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BYLAWS OF THE TOWN OF WINCHENDON

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 and in the villages of Waterville and Winchendon Springs, in the town at least seven days before the time appointed for said meeting, and by publication of the same in a newspaper of general circulation in the Town.

(Approved February 7, 1922)(Amended June 14, 1999)

Section 1.2: ANNUAL ELECTION AND TOWN MEETING DATES

The annual town meeting for the election of town officers and 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 said meeting shall be held on the first Monday in May in each year.

Section 1.3: RULES OF TOWN MEETINGS

1--All questions submitted for the consideration of the town involving the expenditure of money shall be in writing when so required by any legal voter.

2--No vote fixing the period for closing a ballot shall be reconsidered after such balloting has commenced; but it may be in order to extend the period without such reconsideration.

3--When a question is under debate, motions shall be received to adjourn, to lay on the table to postpone to a certain time, to postpone indefinitely, to commit or to amend, which several motions shall have precedence in the order in which they are herein arranged.

4--The powers and duties of the presiding officer not especially provided for by law, 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.

5--A vote may be reconsidered by majority vote on a motion made within one hour after such vote. After one hour, such reconsideration may be ordered by a vote of 2/3 of the voters present and voting. No vote may be subject to more than one such vote of reconsideration. (Amended May 20, 1991)

6--On matters requiring a two thirds vote by statute a count need not be taken.

(Amended May 11,1998)

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 then registered as voters of the Town of Winchendon; provided, however, that a number less than quorum may, from time to time, adjourn the meeting. This bylaw shall not apply to such parts of meetings as are devoted exclusively to the election of Town Officers.

ARTICLE 2 TOWN ADMINISTRATION: GENERAL GOVERNMENT

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, except the Finance Committee, 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 once every three years a list of the Valuation and Taxes of the Town.

Section 2.4: COMPENSATION

Members of all Boards or Committees, appointed, shall serve without compensation.
(May 8, 1989)

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 Selectmen shall have a full authority, as agents of the town, to employ counsel to institute and prosecute suits in the name of the town, and appear for and defend suits brought against it, unless otherwise specially ordered by the vote of the town.

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 Selectmen or a majority of them, in behalf of the town, unless the town shall otherwise vote in any special case.

Section 2.8: TOWN SOLICITOR

The Selectmen shall within thirty days of the Annual Meeting appoint some member of the bar as Town Solicitor, and it shall be his duty to give legal advice to the various Town Officials, during the year as they may need in connection with their duties. No charge shall be made for such consultation with the Town Officials and the Selectmen shall fix the salary of the Solicitor.

Section 2.9: 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)

Section 2.10: BUDGET SUBMISSION

The Town Manager shall submit his proposed annual operating budget, 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 2.11: TELEVISIONING OF MEETINGS

All meetings of the Board of Selectmen, Board of Health, School Committee, Planning Board, Zoning Board of Appeals, and Finance Committee shall be broadcast live over the local cable television network, unless, by a vote of two-thirds of those present and voting, because of emergency conditions or some substantial reason stated as part of the vote, the body in question suspends the requirements hereof. The meetings shall be taped and made available for a period of two weeks 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 39, s23 et seq. (June 12, 2000)

ARTICLE 3 FINANCE COMMITTEE

Section 3.1: There shall be a Finance Committee, consisting of seven (7) voters of the town. 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. The Moderator shall in 1924 appoint three members for a term expiring March 31, 1925, three members for a term expiring March 31, 1926, and three members for a term expiring March 31, 1927, and thereafter in March of each year appoint three members for a term of three years in place of those whose terms shall expire in that year. The term of office of said members shall commence with April 1st of each year of their appointment after the year 1924. The committee shall have the power to fill vacancies that shall occur in its membership, and shall serve without compensation. (Amended June 12, 2000)

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 meeting to consider the several articles in the warrant of each town meeting, which public meeting shall be held at a time and place to be specified in the warrant. The Selectmen, whenever they issue a warrant for a town meeting excepting a meeting for elections only, shall appoint a time and place for such meeting of the Finance Committee to consider the articles in such warrant, and in such warrant immediately after the last article therein, give notice of the time and place of such public meeting, an attested copy of such warrant to be forwarded by mail, postage prepaid, to each member of said committee by the Constable who serves the warrant, not less than three days before the time of holding such public meeting.

Section 3.4: The Committee shall report its recommendations on the articles in the warrant for any town meeting referred to it as herein provided immediately after the meeting is called to order under the article calling for reports of committees, or under each article as it is taken up, if the meeting so votes. The Committee shall also report to the town in detail the appropriations it recommends the town to make to defray town charges for each year, together with such other matters as in its judgment shall be brought to the attention of the town. The several town officers and heads of departments are requested to furnish this Committee with their estimates of the expenses of their respective departments for the ensuing year on or before the first Monday of February in each year.

