup by the Town or a hauler contracted by the Town.

SECTION 23.3 RECYCLING OF DESIGNATED MATERIALS

Recyclable materials shall be separated from other solid waste materials prior to being deposited at the landfill, transfer station, or put out for pickup by the Town or a hauler contracted by the Town. Persons using private solid waste haulers shall conform to the separation requirements of the hauler.

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If it is determined by the Landfill Manager or his designee that any container contains both solid waste and recyclable materials, as defined by the regulations, it shall not be accepted for disposal at the landfill or transferstation until the recyclable materials have been removed therefrom by the person attempting to dispose of same.

The landfill Manager or his designee shall inspect any and all solid waste presented for disposal.

SECTION 23.4 VIOLATIONS AND PENALTIES

No person or entity shall place solid waste in the Winchendon landfill, dispose of at the transfer station, or put out for pickup by the Town or a hauler contracted by the Town unless the recyclable materials as designated pursuant to Section 2 of this bylaw have been separated from other solid waste and are deposited as the regulations require.

No person or entity who collects, transports, disposes or otherwise manages solid waste shall mix, co-mingle, or otherwise contaminate recyclable materials with solid waste or other contaminants.

The Town Manager or his agent may suspend a violator's solid waste disposal privileges at the Winchendon landfill or transfer station in response to repeated violations of this bylaw.

Violators may also be fined \$25 per offense, which fine may be recovered under the provisions of section 21D of Chapter 40 of the General Laws.

ARTICLE 24 **RECREATION COMMISSION (5.21.18)**

1. (A) There shall be a Recreation Commission [the Commission] consisting of seven (7) members appointed by the Board of Selectmen. One (1) member shall be a Winchendon middle school student in good standing, and one (1) member shall be a Winchendon high school student in good standing.
(B) The terms shall be for three years and so arranged that the term of as nearly an equal number as is possible shall expire each year.
(C) Upon the completion of these original terms, each member shall serve for three years.
(D) Student members shall be appointed annually.
2. The Commission acts in an advisory capacity in matters pertaining to public recreation, makes annual budget recommendations and assists in planning a recreation program to stimulate public interest.
3. The stated primary function of the Commission is to expand and enhance the recreation

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opportunities for the residents of Winchendon.

ARTICLE 25

Rapid Entry Systems for the Fire Department (June, 2001)

PURPOSE: To permit rapid entry into apartments, businesses and schools connected to the municipal fire alarm system when said system has been activated.

SECTION 25.1

Any building other than a residential building of fewer than six (6) units, which has a fire alarm system or other fire protection system, shall provide a secure key box installed in a location accessible to the fire department in the event of an emergency. This key box shall contain the keys to fire alarm control panels and elevators and any other keys necessary for fire protection.

SECTION 25.2

The key box shall be a type approved by the Fire Chief or his designee and shall be located and installed as directed by the Fire Chief or his designee.

SECTION 25.3

All existing commercial buildings, not normally occupied twenty-four hours a day, shall be required to comply with this bylaw within twelve (12) months of the effective date thereof.

SECTION 25.4

All newly constructed buildings, regardless of use or occupancy, except residential dwellings under six (6) units, shall install a key box system.

ARTICLE 26

FALSE FIRE AND BURGLAR ALARMS

(May 2003)

SECTION 26.1 GENERAL

Any residence or place of business which has a fire or burglar alarm system connected directly to the Fire or Police Department (the "Department") or connected indirectly to said Department through a private alarm company (each of which will be hereinafter referred to as a "monitored system"), will be

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charged a fine for all responses by the Department to such buildings where the response is caused by the activation of the monitored system, with the following exceptions:

1. When the monitored system was activated by an actual fire or burglary;
2. When the monitored system was activated by smoke from a source such as burnt food or an overheated motor or overheated electrical appliance or other equipment; or
3. When someone, with reasonable cause, activates a manual pull station. The fee may be assessed against the owner or tenant of the building.

SECTION 26.2 ENFORCEMENT, NON-CRIMINAL DISPOSITION

The Fire or Police Chief shall notify the owner or tenant of the residence or place of business by certified mail or by service in hand of any violation and the owner or tenant shall submit payment within fifteen (15) days of said notice to the Town Treasurer for deposit in the general fund.

Fines for false alarm services shall be as follows:

Offense	Fine
First three responses	Warning
Fourth response	\$ 50.00
Fifth response	\$ 75.00
Sixth response	\$100.00
Seventh response	\$150.00
Eighth and subsequent responses	\$200.00

This bylaw may, in the discretion of the enforcing person, be enforced by non-criminal disposition as provided in G.L. c 40, Sec. 21D, or by the method provided in Article 2.14 of these bylaws, "Prosecution under the Bylaws". The non-criminal fine for each such violation shall be as set forth above, and each day on which any violation exists shall be deemed to be a separate offense. "Enforcing person," as used in this bylaw, shall mean any officer of the Town of Winchendon Police Department, and the Fire Chief and his designees.

SECTION 26.3 ORDER TO DISCONNECT OR DISCONTINUE USE OF MONITORED SYSTEM

The owner or tenant of a residence or place of business which has a monitored system which occasion six (6) or more false alarms within the previous twelve (12) months or fails to pay the fine described in Section 2 after notice of the same may be ordered to disconnect and otherwise discontinue the use of the monitored system by the Fire or Police Chief. Such order shall be given to the owner or tenant by certified mail or by service in hand.

SECTION 26.4 SEVERABILITY

Invalidity of any individual section of this bylaw shall not affect the validity of the bylaw as a whole.

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ARTICLE 27

BROWNFIELD TAX ABATEMENT (May 13, 2002)

Brownfield Tax Abatement Agreements

SECTION 27.1

The purpose of this by-law is to encourage the clean-up and redevelopment of contaminated industrial or commercial sites or portions of sites by providing a method by which the Town of Winchendon may enter into tax abatement agreements pursuant to MGL Chapter 59 Section 59A and this by-law.

SECTION 27.2

Property which may be the subject of a tax abatement agreement pursuant to this by-law must:

- (a) be a site or portion of a site from or at which there has been a release of oil or hazardous material; and
- (b) be owned by an eligible person, as that term is defined in MGL Chapter 21E section 2; and
- (c) be zoned for commercial or industrial use.

SECTION 27.3

The Town Manager, or the Director of Planning and Development with the Town Manager's approval, are authorized to negotiate agreements providing for the abatement of real estate taxes with owners of eligible properties.

SECTION 27.4

The agreement must specify all details regarding payment of any outstanding taxes, interest or penalties including the amount owed, the rate of interest to accrue if any, the amount of monthly payments, the payment schedule, late penalties and all other terms and conditions agreed to by the town and the property owner. As part of the agreement the property owner must provide a detailed statement and supporting evidence that demonstrates there is adequate financing available to accomplish clean-up of the contamination or hazardous materials, and that the reduction in outstanding taxes, interest or penalties is reasonably necessary to complete the clean-up.

The agreement may allow for reductions in outstanding real-estate taxes, interest and penalties, or full or partial payments therefore, and such other terms and conditions as the town deems reasonable and necessary to ensure the timely clean-up and redevelopment of the parcel or portion thereof.

SECTION 27.5

The Board of Selectmen may approve, by majority vote, a tax abatement agreement where the total value of the abated taxes, penalties and interest is less than \$100,000. If the total value of the tax abatement is \$100,000 or more, then town meeting must approve the agreement by majority vote.

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SECTION 27.6

The tax abatement agreement must be signed by the chairman of the Board of Selectmen and the property owner, and their signatures notarized, and the agreement attested to by the Town Clerk. Copies must be provided to the Massachusetts Commissioner of Revenue, the Massachusetts Department of Environmental Protection, the US Environmental Protection Agency, the property owner, the Board of Selectmen, the Town Manager, Town Clerk, Town Assessor, Town Collector, and Planning Board.

ARTICLE 28

TOXIC AND HAZARDOUS MATERIALS MANAGEMENT

(May 24, 2004)

SECTION 28.1 FINDINGS

The Town of Winchendon finds that:

- i. The groundwater underlying this town is currently a significant source of its existing and future water supply, including drinking water.
- ii. The groundwater aquifer is integrally connected with, and flows into the surface waters, lakes, streams and ponds, which constitute significant recreational and economic resources of the town, used for bathing and other water-related recreation.
- iii. Accidental spills and discharges of petroleum products and other toxic and hazardous materials have repeatedly threatened the quality of such groundwater supplies and related water sources in other Massachusetts towns, posing potential public health and safety hazards and threatening economic losses to the affected communities.
- iv. Unless preventive measures are adopted to prohibit and protect against the discharge of toxic and hazardous materials and to ensure their safe and proper storage within the town, further spills and discharges of such materials will predictably occur with greater frequency and degree of hazard by reason of increasing construction, commercial and industrial development, population and vehicular traffic in the Town of Winchendon.

SECTION 28.2 STATUTORY AUTHORITY

The Town of Winchendon adopts the following in accordance with MGL C. 111. S. 31 as amended to Title V of the Environmental Code.

SECTION 28.3: DEFINITIONS

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

DISCHARGE - The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or

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dumping of toxic and/or hazardous material(s) upon or into any land or waters of the Town of Winchendon. "Discharge" includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry well, catch basin or unapproved landfill.

