

**SEC. 141 TRUCKS ON CASE AVENUE**

- Section 1. Definition: Truck means every commercial motor vehicle other than public safety, municipal and municipal purpose vehicles having a gross weight of 6000 pounds and/or over, and designed, used and maintained primarily for the transportation of property and includes a motor vehicle designed and used for the purpose of drawing a semi-trailer as well as the vehicle drawing the semi-trailer.
- Section 2. No person shall operate a truck, as herein defined, in a northerly direction on Case Avenue from Main Street north to Gay Street.
- Section 3. Any person violating the terms of this Ordinance shall be fined not more than \$100 for each offence.
- Section 4. This Ordinance shall become effective on September 10, 1985.

## **SEC. 142 DRIVEWAY ORDINANCE**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

1. No driveway shall be constructed connecting to a Town road prior to the issuance of a Driveway Permit by the Director of Public Works or his designated representative (Superintendent of Streets). No building permit will be issued until such time as applicant secures a Driveway Permit.
2. Every driveway shall meet the edge of the highway pavement at an angle of no less than 75 degrees and shall adhere to this angle to a distance of 40 feet, measured from the centerline of the highway.
3. Every driveway shall have an area extending from the edge of the highway pavement to a distance of 40 feet, measured from the centerline of the highway, that is not more than 4 percent grade.
4. No driveway shall contain any portion having a grade greater than 14 percent along its length.
5. No driveway shall contain any portion having a grade of more than 5 percent across its width.
6. No driveway shall be constructed or maintained so as to discharge water into any roadway, or gutterline of any roadway, except water which previously had drained thereon as a natural condition. Driveways entering Town roads may require a culvert, or more extensive drainage structures, depending on runoff conditions. The size, type and dimensions of culverts and drainage structures will be subject to review by the Public Works Director or his designated representative prior to the issuance of a Driveway Permit. All culverts required by the Public Works Director shall be a minimum of 18 feet in length or 2 feet wider than the driveway on each side.
7. No driveway shall be constructed or maintained so as to allow roadway water to enter the main portion of the driveway.
8. All driveways shall have a minimum width of at least 10 feet and shall be at least 14 feet across where joining any highway. A bituminous concrete apron at least 2 ½ inches thick will be constructed from the edge of the adjoining Town road for a length of at least 12 feet.
9. No public or commercial driveway of over thirty (30) feet in width shall be permitted without special approval of the Planning and Zoning Commission.
10. Adequate site lines, as determined by the Public Works Director shall be established and maintained.
11. No driveway shall be located within 20 feet of an intersection or within 20 feet of a regularly constituted crosswalk.
12. All driveways entering State highways must conform to the current specifications as set forth by the Department of Transportation, and must be approved by the State Department of Transportation.
13. Every reasonable precaution shall be exercised by Owner throughout the construction of the driveway to prevent, control and abate siltation, sedimentation and pollution of all waters, underground water systems and inland wetlands. Unless a specific type of sedimentation control system is ordered by the Director of Public Works, the type of system will be at the contractors option. Hay bale systems will be allowed to remain in the