ARTICLE 4 BOARD OF HEALTH

The Board of Health shall be responsible for the maintenance and control of the Town's sanitary landfill facility and all other legally established dumps and may make rules and regulations governing the use of the same. Such rules and regulations shall become effective upon their publication in a newspaper published in the Town and they shall also be posted conspicuously at the Town Hall and at each place regulated thereby. Any person violating any such rule or regulation shall be punished by a fine of not more than fifty dollars for each offense.

ARTICLE 5 COUNCIL ON AGING

There is hereby established a local Council on Aging consisting of not less than seven (7) nor more than eleven (11) voting members. Of this number, the Chairman, and not less than three (3) nor more than five (5) persons shall be appointed by the Board of Selectmen from the voters and residents of the Town. The Chairman of the Council, when appointed, shall designate the remaining members of the Council from interested and representative groups in the Town, the Council shall be responsible to the Board of Selectmen. Its members shall serve without compensation, and, within the limits of available funds, it may appoint such clerks and other employees as it may require. It shall be the duty of the Council to carry out programs designed to meet problems of the aging in coordination with programs of the Massachusetts Commission on Aging established under Section 73, Chapter Six, Massachusetts General Laws.

ARTICLE 6 TOWN AMBULANCE

Section 6.1: There is hereby established a special fund to be known as the Town Ambulance Fund, which shall consist of the receipts from the use of the Town Ambulance.

Section 6.2: The control of the ambulance shall be vested in an Ambulance Committee which shall be the Board of Selectmen. Administration of the ambulance shall be by the Fire Chief acting under the Town Manager.

Section 6.3: The expenditure of all sums which may be appropriated from said fund, or from any other source, for the maintenance of the Town Ambulance, and all gifts which may be received for such purposes shall be made by said committee.

Section 6.4: Said committee shall establish from time to time the amount of fees which shall be charged for the use of the Town Ambulance.

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 he or they shall keep one or more lighted lanterns fixed to such railing or fence, or in some other way exposed every night from twilight in the evening through the whole night, 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 without the written consent of the Selectmen play at any game in which a ball is used or fly a kite or throw or shoot stones, arrows, balls, snowballs, or other missiles, or discharge any gun, canon or firearm or make any bonfires or other fire in any street or way where the public have a right to pass.

Section 7.6: 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. 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 7.7: 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 7.8: No person shall, without a written license from the Selectmen, place or cause to be placed, or suffer to remain within the limits of a street or upon any sidewalk, so as in any manner to obstruct the travel thereon, any vehicle, wood, coal, manure, gravel,

stone building materials, snow barrels, boxes, merchandise, rubbish or obstruction whatever.

Section 7.9: 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 7.10: 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 7.11: 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 7.12: No persons shall be or remain in any doorway or upon any stairs, doorstep, 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 7.13: No person shall make any indecent figure, or write, paint, print or cut any obscene word or words upon or deface, break, or injure in any manner, any fence, post, sign, street lantern, building or structure, or commit any nuisance upon any sidewalk or any other place resorted to by public, or against any tree, building or structure adjoining a sidewalk.

Section 7.14: 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 7.15: COASTING

Coasting on any of the public streets of the town is prohibited, except upon such streets as the Selectmen may designate each year by public notice.

Section 7.16: 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 Selectmen 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 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 7.17: 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 7.18: STREET NUMBERS (2/95)

Street numbers shall be attached to each dwelling, business, industry and other buildings in the Town of Winchendon.

- A. The number shall be made of permanent, weather-proof materials, in contrasting color, shall be at least three (3) inches in height, and shall be clearly visible from the street or roadway upon which the structure fronts.
- B. 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.
- C. The numbers posted shall be those assigned to each structure by the Town Clerk/Assessors. The Town Clerk/Assessors shall advise the owners of the property of the assigned or reassigned number in writing within ninety (90) days after the effective date of this bylaw.
- D. It shall be the responsibility of each property owner in the Town of Winchendon to obtain, display and maintain the assigned street number within ninety (90) days after the effective date of this bylaw.
- E. This bylaw shall be enforced by the Police Department. Failure to comply with this bylaw shall subject property owners to a fine of twenty dollars (\$20) for each offense. Each day shall constitute a separate offense.

Section 7.19 WINTER BAN

Parking is prohibited on all public ways between the hours of 11:00 p.m. and 6:00 a.m., annually from November 15th through April 15th. (June 12, 2000)

ARTICLE 8 BUILDING DEPARTMENT

Section 8.1: INSPECTOR OF BUILDINGS

a. The Town Manager shall, in March, appoint an Inspector of Buildings for a three-year term to begin the first day of April using as a minimum hiring criteria M.G.L. 143, Section 3.

b. The Board of Selectmen shall annually, in February, review the previous twelve months' activities of the Building Department and make comments and recommendations to the Town Manager.

c. Every person, firm, corporation, partnership, trust or charitable organization intending to erect any structure or to make any additions or alterations in any structure or its foundations already erected or hereafter to be built, except necessary repairs not affecting the foundation, external partitions, party walls, supporting walls, chimneys or stairways, shall seven days at least before commencing same, complete and file an application for permit with the Inspector of Buildings on forms furnished by him/her, and pay an application fee as determined by Building Department policy and shall supply him with such other information or plans as may be required by the Building Department policy guidelines.