The term "discharge", as used and applied in this bylaw, does not include the following:

1. Proper disposal of any material in a sanitary or industrial landfill that has received and maintained all necessary legal approvals for that purpose.
2. Application of fertilizers and pesticides in accordance with label recommendations and with regulations of the Massachusetts Pesticide Control Board.
3. Application of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Department of Public Works.
4. Disposal of sanitary sewage to subsurface sewage disposal systems as defined and permitted by Title V of the Massachusetts Environmental Code.

TOXIC OR HAZARDOUS MATERIAL(S)

Any substance of such physical, chemical, biological, or infectious characteristics as to pose a significant actual or potential hazard to water supplies or other hazard to human health and safety if such substance or mixture were discharged to land or waters of the town. "Toxic or hazardous material(s)" include, but are not limited to organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and includes products such as pesticides, herbicides, solvents and thinners. By-products and wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous, unless and to the extent that anyone engaging in such activity can demonstrate the contrary to the satisfaction of the Town of Winchendon or its authorized agent(s):

1. Airplane, boat and motor vehicle service and repair.
2. Chemical and bacteriological laboratory operation.
3. Cabinetmaking.
4. Dry cleaning.
5. Electronic circuit assembly.
6. Metal plating, finishing and polishing.
7. Motor and machinery service and assembly.
8. Painting, wood preserving and furniture stripping.
9. Pesticide and herbicide applications.
10. Photographic processing.
11. Printing.
12. Resin manufacturing.

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SECTION 28.4 PROHIBITED ACTIVITIES

- A. The discharge of toxic or hazardous material(s) upon ground or into any surface or ground waters within the Town of Winchendon is prohibited.
- B. Outdoor storage of toxic or hazardous material is prohibited, except when storage is in product-tight container(s) which are protected from the elements, maintained on the premises and be reconciled with purchase, use accidental damage, vandalism and which are stored in accordance with all applicable requirements of Section 5 of this bylaw.

SECTION 28.5 STORAGE

A. Registration

- (1) Except as exempted below, every owner and every operator other than an owner of a site at which toxic and hazardous material(s) are stored in quantities totaling at any time, more than fifty (50) gallons liquid volume or twenty-five (25) pounds dry weight shall register with the Winchendon Health Department and Fire Department the types of materials stored, quantities, location and method of storage. The Winchendon Health Department or Fire Department may require submittal of a Material Safety Data Sheet for each toxic and hazardous material(s) and an inventory of such materials be, sales and disposal records on a monthly basis in order to detect any product loss. Registration required by this bylaw shall be submitted within sixty (60) days of enactment of this bylaw and annually thereafter. Maintenance and reconciliation of inventories shall begin within the same sixty-day period.

- (2) Registration and inventory requirements shall not apply to the following:

- a) Fuel oil stored in conformance with Massachusetts Fire Preventive Regulations and regulations of the Winchendon Health Department for the purpose of heating buildings located on the site; or
- b) The storage of toxic and hazardous materials at a single- or two-family dwelling, except when such materials are stored for use associated with a professional or home occupation use.

B. Wastes containing toxic or hazardous material(s) shall be held on the premises in product-tight containers and shall be removed and disposed of in accordance with the Massachusetts Hazardous Waste Management Act, Ch. 704, Acts of 1979.

C. The Winchendon Health Department or Fire Department may require that containers of toxic or hazardous materials be stored on an impervious, chemical-resistant surface compatible with the material being stored and that provisions be made to provide secondary containment equal to 110% of the

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volume of the largest container or 10% of the total volume of containers, whichever is greater, to protect against contamination in the event of accidental spillage or leakage.

SECTION 28.6 NOTIFICATION OF SPILLS AND LEAKS

Every owner or operator or other person having knowledge of a spill, leak or other loss of toxic or hazardous materials in excess of five (5) gallons shall notify the Winchendon Health Department or Fire Department immediately upon discovery and in every case within two (2) hours.

SECTION 28.7 ENFORCEMENT

A. The Winchendon Health Department or Fire Department, acting as duly authorized agents of the Town, shall enforce the provisions of this bylaw and according to law, may enter upon any premises at any reasonable time to inspect for compliance.

B. Upon request of the Winchendon Health Department or Fire Department, the owner or operator of any premises at which toxic or hazardous materials are used or stored shall furnish all information required to monitor compliance with this bylaw, including a complete list of all chemicals, pesticides, fuels and other toxic or hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage and the means of disposal of all toxic or hazardous wastes produced on this site. The Winchendon Health Department may require samples.

C. All records pertaining to storage, removal and disposal of toxic or hazardous wastes shall be retained for no less than three (3) years and shall be made available for review by the Winchendon Health Department or Fire Department upon request.

D. The Building Commissioner of the Town of Winchendon shall condition issuance of construction and occupancy permits upon conformity with the requirements of this bylaw respecting any toxic or hazardous materials to be used in the course of such construction or occupancy.

SECTION 28.8 NOTICE OF VIOLATION

Written notice of any violation of this bylaw shall be given by the Winchendon Health Department or Fire Department, specifying the nature of the violation; any corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measures required for avoiding future violations; and a time for compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance. The cost of containment and cleanup shall be borne by the owner and/or operator of the premises.

SECTION 28.9 VIOLATIONS AND PENALTIES

Any owner or operator who violates any provision of this bylaw shall be subject to a fine of not more

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than twenty-five (\$25.00). Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one (1), each condition shall constitute a separate offense.

SECTION 28.10 SEVERABILITY

Each provision of this bylaw shall be construed as separate, to the end that, if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

ARTICLE 29 WETLANDS PROTECTION BYLAW

(May 2007)

SECTION 29.1 PURPOSE

The Purpose of this bylaw is to maintain the quality of surface water, the quality and level of the groundwater table and water recharge areas for existing or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundations; to protect the community against the costs which may be incurred when unsuitable development occurs in wetland resources areas; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of the town of Winchendon.

Accordingly, this bylaw protects the wetlands, related water resources, and certain adjoining land areas in the Town by providing for prior review and control of activities deemed to have a significant or cumulative adverse effect upon wetland values. Collectively, the wetlands values protected by this bylaw, include but are not limited to the following: protection of public and private water supply, protection of groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, avoidance of water and soil pollution, protection of wildlife habitat, rare species habitat including rare plant species, protection of agriculture and aquaculture and recreation values, deemed important to the community.

This bylaw is intended to utilize the Home Rule authority of the town of Winchendon to protect the resource areas and associated values currently being regulated under the Massachusetts Wetlands Protection Act (Massachusetts General Law Ch. 131, Sec. 40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00), subject however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Winchendon, and

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regulations thereunder (310 CMR 10.00).

SECTION 29.2 JURISDICTION

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, pollute or discharge into, or otherwise alter the following resource areas protected by this chapter, (collectively, 'wetland resource areas') any wetland, including but not limited to, any freshwater wetland, marshes, flats, wet meadow, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, and lands under water bodies; intermittent streams, creeks, brooks; lands adjoining these resource areas out to a distance of one-hundred feet (100), known as the buffer zone; perennial rivers, streams, brooks and creeks; land adjoining these resource areas out to a distance of two hundred feet (200), known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water; and lands subject to storm flowage, or flooding (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that are under the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquaculture uses as defined by the Wetland Protection Act regulations, found at 310 CMR 10.04.

SECTION 29.3 EXEMPTIONS AND EXCEPTIONS

The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

The application and permit by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

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A 'Request for Determination of Applicability' may be requested, but no Notice of Intent need be filed for the replacement, repair, or installation of a residential septic system that meets the requirements of Title 5 of the State Environmental Code (310 CMR 15.00), and has received a permit from the Winchendon Board of Health, and that meets the setback requirements of this Bylaw.

Notwithstanding the other provisions of this Bylaw, the Commission may issue an 'Order of Conditions' for limited projects listed under Section 10.53(3) of the Wetland Protection regulations promulgated under the Massachusetts Wetland Protection Act (310 CMR 10.53 (3)).

Notwithstanding any provision of this chapter to the contrary, the alteration of any residential, business or institutional building or customary appurtenance thereto, such as lawns, gardens, landscaped or other developed areas, where such structure or appurtenance existed prior to the effective date of this bylaw, shall not be subject to this bylaw, but shall be regulated exclusively by the provisions of MGL c.131, s40.

Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing along with a written justification stating why a waiver is desired or needed; is in the public benefit, and is consistent with the intent and purpose of the Bylaw. In no cases will a decision under this bylaw be less stringent than the Wetland Protection Act's requirement.

Other than stated in the section, the exemptions provided in the Wetlands Protection Act (G.L. Ch. 131 S.40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

SECTION 29.4 APPLICATIONS FOR PERMITS AND REQUESTS FOR DETERMINATION

Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this Bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RDA filed by a government agency.

- a. Written application shall be filed with the Commission to perform activities affecting resource areas and buffer zones protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission as specified in the bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.
- b. The Commission may, where it deems it appropriate, accept as the permit application and plans under this bylaw the 'Notice of Intent' and plans required to be filed under the Wetlands Protection

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Act, MGL c.131 S40, and regulations, hereunder, at 310 CMR 10.00, et seq.