- toe-of-slope areas unless ordered removed by the Director of Public Works. The permittee will immediately remove any siltation accumulating in a Town road.
14. All earth slopes and areas of disturbed soil produced in the process of driveway construction shall be stabilized to the satisfaction of the Director of Public Works.
  15. Applicants for driveway permits shall pay a permit fee of \$25 to the Town of Winchester.
  16. This ordinance shall apply only to new construction of driveways and to substantial reconstruction of existing driveways. Substantial reconstruction, for the purposes of this section, shall mean any reconstruction of 50% or more of the length of a driveway.
  17. Variances. Determinations. The effect of this Ordinance may be determined and varied as follows:
    - a) The Board of Selectmen shall serve as the Board which may grant variances or determine the effect of this ordinance.
    - b) It shall be the duty of the Board of Selectmen to determine and vary the application of the Driveway Ordinance in harmony with its general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such Driveway Ordinance would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.
    - c) A simple majority vote is required to grant a variance or make a determination. No public hearings are required, although variances and determinations must be made at a public meeting. No notice or publication will be necessary beyond those required for regular commissions by the Freedom of Information Commission respecting posting of meetings and filing of minutes.
    - d) An application to vary this ordinance or to determine the effect of this ordinance shall be made in writing at least two weeks prior to a meeting of the Board of Selectmen; this requirement may be waived by the Board of Selectmen for good cause. The application must set forth the reasons for which a variance or a determination is sought, including any hardship resulting from a literal enforcement of this ordinance. The application shall provide the location of the property, the name of the owner, the name of the applicant and any other information which may be helpful to the Board of Selectmen. The application fee shall accompany the application.
    - e) The application fee shall be \$25.00.
  18. Any person who violates any of the terms thereof shall be subject to a fine of not more than one hundred (\$100) dollars and each day that a violation thereof continues shall constitute a separate offense. INITIAL ORDINANCE OPERATIVE FEBRUARY 26, 1986, AS AMENDED EFFECTIVE AUGUST 4, 1988 AND NOVEMBER 24, 1988.

**SEC. 143      ORDINANCE REGULATING BUSINESS ESTABLISHMENTS  
WHICH ALLOW ADULTS TO CARRY IN ALCOHOL**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

- a) No business establishment operating within the Town of Winchester, which establishment shall include but not be limited to cabarets, cafes, concert halls, dance halls, "juice" bars, or any similar business, which permits or allows the consumption of alcoholic liquor within the confines of or on the grounds of said business establishment, shall permit any person whose age is under the legal drinking age of 21, as established by Connecticut General Statutes 30-1 (20), as amended by Public Act 85-264, to enter into or remain within said business establishment, unless that minor person is accompanied by a parent or legal guardian whose age is above the aforementioned legal drinking age.
- b) For the purpose of this ordinance, the term "alcoholic liquor" shall be defined in the same manner as set forth in Connecticut General Statutes §§30-1 (3), as amended, which in pertinent part states that:

'Alcoholic liquor' includes the four varieties of liquor defined in subdivisions (2), (6), (29) and (31) of this section (alcohol, beer, spirits and wine) and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being for beverage purposes...
- c) A fine in the amount of \$100.00 shall be levied against any such business establishment found to be in violation of this ordinance. Each minor person found within such business establishment and constituting a violation of this ordinance shall be a separate and distinct violation, subjecting such business establishment to separate fines of \$100.00 for each violation.
- d) The provisions of this ordinance shall not be applicable to any business establishment which has obtained a permit from the Department of Liquor Control pursuant to Connecticut General Statutes §§30-14 et seq. as amended.

**THIS ORDINANCE BECOMES EFFECTIVE ON APRIL 4, 1986.**

**SEC. 144      DISPOSITION OF FOUND, CLAIMED, AND UNCLAIMED  
PROPERTY BY WINCHESTER POLICE DEPARTMENT**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