Section 8.2: DUTIES OF INSPECTOR

a. The Inspector shall keep a complete record of the business of the Department, which shall be open to the inspection of any citizen. He shall furnish the Selectmen, Town Manager and Board of Assessors with written reports of such business, including any violations of the Building Department Bylaws, Zoning Bylaws, or Massachusetts State Building Code, the regularity of such reports to be not less than monthly, but determined by the particular body to which the Inspector shall report and he shall furnish such other reports as they may request.

b. He shall, as often as practical, inspect all buildings in the course of erection, he shall make a minimum of four on-site inspections, a pre-building site inspection, foundation inspection, framing inspection, and a finish inspection. In case of violations of these Building Department Bylaws, the Zoning Bylaws, or the Massachusetts State Building Code, "The Inspector shall take measures for securing compliance therewith as may be necessary under state law.

c. He shall perform all the duties incumbent upon him/her under the provisions of Chapter 143 of the Massachusetts General Laws, and all the laws in addition thereto and/or amendments thereof.

d. He shall examine every building or other structure which he has reason to believe is unsafe or dangerous, shall forthwith in writing notify the owner, agent or any person having interest therein to remove, make safe or secure the same and shall report thereof to the Town Manager.

Section 8.3: APPEALS

a. If in the opinion of the Inspector there shall be no permit issued, he may refuse or revoke the same and the applicant may appeal to a board consisting of the chairperson of the Board of Selectmen, the chairperson of the Board of Health, the Chief of Police, the Chief of the Fire Department and the Town Manager, or their respective designees.

b. Said Board shall in each case cause due notice to be given to all parties of the time and place of hearing and after hearing all parties may authorize, in writing, the Inspector to issue a permit under such conditions as may be prescribed by said Board, or to withhold same.

ARTICLE 9 REGULATING CEMETERY TRUST FUNDS

Section 9.1: The Board of Cemetery Commissioners, or their successors, for the Town of Winchendon may take and hold any gift, grant, donation, or bequest of any money or property upon trust, to 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 said Cemetery Commissioners, or their successors, by the proprietor of any lot or lots in any burial ground or cemetery in said Town of Winchendon, for the annual repair, preservation or embellishment of any such lot or lots, or the erections thereon, the said Cemetery Commissioners, or their successors shall give to such proprietor, or his legal representatives, an agreement or obligation in such form as to bind themselves, and their successors, 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.

Section 9.3: Any sum or sums of money so received by said commissioners or their successors, shall be invested in U.S. bonds, or stocks, or the bonds of the cities or towns in

the New England states, or in the notes of the treasurer of the Town of Winchendon, at not more than four percent interest or deposited in some savings bank or cooperative bank in Massachusetts to be designated by the Cemetery Commissioners or Their successors, unless otherwise provided for by the terms of such gift, grant, donation, or bequest, and such gifts, grants, donations and bequests, shall be under the control of said Board of Public Works, or their successors, and the income thereof shall be appropriated or expended by them, in such manner as shall, in their opinion, 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, the original amount of which does not exceed \$400.00 in a single account.

Section 9.4: The Cemetery Commissioners, or their successors, 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 be required to give bonds for the full amounts in his hands at any time, and he shall at no time, or under any circumstances pay out any of the funds so in his hands, or the income thereof, except upon a written order, signed by a majority of the Cemetery Commissioners.

ARTICLE 10 PERSONNEL ADMINISTRATION

Section 10.1: APPLICABILITY

The Personnel Bylaw shall be applicable to all persons in the service or employment of the Town, except elected officials, the Town Manager, and employees under the jurisdiction of the School Committee. It shall apply to employees in bargaining units covered by collective bargaining agreements, except insofar as it is superseded by the applicable agreement.

Nothing in this bylaw shall be construed to be in conflict with Chapter 150E of the General Laws, which relates to public employee collective bargaining, which chapter shall prevail if there is any conflict.

Section 10.2: EQUAL EMPLOYMENT OPPORTUNITY

It shall be the policy of the Town to guarantee equal opportunity to all qualified applicants and to all employees with respect to initial employment, advancement, compensation and general working conditions without regard to age, race, sex, color, religion or national origin.

Section 10.3: PERSONNEL BOARD

There shall be a Personnel Board to consist of the Town Manager, ex-officio, and five members to be appointed by the Town Moderator. The terms of the members shall be for three years from March 1, so arranged that the terms of as nearly one-third of the members as possible shall expire each year.

Section 10.4: QUALIFICATIONS OF PERSONNEL BOARD MEMBERS

In making appointments, the Moderator shall give consideration to the personal qualifications of these citizens who will best meet the responsibility of the board to represent both town employees and taxpayers. If possible, the appointees shall include citizens who are familiar with the principles and experienced in the methods and practices of labor relations and personnel administration. No person, other than the Town Manager or Superintendent of Schools, who is in the paid employ of the Town shall serve on the Personnel Board; neither shall any person who is employed by or otherwise represents, directly or indirectly, any collective bargaining unit of public employees to serve.