- c. Any person may request the Conservation Commission to make a determination as to whether or not a proposed project in the wetland or "buffer zone" is significant to the interests protected by the Bylaw. The Commission or its agents, may for the purpose of carrying out its duties under this Bylaw, request such plans or information as may be necessary for its evaluation, may enter upon the subject land, and may make or require to be made such examination or survey as it deems necessary.
- d. At the time of the permit application, the applicant shall pay a filing fee according to the schedule in the Town of Winchendon and Wetland Protection Act regulations. This fee is non-refundable.
- e. Any additional outside expert engineering or consultant services will be at the expense of the applicant. The entire fee must be received before the initiation of consulting services. Failure by applicant to pay consultant fee within 10 business days shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.
- f. All plans shall also show the location of the wetland boundaries and shall be at a scale of 1" = 40' or any such scale that adequately depicts the area.
- g. All properties shall be staked for any proposed buildings and wetland delineations.
- h. The Commission may extend an 'Order of Conditions' once for a period of up to three (3) years. Written requests for an Extension Permit shall be made not less than thirty calendar days prior to the expiration of said 'Order of Conditions'.
- i. The Commission may deny an 'Extension Permit' under any of the following circumstances:
 - Where no activity has begun on the project, except where such failure is due to unavoidable delay such as appeals in obtaining other necessary permits.
 - Where new information not available at the time of the original permit filing has become available and indicates that the 'Order of Conditions', is insufficient to protect the areas subject to protection.
 - Where activity is causing damage to areas subject to protection.
 - Where there has been activity in violation of the 'Order of Conditions'.
 - Where an extension permit has been previously granted for the "Order of Conditions.
- j. Site checks will be based on accessibility due to snow depth and ice.

The Commission in an appropriate case may accept as the permit application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (MGL ch.131 Sec. 40) and Regulations (310 CMR 10.00), but the Commission is not obligated to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a 'Request for Determination of Applicability' (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

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Any person may request the Conservation Commission to verify the precise boundaries of a resource area, including the buffer zone. A 'Request for Resource Area Delineation', using the form designated by the Commission, shall be sent by certified mail, or hand delivered to the Commission and standardized procedures will be followed under M.G.L. ch.131, s. 40. If the Commission determines that additional data or information is necessary, the hearing may be continued to a specific date and time announced at the hearing, agreeable to both the Applicant and the Commission. The 'Order of Resource Area Delineation' shall be issued within 21 days after the public hearing and may be identical to any such delineation issued under the provisions of the Massachusetts Wetlands Protection Act (M.G.L. Ch 131, s.40).

Any person submitting an application for a permit to build, that has the potential to acquire future permits for lots in the same boundary ownership, shall include in those plans, all boundaries of ownership for potential future building lots. This action may help prevent potential future non-conforming lots (hardships) involving the protection of wetland resource areas.

SECTION 29.5 NOTICE AND HEARINGS

Prior to issuing any permits or 'Order of Conditions' (Section 12.8.2 Determinations) the Conservation Commission shall hold a public hearing on any permit application, RDA or ANRAD with written notice given at the expense of the applicant. Notice of time and place of such hearing shall be posted not less than five (5) business days prior to the public hearing, by publication in a newspaper of general circulation in the town and by mailing a notice to the Applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under M.G.L. Ch 131, s.40. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion.

SECTION 29.6 BURDENS OF PROOF

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have an unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or to grant a permit with conditions.

SECTION 29.7 PERMITS AND CONDITIONS

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this bylaw. In preparing the 'Order of Conditions', the Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the municipality, resulting from past activities, permitted and exempt, and foreseeable future activities. Such 'Order of Conditions'

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shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Conservation Commission under the provisions of MGL. Ch131, s.40, or successor statutes, and shall be issued within 21 days after the public hearing. Such 'Order of Conditions' will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an 'Order of Conditions' shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final 'Order of Conditions' issued under this bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said 'Order' is identical to the final 'Order of Conditions' issued under the provisions of M.G.L. 131, s40, only one 'Order of Conditions' need be recorded. If a wetland replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's rules and Regulations.

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting in past activities, whether permitted, unpermitted or exempt, and foreseeable future activities. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; A waiver may then be necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within a buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because work performed in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant shows the Commission that part or in total area may be disturbed without harm to the values protected by this bylaw.

In accordance with the riverfront area, the Commission will presume that this area is important to all the resource area values, unless demonstrated otherwise, and no permit will be issued unless the applicant,

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having met all applicable requirements of this bylaw, has proven by a preponderance of the evidence that (1) there is no practicable alternative to the proposed activities with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas and values protected by this bylaw. The Commission shall regard the overall project and alternatives in which are practicable and reasonable and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial) logistics, existing technology, costs for the alternatives and overall project costs.

To prevent a loss of resource areas, and minimize alteration; the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration, and where alteration is unavoidable the Commission will authorize or require replication of wetlands. These replication areas must have professional design, specific plans and proper safeguards. There must be professional monitoring and reporting to ensure its success.

The Commission may require a wildlife habitat study of a proposed project area at the expense of the applicant, regardless of the location of the resource area. The decision shall be based on vital information of actual or possible presence of rare plant or animal species in the area. The work shall be done by someone who meets the qualifications listed in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60)

The Commission will accept all areas meeting the definition of “vernal pools” (see Section 20, Definitions) under this bylaw, to include adjacent areas subject to essential habitat functions. This presumption may be overcome by credible evidence that the basin or depression does not provide essential habitat functions.

Amendments to permits, DOAs (Determination of Applicability), or ORADs (Order of Resource Area Delineation) shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

SECTION 29.8 INSPECTIONS

All projects for which an ‘Order of Conditions’ has been issued under this Bylaw are subject to inspections by the members of the Conservation or its duly appointed agent. No construction within the conditioned area will commence without the following items being completed:

- (a) The ten-day appeal period
- (b) The DEP filing number issued for this project must be posted at the site.
- (c) All mitigation controls must be in place as to plans.
- (d) The ‘Order of conditions’ must be recorded with the Registry of Deeds and a copy forwarded to this commission.
- (e) A copy of the ‘Order of Conditions’ must be on site.
- (f)

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SECTION 29.9 SETBACKS FOR ACTIVITIES

The following are the minimum distances (setbacks) from the edge of wetlands or vernal pools (see Section 20, Definitions). No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

Example: seasonal high water line, topography, industrial versus residential.

The setbacks shall be as follows:

- (a) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (b) 50-foot setback of undisturbed natural vegetation.
- (c) 75-foot setback of no build/structure zone.

When in the opinion of the Commission, compliance with these setbacks will result in greater harm to the interests of this bylaw, or that no harm would be done to the interests of this bylaw, by the proposed action, (e.g., non-motorized boat shed, mooring) the Commission would then waive by degree these setbacks. The Conservation Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth prior to this law need not be discontinued or removed (but are deemed to be nonconforming). No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than this Bylaw allows unless such activity or structure will not affect the interests protected by the bylaw no more adversely than the existing activity or structure.

SECTION 29.10 EROSION AND SEDIMENTATION CONTROL

Where activities are proposed within the buffer zone, erosion and sedimentation barriers and other erosion controls as necessary shall be installed between the area of activity and the wetlands or vernal pool to prevent sediment into said areas. Similarly, the same erosion controls shall be installed when activities outside the buffer zone create a significant potential for transport of sediment into wetlands or vernal pools.

SECTION 29.11 STORAGE OF FILL OR MATERIALS

If any fill is to be stored on site, it shall be stored outside of the buffer zone and/or it shall be surrounded by staked hay bales to prevent erosion and sedimentation. No storage, disposal or burial of construction debris (Example: scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) shall be allowed within the buffer zone without the express permission of the Commission in an 'Order of Conditions'.

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SECTION 29.12 WETLANDS REPLACEMENT

Wetlands or Vernal Pools that are altered shall in all instances be replaced by replacement wetlands of similar character. Replicated wetlands shall include, at minimum, equal area as the altered wetlands or vernal pool in a hydrologically connected location to the unaltered remainder of the wetlands or vernal pool. All replicated areas shall be completed before any other construction is allowed unless specifically addressed in the 'Order of Conditions'.

SECTION 29.12A REQUIREMENTS FOR WETLAND REPLACEMENT

Projects involving the filling and/or permanent alteration of wetlands or vernal pools shall meet the following requirements:

- (a) The proposed replacement area design must be submitted to the Commission for approval as part of the 'Notice of Intent'.
- (b) The replacement area must be shown to duplicate sufficiently the functions of the wetland proposed to be altered.
- (c) The replacement area shall be constructed, to the extent possible, immediately after alteration of the existing wetland and during the same growing season.
- (d) If after three growing seasons, the Commission determines that the replacement area has not satisfactorily developed into a wetland or vernal pool, the applicant or owner may be required to submit new plans to successfully replicate the original altered wetland. No 'Certificate of Compliance' shall be issued until the Commission has determined that a satisfactory replacement area has been completed. (see section 21, definitions)

SECTION 29.13 DENIAL

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulatively adverse effects upon the wetland values protected by this bylaw; or where the commission deems that no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

SECTION 29.14 PRIOR VIOLATION

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of any order pursuant to this Bylaw, shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal shall be brought against such person unless commenced within three (3) years following the date of acquisition of the real estate by such person.

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SECTION 29.15 BOND

The Conservation Commission may require the posting of a bond with surety, running to the Town of Winchendon, sufficient as to form and surety in the opinion of the town counsel, to secure the faithful and satisfactory performance of work required by any final 'Order of Conditions', in such sum and upon such conditions as the Commission may require. Other evidence of financial responsibility which is satisfactory to the Commission may be accepted in lieu of a bond. Notwithstanding the above, the amount of such bond shall not exceed either the estimated cost of the work required by the final 'Order of conditions', or the estimated cost of the work required for the restoration of affected lands and properties if the work is not performed as required, whichever is greater.