- a) **DUTIES OF FINDER:** Any person who finds within the Town of Winchester and takes possession of any article of the value of one dollar or more shall report the finding of such article to the Winchester Police Department within forty-eight hours from the time of such finding. The finder of such article shall, at the time of reporting, furnish to the Police Department the date, time and place of finding, his name and address and a description of the article found, and within a period of one week from such finding, shall deliver such article to the Police Department. Any person who violates or fails to comply with the provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both.
- b) **ADVERTISING; SALE OF PERISHABLE GOODS:** The Police Department shall, commencing within one week from the date of receipts of any lost article, advertise a general description of such article once a week for at least two successive weeks in a newspaper having a circulation in the Town of Winchester and shall retain custody of such article for six months from the date of receipt thereof, unless it is claimed by the rightful owner within such six months' period. The requirement of advertising may be omitted when the value or estimated value of the article is less than two dollars. Perishable or obnoxious property or articles of a dangerous or harmful nature may be sold or otherwise disposed of as soon as practicable on the best terms available.
- c) **RESTORATION TO OWNER IF CLAIMED:** If the owner of any such article claims it within six months from the date of receipt by the Police Department, the article or the proceeds thereof shall be restored to him upon payment or deduction of all proper charges.
- d) **PROCEDURE IF UNCLAIMED:** If no owner claims such article within six months from the receipt thereof by the Police Department, the Police Department shall, within two weeks thereafter, notify the finder of such fact by registered or certified mail at his last known address, and the article or the proceeds thereof shall be turned over to such finder, upon demand by him within thirty days from the expiration of the six months' period and upon payment or deduction of all proper charges; but, if such finder fails to demand such article or the proceeds thereof or refuses to pay such charges within thirty days from the expiration of the six months' period, such article or proceeds shall belong to the Town of Winchester. The reque or estimated value of the article is less than five dollars.
- e) **DISPOSITION AFTER EXPIRATION OF TIME FOR MAKING CLAIM:** The Police Chief of the Town of Winchester shall sell at public auction any articles which the Police Department acquires as provided herein after expiration of the time for the owner or finder to demand the same and after the time and place of such sale and a description of the articles to be sold have been advertised once a week for two successive weeks in a newspaper having a circulation in such municipality. The net proceeds from such sales and the unclaimed net proceeds from the sales of perishable or obnoxious property or articles of a dangerous or harmful nature shall be paid to the Town Treasurer who shall deposit them in the Police Benefit Fund, if any, of the Town of Winchester.

**THIS ORDINANCE BECOMES EFFECTIVE ON APRIL 4, 1986.**

**SEC. 145 TOWN CLERK: ADAPTATION OF SALARY PROVISIONS AND  
PERSONNEL CODE**

RESCINDED AT SELECTMEN MEETING OF MAY 18, 1992, PUBLISHED IN  
REGISTER CITIZEN MAY 28, 1992, EFFECTIVE JUNE 12, 1992.

**SEC. 146 RENTAL CONDITIONS, CERTIFICATE OF APARTMENT  
OCCUPANCY**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

- a) No owner or other person shall rent to another, or permit the occupation by another, of any vacant dwelling unit unless it and the premises are clean, sanitary, and fit for human occupancy, and comply with all the applicable legal requirements of the State of Connecticut and the Town of Winchester.
- b) An apartment or dwelling unit in any structure containing three or more housing units cannot be occupied for human habitation, until a Certificate of Occupancy has been issued by the Housing Inspector or his authorized representative, certifying that such apartment or dwelling unit conforms to the requirements of the housing code of the Town of Winchester, and the Connecticut General Statutes. Such certificates shall be issued biennially. No provision of this section shall apply to any structure occupied by an owner thereof and containing two or less housing units. No provision of this section shall be construed to prohibit human occupancy of such apartment or dwelling unit during the pendency of an application for such a certificate.
- c) A person aggrieved by the refusal of a Certificate of Occupancy may appeal to the Superior Court for the Judicial District of Litchfield.
- d) The owner or lessor of such structure shall not recover, receive or collect rent for the occupancy of any apartment or dwelling unit for which a Certificate of Occupancy has not been obtained prior to the rental thereof.
- e) The Housing Inspector shall charge a fee of \$25.00 for each unit, which is to be paid prior to the issuance of the Certificate of Occupancy.
- f) The Housing Inspector may charge an additional \$25.00 fee if a re-inspection is necessary in order for the dwelling to comply with paragraph a).
- g) No person filing an application for a Certificate of Occupancy shall knowingly make any false statement as to names, addresses, relation, or number of persons who will occupy a dwelling unit. Any person who violates any of the provisions shall be subject to a penalty in the amount of \$90.00 per violation.

EFFECTIVE ON MAY 23, 1986; AMENDED AUGUST 4, 1988, APRIL 1, 2004;  
OCTOBER 1, 2004 AND AUGUST 7, 2006; ADOPTED SEPTEMBER 5, 2006;  
PUBLISHED IN THE REPUBLICAN-AMERICAN SEPTEMBER 8, 2006;  
EFFECTIVE SEPTEMBER 24, 2006.