Section 10.5: DUTIES OF THE PERSONNEL BOARD

The Personnel Board shall be responsible for the development of personnel policies that will be consistent for all town agencies. These policies shall include, without limitation, job classification and salary/benefit programs. The Board shall maintain a complete file of job descriptions and supervise the maintenance of personnel records. The Board shall make recommendations to the Town Meeting, the Board of Selectmen, and the School Committee on changes necessary to implement and maintain fair and consistent personnel policies at least annually. The Board has the authority to interpret the personnel bylaw and to decide all questions relating to its application.

The Board shall act as a grievance committee to hear grievances not covered by formal collective bargaining agreements. Before being considered by the Board, each such grievance shall have been presented to and considered by the employee's superior.

The Board shall establish wage/salary rate range for each job classification. The range shall reflect reasonable compensation for the complexities of the job in relation to other job classifications maintained by the Board. The Board shall review these rate ranges at least annually and shall adjust ranges to reflect both economic and competitive factors. Recommended rate ranges shall be established before the date for budgets to be submitted for the next annual town meeting.

The Board shall review all job classifications under its jurisdiction, at intervals of not more than two years. No new job classifications shall be established without a report from the Board. The Board shall establish new job classifications where appropriate, and modify existing job classifications as conditions warrant.

The Town Manager shall be responsible for the day-to-day administration of the personnel system, in accordance with the policies of the Personnel Board.

Section 10.6: DEFINITIONS USED IN THE PERSONNEL BYLAWS

Unless a different intent is clearly indicated, the following words shall have the following meanings within the Personnel Bylaws:

REGULAR EMPLOYEE: One who is hired on a regular basis. Regular employees may be either full-time or part-time.

TEMPORARY EMPLOYEE: One who is hired for a specific job and/or period of time, but who is not intended to become a regular employee, as defined above and whose employment is not intended to last more than six months. If his/her employment continues for more than six months, he becomes a "regular" employee, as defined above.

PART-TIME EMPLOYEE: An employee who is hired to work less than a full work week.

Section 10.7: HOURS AND DAYS OF WORK

Hours and days of work shall be determined by the policies of the department in which the employee serves.

Section 10.8: OVERTIME COMPENSATION

All hourly rate employees shall be paid wages at time and one-half for all work in excess of eight hours within a day or over forty hours within a week, provided that no employee shall be paid both daily and weekly overtime on account of the same hours of overtime worked.

An employee whose compensation is primarily stated at an annual rate shall be considered a salaried employee and is not entitled to overtime compensation.

Section 10.9: EMPLOYEE BENEFITS

A regular full-time employee shall be eligible for benefits immediately.

Part-time employees who work twenty or more hours per week shall receive the same insurance and retirement benefits as full-time employees. For all other benefits, they shall receive an amount in proportion to the relationship of their normal work week to that of a full-time employee.

Temporary employees are not eligible for benefits.

Section 10.10: LIMITATION ON EMPLOYEE BENEFITS

Except as to benefits granted to employees by enforceable agreements made prior to November 2, 1987, no employee shall be granted benefits in addition to salary or wages except as required by general law or as provided in these bylaws or by vote of the town.

Section 10.11: VACATIONS

All eligible employees who, as of the first day of a fiscal year, have completed the service shown shall be entitled to vacation time within that fiscal year as follows:

Less than six months	One day for each full month of service, but not more than five days.
Six months to five years	Two weeks
Five to ten years	Three weeks
More than ten years	Four weeks

Vacations may be taken at such time within the year as provided in department regulations and with the approval of the department head so that work schedules may be maintained. With the advance approval of the appointing authority and in accordance with Personnel Board policies, employees may carry over unused vacation time into the next fiscal year. Vacation time must be taken not later than the year following that in which it was accrued.

Salaried employees shall receive vacation time off without further compensation. Hourly rate employees shall be given vacation time off and receive pay therefor at their normal straight-time rate.

An employee whose employment is terminated, whether by means of resignation, retirement, discharge, or layoff, shall receive vacation pay prorated to the date of separation from town employment.

In the event of the death of an active employee, accrued vacation pay shall be paid to the estate of the deceased.

Any vacation leave which has accrued to any employee covered by this bylaw prior to the enactment of same shall be retained by said employee, but must be used during the fiscal year following enactment.

Section 10.12: HOLIDAYS

The following holidays shall be observed in town employment:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents' Day	Veterans' Day
Patriots' Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

Except as provided in the next paragraph, to be eligible for holiday pay, the employee shall have worked the workday before the holiday and the next regular workday following the holiday, unless excused because of illness.

If a holiday occurs within an employee's vacation period, that day shall not be counted as a vacation day.

If a town employee is required to work on a scheduled holiday, he shall be given another day off. If this is impossible because of a personnel shortage, or other cause, an additional day's pay shall be given in lieu of the holiday.