SECTION 29.16 RULES AND REGULATIONS

After due notice and public hearing, the Conservation Commission may promulgate procedural rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. However, failure to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

SECTION 29.17 ENFORCEMENT

The following provides a list of specific violations definable by this Bylaw:

- Alteration of a wetland or Vernal Pool without an 'Order of Conditions' issued pursuant to this bylaw.
- Work within the buffer zone without prior submittal of 'Request for Determination of Applicability' or 'Notice of Intent'.
- Failure to provide sedimentation controls required by an 'Order of Conditions'.
- Disposal of construction debris within the buffer zone.
- Failure to construct storm water or drainage structure according to plans.
- Storage of fill within a buffer zone (except as allowed by the 'Order of Conditions')

A fine for the specific violations listed above is \$300.00.

Any person who violates any provision of this bylaw or of any condition of a permit issued pursuant to it may be subject to a fine of not more than \$300.00. Each day during which a violation continues may constitute a separate violation.

The Commission, its agent or officers, have the authority to enter upon privately owned land for the purpose of performing their duties under this bylaw, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have the right to enforce this bylaw, its regulations and permits issued by letters, phone calls, electronic communication and/or other informal methods. As an alternative to criminal

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prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 S.21D.

Municipal boards and officers, including any police officer or other officer having police powers, shall have the authority to assist the Commission in enforcement under civil law.

SECTION 29:18 APPEALS

A decision of the Commission may be reviewed by the Superior Court in an action filed within 60 days thereof, in accordance with Massachusetts General Law 249, Section 4.

SECTION 29.19 SEVERABILITY

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

SECTION 29:20 DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this bylaw:

The term ‘**alter**’ shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
- B. The change of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill or removal of material, which would alter elevation.
- F. Driving of piles, erection or repair of buildings, or structures of any kind.
- G. Placing of obstructions or objects in water.
- H. Destruction of plant life including cutting of trees.
- I. Changing temperature, biochemical oxygen demand or other physical, biology, or chemical characteristics of any waters.
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- K. Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term ‘**Abbreviated Notice of Resource Area Delineation**’ (ANORAD) is the application used for requesting the review of wetland boundary lines.

The term ‘**bank**’ shall include the land area which normally abuts and confines a water body; the lower

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boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term '**Certificate of Compliance**' means a written determination by the issuing authority that work or a portion thereof has been completed in accordance with an order.

The term '**Determination of Applicability**' is the response to a 'RDA'. A negative response means the project in a buffer zone may move forward without adverse effects in a resource area. A positive response means that the applicant must file a 'Notice of Intent'.

The term '**Notice of Intent**' is an application that is used when work is in a resource area or buffer zone. The abutters are notified of a project and posted 5 business days prior to a hearing.

The term '**Order of Conditions**,' is a document issued by a Conservation Commission containing conditions which regulate or prohibit an activity in a resource area.

The term '**Orders of Resource Area Delineation**' (ORAD) is the document used to answer the 'Abbreviated Notice of Resource Area Delineation'.

The term '**person**' shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or political subdivision thereof, to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents or assigns.

The term '**rare species**' shall include, without limitation, all vertebrate and invertebrate animals and plant species listed as endangered, threatened, or of special concern by the Mass. Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

The term '**Request for Determination of Applicability (RDA)**, is an application used in the wetlands regulations that would determine an impact to wetlands, whether laws apply to a particular area and project.

The term '**vernal pool**' shall include, in addition to scientific definitions found in the regulations under the Wetland Protection Act, any confined basin, or depression not occurring in existing lawns, gardens, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water most years and which is free of adult fish populations, and provides a habitat for breeding and rearing of vernal pool species, as well as the area within 100 feet of the mean annual high-water line of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The definitions and procedures in

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this bylaw shall be set forth as in the Wetlands Protection Act (MGL Ch. 131 S. 40) and regulations (310 CMR 10.00)

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (MGL Ch. 131 Sec. 40) and Regulations (310 CMR 10.00)

ARTICLE 30 **RIGHT TO FARM BY-LAW** (11/ 8/ 2007)

SECTION 30.1 LEGISLATIVE PURPOSE AND INTENT

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

This general By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities and protects farmlands within Winchendon by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This By-law shall apply to all jurisdictional areas within the Town of Winchendon.

SECTION 30.2 DEFINITIONS

For the purpose of this by-law, any definition of farming and agriculture shall refer to MGL Chapter 128: Section 1A. which states: "Farming" or "agriculture" shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident too or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

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

- farming in all its branches and the cultivation and tillage of the soil;
- the cultivation and harvesting of orchard produce such apples, peaches and pears;
- dairying;
- production, cultivation, growing and harvesting of any agricultural, aqua cultural, floricultural, viticulture or horticultural commodities;
- growing and sustainably harvesting of forest products upon forest land;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising poultry, swine, cattle, sheep, ratites (such as emus, ostriches and rheas) and camelids (such as llamas, alpacas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur bearing animals.

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

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

SECTION 30.3 RIGHT TO FARM DECLARATION

The right to farm is hereby recognized to exist within the Town of Winchendon. The above-described agricultural activities may occur on holidays, weekdays and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and

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society in general. The benefits and protections of this By-law/Ordinance are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right-to-Farm By-Law/Ordinance shall be deemed as acquiring any interest or land, or as imposing any land use regulation, which is properly the subject of state statute, regulation or local zoning law.

SECTION 30.4 DISCLOSURE NOTIFICATIONS

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase or sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Winchendon, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the protection of food, and other agricultural products, and also for its ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations.

A copy of this disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the town manager or his/her designee prior to the sale, purchase or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to land owners each fiscal year by mail.

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

SECTION 30.5 RESOLUTIONS OF DISPUTES

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

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of

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the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to Board of Health within an agreed upon time frame.

SECTION 30.6 SEVERABILITY CLAUSE

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

ARTICLE 31 **STORMWATER MANAGEMENT BYLAW**

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PART I – GENERAL PROVISIONS

Section 31.1 Purpose and Objective

- A. The purpose of this bylaw is to protect public health, safety, general welfare, and the environment by regulating illicit connections and discharges to the storm drain system, as well as to control the adverse effects of construction site stormwater runoff and post-construction runoff. Stormwater runoff can be a major cause of:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, coastal waters, wetlands, groundwater and drinking water supplies;
 - (2) Contamination of drinking water supplies;
 - (3) Contamination of downstream coastal areas;
 - (4) Alteration or destruction of aquatic and wildlife habitat;
 - (5) Overloading or clogging of municipal stormwater management systems; and
 - (6) Flooding.
- B. The objectives of this bylaw are to:
- (1) Protect water resources;
 - (2) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements and with the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts, issued by the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (“MS4 Permit”);
 - (3) Prevent and reduce pollutants from entering the Town of Winchendon municipal separate storm sewer system (MS4);
 - (4) Prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
 - (5) Establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 - (6) Establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater best management practices to ensure that they continue to function as designed, and pose no threat to public safety; and
 - (7) Recognize the Town of Winchendon’s legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

Section 31.2 Definitions

Unless a different definition is indicated in other sections of this bylaw, the following definitions and provisions shall apply throughout this bylaw:

ALTERATION OF DRAINAGE CHARACTERISTICS: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include:

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change from distributed runoff to confined or discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government, to the extent permitted by law, requesting a Land Disturbance Permit.

AS-BUILT DRAWING: Drawings that completely record and document applicable aspects and features of conditions of a project following construction using Stormwater Management Plans derived from a Land Disturbance Permit.

BEST MANAGEMENT PRACTICE (BMP): schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CERTIFICATE OF COMPLETION (COC): A document issued by the Stormwater Authority after all construction activities have been completed, which states that all conditions of an issued Land Disturbance Permit have been met and that a project has been completed in compliance with the conditions set forth in the permit.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

CLEARING: Any activity that removes the vegetative surface cover.

COMMON PLAN OF DEVELOPMENT: - A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the Waters of the United States or Commonwealth from any source.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbing activities.

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground.

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GRUBBING: The act of clearing land surface by digging up roots and stumps.

HAZARDOUS MATERIAL: Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Part II, §2D. The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities and other activities exempted pursuant to Part II, §2D(1) of this bylaw.

IMPERVIOUS SURFACE: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil. This can include but is not limited to: roads, driveways, parking areas and other areas created using nonporous material; buildings, rooftops, structures, artificial turf and compacted gravel or soil.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LAND DISTURBANCE PERMIT: A permit issued by the Stormwater Authority pursuant to this bylaw prior to commencement of Land Disturbing Activity.

LAND DISTURBING ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material; results in an increased amount of runoff or pollutants; measurably changes the ability of a ground surface to absorb waters; involves clearing, grading, or excavating, including grubbing; or results in an alteration of drainage characteristics.

LOW IMPACT DEVELOPMENT or LID: site planning and design strategies that use or mimic natural processes that result in the infiltration, evapotranspiration or use of stormwater in order to protect water quality and associated aquatic habitat. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. LID practices include but are not limited to bioretention facilities, rain gardens, vegetated rooftops, rain barrels and permeable pavements.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Winchendon.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by the EPA that authorizes the discharge of pollutants to Waters of the United States.