Section 10.13: SICK LEAVE

All employees of the Town shall be entitled to twelve sick days in each fiscal year without loss of pay. Sick days may accumulate from year to year. For any sick leave in excess of three days, the employee's department head may require a physician's certificate.

Section 10.14: UNUSED SICK LEAVE UPON RETIREMENT OR DEATH

A regular employee who retires on a pension or dies, and has completed ten years of continuous service to the Town shall be paid one day's pay for each five days of unused sick leave that the employee has accumulated. No employee, however, shall receive more than twenty days' pay under this provision regardless of their unused sick leave accumulation. Payment shall be at the employee's current rate. In the case of a deceased employee, the amount shall be paid to his estate.

Section 10.15: PERSONAL LEAVE

Should personal business leave be necessary, it may be granted at the discretion of the department head. Such leave shall be deducted from the employee's sick leave.

Except in cases of emergency, personal leave shall be requested prior to the date of absence.

Section 10.16: FUNERAL LEAVE

In the event of the death of a member of the immediate family of an employee, reasonable time off shall be granted without loss of pay, up to three workdays for workdays falling within the period from the date of death through the date of the funeral. The immediate family is defined as wife, husband, children, parents, sister, brother, father-in-law, mother-in-law, and step-parents.

For other members of the family (grandparent, grandchild, aunt, uncle) one day, on the same basis, shall be granted if the funeral is held on a scheduled workday.

Section 10.17: JURY DUTY

An employee who is called to jury duty shall be compensated as provided by general law.

Section 10.18: MILITARY LEAVE

Military leave shall be granted in compliance with all state and federal laws requiring leaves of absence for military service.

Section 10.19: MATERNITY LEAVE

Female employees shall be eligible for eight weeks of maternity leave, without pay, provided the request is made in writing prior to the start of the leave, and it is the employee's intention to return to work.

Any portion of the eight weeks maternity leave during which the employee is disabled shall be treated as any other disability, and disability pay and any other pertinent benefits shall apply.

Section 10.20: LEAVES OF ABSENCE

Leaves of absence without pay may be granted by appointing authority after review and agreement of the Personnel Board.

Any leave of absence over six months duration shall be considered a break in employment, and upon return to work, the employee shall have the status of a new employee, unless extension of the leave beyond six months has been authorized by the Personnel Board. In no event shall the leave of absence be in excess of one year.

The Town shall continue insurance, on a contributory basis, for an employee's leave of absence, up to and including thirty days. If the leave of absence extends beyond thirty days, such insurance may be continued, provided a request is made in writing prior to the start of such leave, and the employee contributes 100% of the cost in advance of payment date. It shall be the obligation of the employee to make the advance payment in a timely manner. If such payment is not received prior to the date of payment of the premium, it shall be assumed that the employee does not wish to continue coverage, and any obligation by the Town to continue coverage shall cease.

Section 10.21: WORKMEN'S COMPENSATION BENEFITS

Employees who are eligible for workmen's compensation benefits shall not receive regular pay or sick leave. Compensation shall be determined under regulations established by the Division of Industrial Accidents.

Section 10.22: INSURANCE

All regular employees who work a minimum of twenty hours per week, on a full-year schedule, are eligible to participate in the town's health and life insurance programs.

Section 10.23: RETIREMENT PLAN

All regular employees not covered under another retirement plan, who work a minimum of twenty hours per week, on a full-year schedule must become members of the Worcester County Retirement System.

Section 10.24: RETIREES' BENEFITS

All retired town employees are eligible to continue under the town's group life insurance plan for the maximum allowable benefit, as well as the appropriate health insurance program, provided the premium is paid by the retiree to the town in advance of due date.

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 Water Commissioners. 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 incidental thereto and shall be ascertained, assessed and certified by the Water Commissioners of the Town of

Winchendon. Assessment for the cost of 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 Water Commissioners 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 Water Commissioners 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

The Board of Selectmen may make rules and regulations for the operation of water craft upon the rivers and lakes located in the town, to the end that such water craft shall not be operated in a manner which endangers the safety of the public or is detrimental or injurious to the neighborhood or to the value of property therein, and provide penalties for the violation of such rules and regulations.

ARTICLE 13: JUNK DEALERS: SECOND HAND ARTICLES (May 21, 2007)

SECTION 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 2.

All such licenses may be revoked for cause after a hearing and shall expire on December 31st of each year.

SECTION 3.

Every keeper of a shop for the purchase, sale or barter of junk, old metal or second hand articles shall keep a book in which shall be written at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when such purchase was made. 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.

SECTION 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 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.

SECTION 6.

When any junk, old metals or second-hand articles shall be sold by a dealer within one week from the time of purchase or receipt of the same, such dealer shall enter in his book, the name and address of the purchaser with such other facts as may be necessary to keep track of the goods.

SECTION 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.

ARTICLE 14: UNUSED OR UNREGISTERED MOTOR VEHICLES

Section 14.1: No unregistered motor vehicle 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 of \$5.00, 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 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.

Section 14.2(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.

Section 14.2(c): If the applicant is 65 years of age or over, any fee may be waived at the discretion of the Town Manager.

Section 14.2(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 an 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 buildings and places significant in the history of the town; through it 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;
15. Thence westerly along the wall to a point on the east side of High Street;
16. 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

a. There is hereby established an Historic District Commission, hereinafter called "The Commission", under the provisions of General Laws, Chapter 40C, as amended, consisting 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 Architect 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. When the Commission is first established, three (3) members shall be appointed for a term of one (1) year; two (2) shall be appointed for a term of two (2) years and two (2) shall be appointed for three (3) years. 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.

b. The authority of the Commission shall not extend to the review of any of the categories of buildings, structures, or external architectural features in the District set out in items one through seven of Section 8A of Chapter 40C, as amended.

c. 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.

d. 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.

e. 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.

f. 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.

ARTICLE 16: GRAVEL AND SOIL REMOVAL (Revised 10-20-1997)

Section 16.1 Purpose

The purpose of this section is to protect the towns 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 16.2 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) shall be required for an earth removal permit.

Section 16.3 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 operation and of the applicant.

Section 16.4 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. Said permit shall allow the working of only five (5) acres at any one time. No removal of material may take place within 300 feet of a street or way, nor within 100 feet of the high water mark of any natural water course, nor within 100 feet of a lot line. Soil may be disturbed within these established boundaries if it is considered part of the site restoration work.
- 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 16.5 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.

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 16.6 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 one thousand dollars (\$1,000) per acre to be excavated, or other amount as deemed appropriate by the Board. After completion of the total project, and at the applicants 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, gulying, 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 16.7 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.
- B. 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. The terms and conditions of the permit may be enforced by the Board of Selectmen, Town Manager, or Building Commissioner.

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.

(4) "Run at large" shall mean free to wander on public or private ways at will, or on the property of another.

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 five (dollars) in addition to the cost of the license. (Rev. 6/95)

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. IMPOUNDING

It shall be the duty of the Animal Control Officer, duly appointed, to apprehend any dog found unrestrained and running at large, and to impound such dog in a suitable place or to order the owner or keeper thereof to restrain said dog.

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, then the Animal Control Officer shall immediately notify the owner and if the owner is not known, then no notice shall be necessary. The owner of any dog so impounded may reclaim such dog upon payment of the sum of ten dollars (\$10.00) for the first reclaiming, and twenty-five dollars (\$25.00) for the second and subsequent reclaimings, 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 which has been impounded and has not been redeemed by the owner within ten (10) days shall be disposed of as provided by Section 151A, Chapter 140 of the General Laws of the Commonwealth of Massachusetts and any amendments thereto, provided that the description of the dog was published in a local paper at least three (3) days before the scheduled date of destruction by the local dog officer. (Rev. 6/95)

H. PENALTY

Any owner or keeper found in violation of any of the provisions of this bylaw shall be subject to a fine of not more than twenty-five dollars (\$25.00). Further, if the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

I. 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.

J. ALTERNATIVE PROCEDURES UNDER GENERAL LAWS, Ch. 140, SEC. 173A

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 14, Section 137; failure to acquire kennel license pursuant to General Laws, Chapter 140, Section 137A.

(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.

K. VIOLATION : FINE

Any owner or keeper found in violation of the above mentioned procedure shall be subject to a fine of \$25.00. If the owner or keeper of a dog or dogs is a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

L. PROCEDURE

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

M. EFFECTIVE DATE

This bylaw shall take effect upon its passage by the Town Meeting and approval by the Attorney General's Office.

ARTICLE 18: MISCELLANEOUS PROVISIONS

Section 18.1: VENDORS OF SOFT DRINKS

The Selectmen may license suitable persons to keep open their places of business for the retail sale of beverages derived wholly or in part from cereals or substitutes thereof and containing less than one-half of one percent of alcohol, unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters, carbonated waters or beverages, natural fruit juices, and other so-called soft drinks. A fee of one dollar shall be charged for each license.

Section 18.2: 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 or 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 not exceeding \$50.00 for each offense, which shall be recovered by complaint before a District Court.

Section 18.3: 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 invites or licenses, or on private property without the consent of the owner or other person duly authorized by the owner to be in control thereof. 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).

ARTICLE 19: BYLAWS: ADMINISTRATION AND ENFORCEMENT

Section 19.1: PUBLICATION OF BYLAWS

The Selectmen shall publish the Town Bylaws every three years in a form available for distribution; the first such publication to be in 1991. (May 8, 1989)

Section 19.2: PROSECUTION UNDER THE BYLAWS

Any citizen may, and the Selectmen, constables and police officers shall prosecute every violation of the foregoing Bylaws, by complaint before any trial justice in the County of Worcester, or any other court having jurisdiction.