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NEW DEVELOPMENT: any construction activities or land alteration on an area that has not previously been developed to include impervious cover.

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 man-made pollutants finally depositing them into a water resource area.

NON-STORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

POLLUTANT: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, construction wastes and residues including discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes and industrial, municipal and agricultural waste discharged into water.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition, construction, land alteration, or phased projects that disturb the ground surface, including impervious surfaces, on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: The areal extent of construction activities, including but not limited to the creation of new impervious cover and improvement of existing impervious cover.

SOIL: Any earth, sand, rock, gravel, or similar material.

STORMWATER AUTHORITY: Town of Winchendon Planning Board or its authorized agent(s).

STORMWATER: Stormwater runoff, snow melt runoff, and surface runoff and drainage.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings, details and

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reporting requirements developed by a qualified professional engineer (PE), which describes structural and non-structural best management practices designed to control the discharge of pollutants from impervious surfaces and onsite activities as well as the volume and peak rate of surface runoff from a site on an ongoing basis after construction has been completed.

TOTAL MAXIMUM DAILY LOAD or TMDL: Section 303(d) of the Clean Water Act authorizes the EPA to assist states, territories and authorized tribes in listing impaired waters and developing Total Maximum Daily Loads (TMDLs) for these waterbodies. A TMDL establishes the maximum amount of a pollutant that a waterbody can accept and still meet water quality standards for protecting public health and maintaining the designated beneficial uses of those waters for drinking, swimming, recreation, and fishing. A TMDL includes Waste Load Allocations for point source discharges, Load Allocations for nonpoint sources and/or natural background, and must include a margin of safety and account for seasonal variations.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwater, and Waters of the United States as defined under the Federal Clean Water Act as hereafter amended.

Section 31.3 Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Massachusetts home rule statute.

Section 31.4 Responsibility for Administration

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

Section 31.5 Waivers

- A. The Stormwater Authority, or its authorized agent, may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action is:
 - (1) allowed by federal, state and local statutes and/or regulations and the MS4 Permit; and
 - (2) in the public interest; and
 - (3) not inconsistent with the purpose and intent of this bylaw.
- B. Any person seeking a waiver must submit a written waiver request. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- C. If in the opinion of the Stormwater Authority or its authorized agent, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

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Section 31.6 Regulations

- A. The Stormwater Authority shall adopt, and may periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Management bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this bylaw.
- B. Stormwater Management regulations, rules or guidance shall identify requirements for Land Disturbance Permits required by this bylaw and consistent with or more stringent than the relevant requirements of the most recent MS4 Permit.

Section 31.7 Enforcement

The Stormwater Authority or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations.

- A. Criminal and Civil Relief.
 - (1) Any person who violates the provisions of this bylaw, or any associated regulations, permit, or order issued thereunder, may be subject to criminal penalties and prosecution in a court of competent jurisdiction and/or a fine of not more than \$300 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
 - (2) The Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.
 - (1) The Stormwater Authority or its authorized agent may issue a written order to enforce the provisions of Part II of this bylaw or any associated regulations, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;
 - (b) Performance of monitoring, analyses, and reporting;
 - (c) Cessation of unlawful discharges, practices, or operations;
 - (d) Implementation of measures to minimize the discharge of pollutants until such time as the illicit connection or discharge shall be eliminated; and
 - (e) Remediation of any adverse impacts of an illicit discharge or connection.
 - (2) The Stormwater Authority or its authorized agent may issue a written order to enforce the provisions of Part III of this bylaw or any associated regulations or permit. Violations include, without limitation, failure to obtain a Land Disturbance Permit for an activity subject to this bylaw, or failure to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, or Operations and Maintenance Plan or any other authorization issued pursuant to this bylaw or regulations issued hereunder. The

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written order may require the violator to remediate the non-compliance and/or any adverse impact caused by it, including without limitation:

- (a) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the Land Disturbance Permit or other authorization;
 - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Monitoring, analyses, and reporting;
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
 - (e) Construction, reconstruction, repair or maintenance of stormwater BMPs or any other aspect of the post-construction stormwater management system;
 - (f) Remediation of adverse impacts resulting from improper construction or operation of the post-construction stormwater management system; and/or
 - (g) A requirement to eliminate discharges, directly or indirectly, into the MS4, a watercourse or into the Waters of the Commonwealth.
- (3) If the Stormwater Authority or its authorized agent determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further provide that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Winchendon may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- (4) The alleged violator shall respond to the written order for abatement or remediation in writing within 21 calendar days to either:
- i. Agree to the remedy; or
 - ii. Request a hearing before the Stormwater Authority.

The Stormwater Authority shall schedule a hearing not later than 45 days after receiving the request from the alleged violator. The Stormwater Authority shall duly notify the alleged violator of the date, time and location of the hearing.

- (5) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, The violator and the property owner will be provided with a written demand for reimbursement of the Costs incurred by the Town of Winchendon, including administrative costs. The violator or property Owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority and requesting a hearing before the Stormwater Authority within 30 days of receipt of the notification of the costs incurred. Upon receipt of a timely written protest and request for a hearing, the Stormwater Authority shall hold a hearing within 45 days to decide whether to affirm or overturn (in whole or in part) The amount of costs to be reimbursed by the alleged violator. If the amount due is not received by the

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Expiration of the time in which to file a protest or within 30 days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction Affirming or reducing the costs, the costs shall constitute a municipal charge for purposes of G.L. c. 40, §58, and a lien may be imposed on the property for the amount of the unpaid charge, pursuant to G.L.c. 40, §58. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. C. 59 §57 On the 31st day after the costs first become due.

- C. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town of Winchendon may elect to utilize the noncriminal disposition procedure set forth in M.G.L. c. 40, § 21D, in which case designated agents of the Stormwater Authority shall be the enforcing persons. The penalty for the first violation shall be a warning. The penalty for the second violation shall be \$100. The penalty for the third and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- D. Entry to perform duties under this bylaw. To the extent permitted by local, state or federal law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.
- E. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be appealed to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 31.8 Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

PART II – DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM

Section 31.9 Applicability

Part II of this bylaw shall apply to all direct or indirect discharges to the municipal storm drain system and to any activities that might obstruct the municipal storm drain system.

Discharge and storage of toxic or hazardous materials are also regulated under Article 28 *Toxic and Hazardous Materials Management* of the Bylaws of the Town of Winchendon. The Planning Board may defer to the Winchendon Health Department as the authorized agent for enforcement of Part II when the prohibited activities are subject to Article 28 *Toxic and Hazardous Materials Management*.

Section 31.10 Prohibited activities; Exemptions.

- A. Illicit discharges. No person shall commence, allow, conduct or continue any illicit discharge to the municipal storm drain system.

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- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior consent from the Stormwater Authority.
- D. Exemptions.
 - (1) Discharge or flow resulting from fire-fighting activities, unless the Stormwater Authority determines that such discharge or flow is a significant source of pollutants to Waters of the United States;
 - (2) The following categories of non-stormwater discharges are allowed unless the Stormwater Authority, EPA, or the MassDEP identifies any category or individual discharge of non-stormwater discharge below as a significant contributor of pollutants to the MS4; then that category or individual discharge is not allowed, but rather constitutes an “illicit discharge”:
 - (a) Water line flushing
 - (b) Landscape irrigation
 - (c) Diverted stream flows
 - (d) Rising groundwater
 - (e) Uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(20))
 - (f) Uncontaminated pumped groundwater
 - (g) Discharge from potable water sources
 - (h) Foundation drains
 - (i) Air conditioning condensation
 - (j) Irrigation water, springs
 - (k) Water from crawl space pumps
 - (l) Footing drains
 - (m) Lawn watering
 - (n) Individual resident car washing
 - (o) Flows from riparian habitats and wetlands
 - (p) De-chlorinated swimming pool discharges (less than one ppm chlorine) provided the pool is drained in such a way as not to cause a nuisance
 - (q) Street wash waters
 - (r) Residential building wash waters without detergents

Section 31.11 Additional Prohibited Pollutants

Pet Waste: The Town of Winchendon is subject to a Pathogen water quality impairment, and because dog feces are a major component of stormwater pollution, it shall be the duty of each person who owns, possesses, or controls a dog to remove and properly dispose of any feces left by the dog on any public or private property neither owned nor occupied by said person. It is prohibited to dispose of dog feces in any

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public or private storm drain, catch basin, wetland or water body or on any paved or impervious surface. However, this provision shall not be applicable to a person using a helping dog or other helping animal registered as such. Persons walking dogs must carry with them a device designed to properly dispose of dog feces including, but not limited to, a bag or "pooper scooper." For specific requirements and penalties for violations see Article 17, Section 17.3 of the Winchendon General Bylaws.

Section 31.12 Emergency Suspension of Storm Drainage System Access

The Stormwater Authority or its authorized agent may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Stormwater Authority may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

Section 31.13 Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a spill, leak or other loss of toxic or hazardous materials in excess of five (5) gallons and subject to Article 28 *Toxic and Hazardous Materials Management* of the Bylaws of the Town of Winchendon, the person having knowledge of the release shall notify the Winchendon Health Department or Fire Department immediately upon discovery and in every case within two (2) hours in accordance with Section 28.6 of Article 28. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement agency no later than the next business day. The reporting person shall provide to the Stormwater Authority written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to address it and prevent its recurrence. Such records shall be retained for at least three years.