Section 19.3: 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 19.4: WHEN EFFECTIVE

All Bylaws or parts of Bylaws of this town heretofore existing are hereby repealed, and these Bylaws of the Town of Winchendon shall go into effect when approved by the Attorney General or ninety days have passed without action by the Attorney General, whichever occurs first, in accordance with Chapter 40, Section 32 of the General Laws, as amended.(Approved March 28, 1890);(Amended May 20, 1991)

Section 19.5: 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)

Section 19.6:

Unless otherwise provided by a vote of town meeting, the Chief Procurement Officer designated pursuant to Chapter 30B of the General Laws, or in his absence the Board of Selectmen, is authorized to enter into any contract for the exercise of the town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the Chief Procurement Officer, or in his absence the Board of Selectmen, shall not contract for any purposes on any terms or under any conditions inconsistent with any applicable provisions of any general or special law. (Adopted May 20, 1991)

Section 19.7:

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

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 et seq. 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 2: Purpose

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in fore 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 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 4: Declaration of a State of Water Supply Conservation

The Town, through its Water and Sewer Commission, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Commission 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 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.

- 13) Odd/Even Day Outdoor Watering:
- 14) 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.
- 15) Outdoor Watering Ban: Outdoor watering is prohibited.
- 16) 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.
- 17) Filling Swimming Pools: Filling of swimming pools is prohibited.
- 18) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

Section 6: Public Notification of a State of Water Supply Conservation: Notification of DEP

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 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 Water and Sewer Commission, 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 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 9: Penalties

Any person violating this bylaw shall be liable to the Town in the amount of fifty dollars (\$50.00) for the first violation and one hundred dollars (\$100.00) for each subsequent violation which shall inure to the Town for such uses as the Water and Sewer Commission 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 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 annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits, including renewals and transfers, a list 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 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)

Section 21.6: The provisions of this bylaw shall not apply to any of the licenses and permits exempted by G.L. Chapter 40, Section 57.

Section 1	Definitions
Section 2	Use of Public Sewers Required
Section 3	Private Sewage Disposal
Section 4	Building Sewers and Installation: Permits
Section 5	Use of the Public Sewers
Section 6	Use of the Public Storm Drain: Permits
Section 7	Protection from Damage
Section 8	Powers and Authority of Inspectors
Section 9	Penalties
Section 10	Sewer Charges and Payment
Section 11	Abatement Process
Section 12	Validity
Section 13	Appeals
Section 14	Assessments
Section 15	Permit Applications

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 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.

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. 1 9).

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 1.26).

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 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.

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 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 4: BUILDING SEWERS AND INSTALLATION: PERMITS

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 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 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.

4.10.1 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.

4.11 Any person(s) found discharging non-contact cooling waters to the public sewer shall be subject to penalties as set forth in Article 8 of these Regulations.

4.12 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.

4.13 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.

4.14 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 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:

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.

5.2.3 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.

5.2.4 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.

5.2.5 Any septage (see Section 1.17).

5.2.6 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.

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

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 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 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 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 representative, and by building, plumbing, and electrical inspectors.

SECTION 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 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, 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 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.

SECTION 10: SEWER CHARGES AND PAYMENT

10.1 Sewer use charges shall be determined by a the 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 11: ABATEMENT PROCESS

11.1 Before any abatement may be considered, the bill shall be paid in full. 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.

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.

SECTION 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.

SECTION 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 14 ASSESSMENTS

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

SECTION 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: SEPARATION OF RECYCLABLE MATERIALS

(May 1998)

Section A. General

In order to ensure that solid waste materials are disposed of in an environmentally responsible manner in the Town of Winchendon, 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 in Section B of this article, in any landfill located within the Town of Winchendon or any waste disposal facility outside of the Town of

Winchendon, if such disposal is provided by the Town. This by-law will serve to bring the Town of Winchendon into compliance with existing state waste disposal bans.

Section B. Definitions of Recyclable Materials

- 1) Aluminum -- cans and foil
- 2) Batteries -- lead acid, Nickel/Cadmium (NiCad), automotive batteries
- 3) Cardboard -- corrugated cardboard
- 4) Chipboard -- heavy paperboard used in boxes and cartons and other non-waxed packaging
- 5) Compostables -- leaves, grass clippings, weeds and garden wastes
- 6) Glass -- clear or colored food and beverage containers and bottles
- 7) Motor oil -- used automobile oil
- 8) Paint related materials -- oil and latex based paints, paint thinner, lacquer thinner, stains and varnishes
- 9) Paper -- newspaper, newspaper advertisements, magazines, stationery, copy paper and computer paper
- 10) Plastics -- No. 1 & 2 only: includes milk bottles, water jugs, detergent bottles and soda bottles
- 11) Scrap metal -- miscellaneous metal objects
- 12) Tin cans -- food or beverage cans made of steel/iron
- 13) Tires -- automobile and light truck tires
- 14) White goods -- items such as refrigerators, clothes washing/drying machines, ranges and metal furniture

Section C: Recycling of Designated Materials

As state waste ban regulations change and markets for recyclable materials fluctuate, the Board of Health shall promulgate regulations which govern the conditions of all items to be recycled and shall be responsible for the determination of what materials are recyclable.