PART III – STORMWATER MANAGEMENT AND LAND DISTURBANCE

Section 31.14 Applicability

- A. A Land Disturbance Permit shall be required from the Planning Board for the following:
 - (1) Construction activities that individually or as part of a Common Plan of Development will result in land disturbance of one acre or more;
 - (2) Any project requiring Site Plan or Subdivision review by the Planning Board; or
 - (3) The disturbance of more than 5,000 square feet of land where the proposed use is a land use of higher potential pollutant loads pursuant to the Massachusetts Stormwater Management Standards.
- B. The following activities are exempt from the provisions of Part III:

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- (1) Normal maintenance of existing landscaping, gardens and lawn areas in such a way as not to cause a nuisance;
 - (2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - (3) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment or other pollutants to the MS4 or, directly or indirectly, to a Watercourse or Waters of the Commonwealth;
 - (4) Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act regulation 310 CMR 10.04.
- C. Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan, shall be in violation of this bylaw.

Section 31.15 Permit

- A. A Land Disturbance Permit must be obtained prior to the commencement of any tree clearing, construction activity, or land disturbance for which such a permit is required. An applicant seeking a permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this bylaw and in regulations adopted by the Stormwater Authority.
- B. Each application must be accompanied by the appropriate application fee as established by the Stormwater Authority. Applicants shall pay the application fee before the review process commences. The Stormwater Authority is authorized to retain a Registered Professional Engineer (PE) or other professional consultant to advise the Stormwater Authority on any or all aspects of the application and/or the project's compliance with conditions of a Permit. The Stormwater Authority may require the applicant to pay reasonable costs to be incurred by the Stormwater Authority for the employment of outside consultants pursuant to Stormwater Authority regulations as authorized by G.L. c. 44, § 53G.
- C. Required submittals to obtain a Land Disturbance Permit shall include (without limitation) an Erosion and Sedimentation Control Plan, a Stormwater Management Plan, and an Operation and Maintenance Plan. To obtain a Land Disturbance Permit, the applicant must show that site design, construction site stormwater runoff control and post-construction stormwater management will meet the standards set by the Stormwater Authority in its regulations, rules and/or guidance, which shall be at least as stringent as the relevant requirements of the MS4 Permit and may also address relevant environmental considerations including (without limitation) protection of aquifers and sensitive water bodies, climate resilience, and prevention of flooding.
- D. The Land Disturbance Permit shall include measures to ensure adequate long-term operation and maintenance of stormwater management design features and BMPs. The Stormwater Authority may impose requirements including (without limitation) the following:
 - (1) A requirement that funds for future operation and maintenance be set aside in a dedicated fund or escrow account;
 - (2) A permanent permit condition requiring compliance with an Operation and Maintenance Plan;

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- (3) A permanent permit condition requiring that the property owner submit an annual report or certification regarding operation and maintenance;
- (4) A requirement to record the Operation and Maintenance Plan (or notice thereof);
- (5) A requirement that a legal instrument be put in place establishing responsibility for operation and maintenance of a stormwater BMP serving more than one lot; and
- (6) A requirement that an easement be recorded allowing the Town to access a stormwater BMP to remedy any operational failure or maintenance problem.

Section 31.16 Consent to Entry onto Property

By signing the permit application, an applicant consents to the entry of members of the Stormwater Authority or its authorized agents in or on the site while the application is under review to verify the information in the application, and at any time after a Permit is issued to inspect for compliance with Permit conditions.

Section 31.17 Inspection and Site Supervision

The Stormwater Authority or its designated agent shall make inspections to verify and document compliance with the Land Disturbance Permit.

Section 31.18 Surety

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit. If the permittee defaults on any obligations imposed by the Land Disturbance Permit, the Stormwater Authority may (after notification of the permittee) inform the holder of the security (and the municipal treasurer if the treasurer is not holding the funds) of the default, in which event the Town shall be entitled to the security funds.

Section 31.19 Final Reports

Upon completion of the work and no later than two (2) years after completion of construction, the holder of a Land Disturbance Permit shall submit a report (including certified as-built construction plans) from a Professional Engineer (PE), surveyor, or Certified Professional in Erosion and Sedimentation Control (CPESC), certifying that the project has been completed in accordance with the conditions of the Land Disturbance Permit. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post construction stormwater management). Any discrepancies with the approved permit plans shall be noted in the cover letter submitting the report and as-built plans.

SECTION 31.20 CERTIFICATE OF COMPLETION

The Stormwater Authority shall issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work has been conducted in conformance with these

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regulations and The Stormwater Management Permit Conditions.

ARTICLE 32 PAWNBROKERS

(Aug. 30, 2010)

SECTION 32.1 LICENSING AUTHORITY AND REQUIREMENTS

A. The Board of Selectmen may license suitable persons to be pawnbrokers, pursuant to law. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the Board of Selectmen. Applications for new licenses under this rule may be filed at any time with the Board of Selectmen. Applications for the reissue of licenses already existing should be filed at least 30 days before the expiration of such licenses. All licenses issued hereunder shall expire annually on the last day of December. Persons whose licenses have expired and have not been reissued will be liable to prosecution if carrying on the business for which the license is required. Every person so licensed shall at the time of receiving such license, file a bond as provided by state law.

B. Persons who engage in or carry on the business of lending money on mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling the same back again at a stipulated price, when the property so mortgaged, pledged or purchased is deposited with the lender, must be licensed as pawnbrokers. This provision, however, does not apply to loans made on stock, bonds, notes or other written or printed evidence of ownership of property or of indebtedness to the holder or owner of such securities. (MGL c. 140, § 70 - 85)

SECTION 32.2 INTEREST RATES

C. Licensed pawnbrokers may charge the following rates of interest:

- (1) For loans up to and including \$30: 2% per month (and each fraction thereof at the same rate).
- (2) For loans over \$30: 2% per month (and each fraction thereof at the same rate).

D. No such pawnbrokers shall charge or receive any greater rate of interest, and interest shall be determined on the precise sum advanced by the lender.

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E. No pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles or things pawned with him. (MGL c. 140, § 78)

SECTION 32.3 POLICE MAY ENTER AND INSPECT PREMISES AND RECORDS

Any officer of the Police Department may, at any time, enter upon any premises used by a licensed pawnbroker for the purposes of his business, ascertain how he conducts his business and examine all articles taken in pawn or kept or stored in or upon said premises, and all books and inventories shall be exhibited to any above named whenever a demand shall be made for such exhibition. (MGL c. 140, § 73)(Penalty for refusal. MGL c. 140, § 74)

SECTION 32.4 NUMBERING OF PAWNED ARTICLES

Every licensed pawnbroker shall, at the time of making any loan, attach a number to the article taken in pawn, and shall make entry of such number in the book provided for by Section 32.5 (A).

SECTION 32.5 MAINTENANCE OF RECORDS; CONTENTS; PHOTO IDENTIFICATION

- A. Every licensed pawnbroker shall keep a book of a style and size in which shall be legibly written in ink, in the English language, at the time of making each loan, an account and description including all distinguishing marks and numbers, penny weight, troy ounce, and or karat of the goods (if applicable), articles or things pledged or pawned, the amount of money loaned thereon, the day and hour when it was pawned, the rate of interest to be paid on such loan, the number of such article as same, and shall attach a photo of said articles. No entry made in said book shall be erased, obliterated or defaced. All transaction entries in said book shall be recorded on a form prescribed by the Town of Winchendon.
- B. Every pawnbroker shall photograph any person pawning or pledging articles and keep such photographs with said books as part of his records. (MGL c. 140, § 79)
- C. For all loans, every pawnbroker shall also require positive identification and record the type of identification presented and record the date of birth from any person pawning or pledging any article. Positive identification shall mean any picture identification card issued by a governmental agency. Said identification shall be photocopied onto the form prescribed by the Town of Winchendon. (May 21, 2012)

SECTION 32.6 PLEDGE CARDS; CONTENTS; RETENTION

Each pledger shall be required by the pawnbroker to sign his name, age and address on a card (the prescribed form). In the event that the pledger is unable to write, the pawnbroker shall fill in the name, age and address on such card, together with a notation stating that the pledger was unable to do so. Such card (prescribed form) shall be retained seven years in an alphabetical index file to be kept on the premises by the licensed pawnbrokers. (May 21, 2012)

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SECTION 32.7 COPY OF REQUIRED RECORD TO PLEDGER

Every pawnbroker shall, at the time of making such loan, deliver to the person who pawns or pledges any goods, articles or things, a copy of the prescribed form signed by him, containing the substance of the entry required to be made in his book by the provisions of Section 32.5 (A); and no charge shall be made or required by any pawnbroker for any such copy of prescribed form. (MGL c. 140, § 80) (May 21, 2012)

SECTION 32.8 DAILY REPORTS TO POLICE

Every licensed pawnbroker shall deliver to the Winchendon Police Chief, every day before the hour of 10:00 a.m., a legible and correct photocopy or electronic report of all transactions recorded on said form prescribed by the Town of Winchendon containing an accurate description, including all distinguishable marks along with serial, and model numbers, including penny weight, troy ounce, and or karat if applicable, of all articles taken in pawn during the preceding business day, the respective numbers of such articles as provided by Section 32.4, the amount loaned thereon, and the time when such articles were pawned. If during the preceding day no articles have been taken in pawn by such pawnbroker, he shall make out and deliver to the Police Chief before the hour of 10:00 a.m., a report of such fact. (May 21, 2012)

SECTION 32.9 POSTING REQUIREMENTS

- A Every licensed pawnbroker shall post in a conspicuous place in his shop or office a copy of the statutes, ordinances and police regulations relating to pawnbrokers, to be furnished by the Police Chief, and shall put in some suitable and conspicuous place in his shop a sign having his name and occupation legibly inscribed thereon in large letters.
- B No pawnbroker shall place or maintain any signs or devices upon or in connection with his licensed premises indicating or tending to indicate that any form of business is conducted therein which he is not legally authorized to pursue.

SECTION 32.10 HOURS OF OPERATION

No pawnbroker shall have his shop open for the transaction of business, except between 8:00 in the morning and 9:00 in the evening of any weekday except Saturday, on which day such shop may be kept open from 8:00 in the morning until 10:00 in the evening.

SECTION 32.11 DISPOSITION OF PLEDGED ARTICLES

- A. Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him on the premises occupied by him for his business for at least four months after the date of deposit.
- B. After the expiration of the applicable period of time, he may sell the article by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay any surplus to the person entitled thereto on demand.
- C. No such sale of any article which is not of a perishable nature shall be made unless not less than 10

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days prior to the sale a written notice of the intended sale shall have been sent by registered mail to the person entitled to the payment of any surplus as aforesaid, addressed to his residence, as appearing in the records of such pawnbroker. Proof of registered mail shall be kept on file for one year after the date of sale.

- D. No article taken in pawn by such pawnbroker shall be disposed of otherwise than as above provided any agreement or contract between the parties thereto to the contrary notwithstanding.
- E. Articles of personal apparel shall not be deemed to be of a perishable nature within the meaning of this section. (MGL c. 140, § 71)

SECTION 32.12 PROHIBITIONS

- D. No pawnbroker shall make a loan, directly or indirectly, to a minor, knowing or having reason to believe him to be such.
- E. No pawnbroker shall loan money secured by deposit or pledge of a firearm, rifle, shotgun or machine gun. (MGL c. 140, § 13JB)

SECTION 32.13 COMPLAINTS; DISCIPLINARY ACTION; HEARING

Complaints concerning licensed pawnbrokers shall be filed with the Board of Selectmen and investigated by the Winchendon Police Chief. An investigation shall be made in all such instances.

In the event the Board of Selectmen determines that disciplinary action against a licensed pawnbroker may be appropriate, the Board shall cause to be served upon the licensed pawnbroker notice as to the time, date and place of hearing of the charge with a statement of the reasons for the proposed disciplinary action. Hearings shall be conducted in accordance with the procedure established by the Board.

The Board of Selectmen may, however, suspend or revoke a pawnbroker's license without hearing if the public health and safety so require. In such circumstances, the Board must forthwith give notice of the suspension or revocation and serve the pawnbroker by certified mail or in hand with notice of the opportunity for a hearing.

SECTION 32.14 SUSPENSION OR REVOCATION OF LICENSE

The Board of Selectmen may suspend or revoke licenses provided for by this bylaw for any cause which the Board of Selectmen deems sufficient. Offenses which may result in the suspension or revocation of a pawnbroker's license include but are not limited to the following:

- F. A violation of any section of this bylaw;
- G. A violation of any provision of the statutes regulating pawnbrokers;
- H. A violation of any provisions of any other statute or applicable law.

Article 33

PROHIBITED MATERIALS BYLAW

(May 23, 2011)

1. No person, tenant or entity, corporate or otherwise, as owner(s) or one(s) in control of premises, shall keep

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in the open in any area of the Town of Winchendon, any prohibited material, as the term is hereinafter defined, for more than fourteen (14) consecutive calendar days without being licensed to do so under this chapter.

- a. "Prohibited material" shall be defined as, including but not limited to, abandoned, discarded, or unused furniture, stoves, toilets, cabinets, scrap metal, lumber, concrete, asphalt, tin cans, rope rugs, batteries, paper, trash, rubber debris, waste, and other old scrap ferrous or non-ferrous material, which is not being used for its intended purpose.
2. A license to keep any prohibited material shall be requested by filing any application in writing for such a license with the Board of Selectmen no later than fifteen (15) days after a citation has been issued. The Selectmen shall hold a public hearing upon such a request within thirty (30) days of receipt of said application, notice of which shall be published in a newspaper issued in Winchendon or a paper of general circulation in Winchendon, at least three (3) days prior to the hearing. The applicant shall pay the cost of the publishing.
3. The Selectmen may grant a license for up to one (1) year upon such condition(s) as the Selectmen deem proper to keep such prohibited material in the open after a hearing has been held and the Selectmen determine that the keeping of the same will not depreciate property value in the area, will not create a hazard to the public safety, or will not become a public nuisance. Renewals of said license shall be granted only after the procedure set forth is followed.
4. The applicant shall at their own expense, give notice of said hearing by mailing a notice of same prepared by the Board of Selectmen to all parties of interest, meaning abutters, owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred (300) feet of the property line, as they may appear on the most recent applicable tax list as certified by the Board of Assessors. The Applicant shall submit an affidavit as to said notice. Renewals of said licenses shall be granted only after the procedures set forth is followed.
5. Notwithstanding the aforesaid sections, no prohibited material shall be deemed to be "in the open" as the phrase is used in Section 1, if it is totally screened from view of any public road or way, or any way which the public has a right of access.
6. Conditions existing on the date of acceptance of this chapter which meet the definition of prohibited material must be brought into compliance within thirty (30) days after said acceptance of this chapter.
7. The Building Commissioner and Health Agent shall be charged with the interpretation and enforcement of this Bylaw, and it may also be enforced by the Winchendon Police Department. Enforcement of this chapter may be by criminal complaint, indictment, non-criminal disposition or appropriate civil enforcement action. Selection of one method shall not preclude the selection of any method or remedy.

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8. Any person or entity who is found in violation of this chapter shall be liable for a fine of twenty-five (25.00) dollars a day for the first five days and fifty (\$50.00) dollars a day every day thereafter. The days shall be counted commencing fifteen (15) days after the notice of violation is given.
9. Any clause, section or part of this chapter determined to be invalid by any judiciary for any reason, shall be severable from any other clause, section, or part, without affecting the validity of that which remains.
10. Construction sites complying with the requirements of 780 CMR and MGL chapter 40, Section 54, are exempt from the aforementioned, provided that all related construction debris is maintained in a controlled fashion as determined by the Building Official.

ARTICLE 34 FUNERAL BUFFER ZONE BYLAW (5/23/2011)

Section 1. Definitions

“Funeral” means a funeral, burial, ceremony, memorial service or procession held in connection with the burial or cremation of the dead.

Section 2. Prohibitions

No person may knowingly obstruct, hinder, impede, or block another person's entry to or exit from a funeral.

No person may picket a funeral or engage in activities that are disruptive of a funeral, including making loud and raucous noise which cause unreasonable distress to the persons attending or participating in the funeral, directing abusive epithets or making any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another, within 500 feet of the property line of the residence, cemetery, funeral home, church, synagogue or other establishment where the service is conducted or within 500 feet of a funeral or burial. The prohibition contained in this section shall be applicable to activities occurring within one hour before a funeral, during a funeral, and within one hour after a funeral.

Section 3. Enforcement

This bylaw may be enforced by the any Police Officer of the Town of Winchendon, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to G.L. c. 40, §21D. When enforced pursuant to G.L. c.40, §21, the penalty shall be \$300.00. Each day a violation exists shall constitute separate violation.

When enforced through noncriminal disposition, the penalties

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shall be as follows: First violation: \$100.00
Second violation: \$200.00
Third and subsequent violations: \$300.00

ARTICLE 35 **STRETCH ENERGY CODE** (5/20/2013)

Section 1 - Adoption

The Town of Winchendon has adopted the provisions of 780 CMR 115.AA (i.e., Appendix 115.AA of the State Building Code or the “Stretch Energy Code”), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

Section 2 - Purpose

The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

ARTICLE 36 **FUEL STORAGE SYSTEM REGULATION** (5/12/2014)

Whereas, leaking fuel storage systems pose an immediate and serious threat to ground water, public and private wells, and,

Whereas, the Town of Winchendon does not have records to locate all such systems installed within the Town,

Therefore, under Chapter 111, Section 31, of the Massachusetts General Laws, the Town of Winchendon hereby adopts the following bylaw to protect the ground and surface waters from contamination with liquid toxic or hazardous materials.

DEFINITION: “Toxic or hazardous materials” shall be defined as all liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, and any other toxic or corrosive chemicals, radioactive materials or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts, under the provisions of Massachusetts General Laws, Chapter 21C, Section 1, et. Seq.
The following regulations apply to all toxic or hazardous materials storage:

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Section 1. Installation of Fuel Storage Tanks

1-1. Following the effective date of this regulation, the installation of all underground fuel, gasoline, or of her chemical storage tanks shall conform with the following criteria: In that the United States Environmental Protection Agency designated the Town of Winchendon as overlying a sole source aquifer, secondary containment of tank and piping and an approved in-tank and interstitial space monitoring system shall be required for new or replacement tanks.

1-2. Following the effective date of this regulation, all tanks installed above ground outside shall be of material approved for outside use. All tanks shall be properly installed as per Massachusetts Fire Regulations and manufacturer's specifications, under the direction of the head of the Fire Department. Tanks shall be approved design and protected from internal and external corrosion. The following tank construction systems are considered to provide adequate corrosion protection: all fiberglass construction; steel with bonded fiberglass or enamel coating and internal lining; and the Steel Tank Institute 3-Way Protection System. Any other system must be shown to provide equivalent protection.