After October 1, 1998, no person or entity shall place solid waste in the Winchendon Landfill unless the recyclable materials designated in Section B of this bylaw have been separated from the solid waste prior to placement or delivery of the waste for disposal.

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

Amendments to this bylaw and to Section B above shall be established by the local legislative body of the Town of Winchendon. A majority vote at Town Meeting is required for any and all amendments to this bylaw.

Any and all amendments to this bylaw will go into effect no sooner than three (3) months after approval at Town Meeting, and no later than six (6) months after approval at Town Meeting.

Section D: Violations and Penalties

As recyclable materials become regulated, they shall be separated from all other solid waste and brought to the Town of Winchendon's Recycling Center or left for a commercial hauler in the manner required by said hauler, if provided for by the Town. If it is determined by the Landfill Manager or his designee that any bag contains recyclable materials, as defined in Section B of this bylaw, it shall not be accepted for disposal in the Winchendon Landfill until said recyclable materials are separated by the person attempting to dispose of same.

The Board of Health or their agent may further decide to suspend a violator's solid waste disposal privileges at the Winchendon Landfill in response to repeated violations of this bylaw.

ARTICLE 24 RECREATION COMMISSION

(June 12,2000)

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 student in good standing from the Murdock Middle School, and one (1) member shall be a student in good standing from the Murdock High School.
 - (B) During the initial appointments creating the Commission, one (1) member shall be appointed to serve for one (1) year, two (2) members shall be appointed to serve for two (2) years, and two (2) members shall be appointed to serve for three (3) years.
 - (C) Upon the completion of these original terms, each member shall serve for three years.
 - (D) Student members shall be appointed annually.
2. Immediately after their appointment, the Commissioners shall meet and organize by electing one of their members as chairperson, and one as vice-chairperson. They may appoint such other officers or staff as may be necessary to operate as a Commission.

3. The Commission shall be responsible for the formulation of Town Recreation Policy which, at a minimum, shall address the following issues:
 - a. Facilities and Maintenance
 - b. Recreation Programs
 - c. Long Range Planning

4. (A) The Commission shall have charge of all playgrounds, parks, and other recreation facilities owned by the Town of Winchendon, which are not under the control of the School Department.

 (B) The Commission and the School Department shall cooperate so that the optimum use may be made of all of the Town's recreation facilities.

5. (A) The Commission shall establish such reasonable fees for use of any recreation facilities and programs as it deems to be consistent with established Recreation Policy.

The Commission shall submit to the Town Manager it's recommendations for an annual budget.

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 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 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 3: All existing commercial buildings, nor 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 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 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 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 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
Eight 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 by Article 19, Section 19.2, Prosecution under the Bylaws of the Town 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 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 4: SEVERABILITY: Invalidity of any individual section of this bylaw shall not affect the validity of the bylaw as a whole.

ARTICLE 27:-Brownfield Tax Abatement

(May 13, 2002)

Brownfield Tax Abatement Agreements

- Section 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 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 section2; and (c) be zoned for commercial or industrial use.
- Section 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 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 therefor, 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 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.

Section 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 1: FINDINGS

The Town of Winchendon finds that:

- A. The groundwater underlying this town is currently a significant source of its existing and future water supply, including drinking water.
- B. 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.
- C. 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.
- D. 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 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 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 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.

SECTION 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.
- 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 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 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 6: NOTIFICATION OF SPILLS AND LEAKS

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.

Every owner or operator or other person having knowledge of a spill, leak

SECTION 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 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 9: VIOLATIONS AND PENALTIES

Any owner or operator who violates any provision of this bylaw shall be subject to a fine of not more 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 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 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 regulations thereunder (310 CMR 10.00).

Section 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 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 (8 interests of the "Act", cover sheet)

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.

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 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 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. This 'Request for a Determination of Applicability' (RFD), shall be sent by certified mail, or hand delivered to the Winchendon Conservation Commission or its

authorized representative. A person delivering this request by hand shall be given a dated receipt. The Commission shall make such a determination within 21 days of the receipt of said request, and it shall notify the applicant by certified mail, of the results by 'Determination of Applicability'. If the Conservation Commission determines that the subject area is significant to the interests protected by this Bylaw, and said interests are not fully protected by the project as proposed, the Commission may require the applicant to file a 'Notice of Intent', or will attach such 'Orders of Conditions' to ensure protection of the interests of this 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.

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 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 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 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' 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 to 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, 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 17, 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 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.

Section 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 protections of the interests of the Bylaw by the Commission. Example: seasonal high water line, topography, industrial verses 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 waiver 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 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 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'.

Section 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 12.A **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 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 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.

Section 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 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 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 'Orders 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 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 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 19 **Severability**

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

Section 20 **Definitions**

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

The term '**agriculture**' shall refer to the definition as provided by G. L. Ch. 128 S1A.

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 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 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)