1-3. All tank installations within four feet of maximum high water table or within one hundred feet of a surface water body or wetland shall be of fiberglass construction. The Fire Chief and the Board of Health Shall determine if additional protective measures are necessary.

1-4. Underground storage tanks shall not be installed within Water Resource Districts or Zones of Contributions of Public Water Supply Wells or within 150 feet of a private well.

Section 2. Tank Registration

The following regulations shall apply to A) all underground tanks containing toxic or hazardous materials as defined above which are not currently regulated under 527 CMR 9.26 – Tanks and Containers, to B) all tanks containing fuel oil, whose contents are used exclusively for consumption on the premises, and to C) farm and residential tanks of 1,100-gallon capacity or less, used for storing motor fuel for non-commercial purposes.

2-1. Owners shall file with the Board of Health, within 30 days of the date of publishing of this regulation, the size and type, age and location of each tank, and the type of fuel or chemical stored in them. Evidence of date of purchase and installation, including Fire Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property. Upon registering the tank with the Board of Health, the tank owner will receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe or in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town.

2-2. Within 30 days of the date of the publishing of this regulation, every petroleum and other chemical distributor, when filling an underground storage tank, shall note on the invoice or bill for the product delivered, the registration number appearing on the tag affixed to the tank which was filled. Every petroleum and other chemical distributor shall notify the Board of Health of the existence and location of any unregistered or untagged tank which they are requested to fill. Such notification must be completed within two (2) working days of the time the distributor discovers that the tank registration tag is not present.

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2-3. Prior to the sale of a property containing an underground storage tank, the Fire Department must receive from the current owner a change of ownership form for the registration of the underground storage tank. Such form can be obtained from the Fire Department.

Section 3. Report of Leaks or Spills

3-1. Any person who is aware of a spill, loss of product, or unaccounted for increase in consumption which may indicate a leak shall report such spill, loss or increase immediately to the head of the Fire Department and to the Board of Health.

3-2. All leaking tanks must be emptied within 12 hours of leak detection, and removed in a time period to be determined by the Fire Chief and the Board of Health.

3-3. All tanks shall be removed or secured as per Fire Department specifications at the owner's expense within six months following discontinuation of use.

Section 4. Tank Removal

4-1. All fuel, gasoline or other chemical tanks not regulated under 527 CMR 9.00 (farm or residential tanks of 1,100 gallons or less and underground tanks storing fuel for consumptive use at the property) in service on the effective date of this regulation, shall be removed twenty-one (21) years after the date of installation. If the date of installation is unknown, the tank shall be assumed to be twenty (20) years old. All underground storage tanks currently subject to the removal regulation (21 years or older) must be removed within two (2) years of the date of the publishing of this regulation.

4-2. Prior to the removal of an underground storage tank governed by this regulation, the owner shall first obtain permit from the head of the Fire Department, pursuant to M.G.L., 148.

4-3. Any person granted a permit by the Marshall or the head of a local Fire Department to remove a tank under the provisions of M.G.L., C. 148 or 527 CMR 9.00, shall within 72 hours provide the permit granting authority with a receipt for delivery of said tank to the site designated on the permit.

4-4. Before any person is granted a permit by the Marshall or the head of a local Fire Department to remove a tank under the provisions of M.G.L., C. 148 or 527 CMR 9.00, and said tank is not being transported to an approved tank yard, the person requesting the permit shall provide the permit-granting authority with written approval from the owner/manager of the disposal site. (Reference: 502 CMR 3.00 for tank removal and disposal procedure).

Section 5.0 Costs

5-1. In every case, the owner shall assume responsibility for costs incurred necessary to comply with this regulation.

Section 6.0 Variances

6-1. Variances from this regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following: (1) the enforcement thereof would do manifest injustice; and (2) installation or use of

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an underground storage tank will not adversely affect public or private water resources. In granting a variance, the Board will take into consideration the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot, and existing and known future water supplies.

Section 7.0 Severability

7-1. Provisions of this regulation are severable and if any provision hereof shall be held invalid under any circumstances, such invalidity shall not affect any other provisions or circumstances.

- * A failure to comply with any element of this regulation will result in the levy of a fine of \$50.00. Each 24-hour period of non-compliance shall constitute a separate offense. (submitted by the Town Manager)

ARTICLE 37

TOWN OF WINCHENDON AUDIT COMMITTEE

(ATM May 18, 2015)

1. There shall be a five (5) member Audit Committee in the Town of Winchendon comprised of one (1) member of the Board of Selectmen (appointed by the Board of Selectmen), one (1) member of the Finance Committee (appointed by the Finance Committee), one (1) member of the School Committee (appointed by the School Committee) and two (2) registered voters in the town who have finance experience, preferably municipal (appointed by a majority vote of the three Board and Committee member appointees).
2. Administrative support staff to the Audit Committee shall be provided by the Town Manager, the Town Accountant, the Superintendent of Schools and the School Business Manager.
3. The Audit Committee shall solicit, interview and recommend to the Board of Selectmen the firm of independent auditors that is to audit and report on the financial statements issued by the Town. The Audit Committee shall review the audit plan with the independent auditors and upon completion of the audit, meet with the independent auditors to discuss the results of the audit and the annual financial reports.
4. The Audit Committee shall transmit a copy of the completed annual audited financials and management letter report to the Board of Selectmen, the Finance Committee and the School Committee, and with the assistance from the auditing firm, shall present the results of the annual audited financials and management letter report to a jointly held public meeting of the Board of Selectmen, the School Committee and the Finance Committee.

Funding for the annual independent audit shall be budgeted in the Finance Committee annual budget.

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ARTICLE 38

TOWN OF WINCHENDON GROUP INSURANCE AND BENEFIT COMMITTEE

(ATM May 18, 2015)

1. There shall be a Group Insurance and Benefit Committee in the Town of Winchendon comprised of one (1) member of the Board of Selectmen (appointed by the Board of Selectmen), one (1) member of the Finance Committee (appointed by the Finance Committee), one (1) member of the School Committee (appointed by the School Committee) and two (2) registered voters in the town who have group insurance and benefit experience, preferably municipal (appointed by a majority vote of the three Board and Committee member appointees).
2. Administrative support staff to the Group Insurance and Benefit Committee shall be provided by the Town Manager, the Town Accountant, the Town Treasurer-Collector, the Superintendent of Schools and the School Business Manager.
3. The Group Insurance and Benefit Committee shall annually, on or before December 31st, review the Town's group insurance and benefit plan offerings and shall make written recommendations to the Town Manager relative to the following:
 - o Group Health Insurance Programs
 - o Group Dental Insurance Programs
 - o Group Life Insurance Programs
 - o Optional Life Insurance Programs
 - o Optional Disability Insurance Programs
 - o Deferred Compensation Programs; and
 - o OBRA Defined Contribution Plan for part-time, temporary and seasonal employees who are not eligible to join the retirement plans
4. One member of the Group Insurance and Benefit Committee, selected by the Committee, shall serve as a non-voting member on and liaison to the Town's Insurance Advisory Committee (IAC).

Article 39

Revolving Funds

- A. There are hereby established in the Town of Winchendon pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.
- B. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

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- C. No liability shall be incurred in excess of the available balance of the fund.
- D. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Board of Selectmen and Finance Committee in accordance with G.L. c.44, §53E½.
- E. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.
- F. Authorized Revolving Funds

	REVOLVING FUND	AUTHORITY TO SPEND FUND	REVENUE SOURCES	USE OF FUNDS
1	Agricultural Commission Fees	Agricultural Commission	Agricultural programming fees	Costs in connection with its official responsibilities under local by-laws, including but not limited to part-time staff support, postage, posting and publishing, and consultants
2	Planning and Development Plotter Fees	Planning Director	Fees for large-format copier and plotter	Any lawful purpose related to large-format copier and plotter
3.	Library Copy Fees	Beal's Memorial Library Director or Library Trustees	Fees for use of Library copiers, printers and fax machines	Maintenance and supply costs for copiers, printers and fax machines
4.	Library Materials	Beal's Memorial Library Director or Library Trustees	Fees for overdue, lost and/or damaged Library materials	Repair or replacement of Library materials
5.	Community Development Block Grant Program Income	Town Manager	Housing Rehab Loan Repayments	Professional Services

- G. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this by-law, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

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And, further, to establish the following fiscal year spending limit for such funds:

1. Agricultural Commission Fees - \$20,000
2. Planning and Development Plotter Fees - \$20,000
3. Library Copy Fees - \$8,000
4. Library Materials - \$8,000

ARTICLE 40

Limitation on Number of Recreational Marijuana Retail Establishments

Preamble (5.21.18)

M.G.L. c.94G does not require a vote of the voters to approve any limitation on the number of recreational marijuana establishments that is at or above the number of medicalmarijuana treatment centers registered to operate in the municipality or equal to or greaterthan 20% of the licenses issued for the retail sale of alcoholic beverages not to be drunk on the premises. Currently, there are seven (7) licenses issued for the retail sale of alcoholicbeverages not to be drunk on the premises in Winchendon.

Limitation

No more than three (3) recreational marijuana retail establishments shall be permitted tobe located in the Town of Winchendon. Licensing Authority shall be the Board of Selectmen.