## **SEC. 147 TOWN PROCUREMENT**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

### **147.00 Purpose, Rules of Construction**

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

### **147.01 Requirement of Good Faith**

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

### **147.02 Application**

- A. General Application: This chapter applies only to contracts solicited or entered into after the effective date of this chapter (11-1-86) unless the parties agree to its application to a contract entered into prior to the effective date. This chapter shall apply to any modifications, extensions, or alterations to existing contracts which occur after the effective dates of this chapter.
- B. Application to Town Procurement: This chapter shall apply to all expenditures of public funds regardless of source, including state and federal assistance monies, by this Town, under any contract, except that nothing in this chapter shall prevent the Town from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement. This chapter shall apply to the disposal of Town supplies.
- C. Effect of State or Federal Assistance Requirements: In the event state or federal assistance requirements conflict with the provisions of this chapter, nothing in this chapter shall prevent the Town from complying with the terms and conditions of the state/federal assistance requirements.

### **147.03 Determinations**

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

147.04          Definitions

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

- A. "Bid" either single lump sum or line item price(s) offered by vendor/firm to perform previously determined work in accord with detailed specifications. Sole determination of award = lowest responsible price.
- B. "Blind trust" means an independently managed trust in which the employee-beneficiary or any member of that employee's immediate family has no management rights and in which the employee-beneficiary is not given notice of alternatives in or other dispositions of the property subject to the trust.
- C. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.
- D. "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of this Town and is not a matter of public knowledge or available to the public on request.
- E. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- F. "Contract" means any type of Town agreement, regardless of what it may be called, for the purchase or disposal of supplies, services, or construction. It includes, but is not limited to, contracts of a fixed-price, cost, cost-plus-a-fixed fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.
- G. "Contractor" means any person or business having a contract with the governmental body and its subunits and utilities.
- H. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.
- I. "Debarment" means the disqualification of a person or business to receive invitations for bids or requests for proposals, or the award of a contract by the Town for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance.
- J. "Designee" means a duly authorized representative or a person holding a superior position.
- K. "Employee" means an individual drawing a salary or wages from the Town, whether elected or not, and any non-compensated individual performing personal services for the Town i.e. member of Town Board, Commission, Agencies, or Volunteer Fire Department.
- L. "Excess supplies" means supplies having a remaining useful life but which are no longer required by the using agency in possession of the supplies.
- M. "Financial interest" means:
  - 1. Ownership of any interest of involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently, or has a reasonable expectation of receiving, any financial benefit;
  - 2. Ownership of any interest in any business; or

3. Holding a position in a business such as an officer, director, trustee, partner, employee, or similar position, or holding any position of management.
- N. "Town" shall mean the Town of Winchester and shall include the Board of Selectmen and any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation, or other establishment or official of the government of this Town, but not including the Winchester Board of Education or Probate Court.
- O. "Gratuity" means a payment, loan, subscription, advance, deposit of money, service, or anything of any monetary value, present or promised, unless consideration of substantially equal or greater value is received.
- P. "Immediate family" means a spouse, children, parent, brother, sister, grandparent, step-children, mother or father-in-law.
- Q. "Invitation for bids" means all documents, including those attached or incorporated by reference, utilized for soliciting bids.
- R. "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- S. "Proposal" detailed listing of credentials, related experience and general qualifications of firm/vendor proposing to engage in work/service on behalf of Town and specific scope of services to be provided with/without an estimated fee (usually "not to exceed" a certain amount). Town establishes criteria for selection of various factors, not necessarily price alone.
- T. "Purchasing Agent" means the person holding the position created by Section 908 of the Town Charter as the head of the central purchasing office within the Finance Department of the Town of Winchester.
- U. "Request for proposals" means all documents, including those attached or incorporated by reference, utilized for soliciting proposals.
- V. "Responsible bidder" means a person who has the capability in all respects to perform fully the contract requirements, and the professional reputation for reliability which will ensure good faith performance.
- W. "Responsible bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.
- X. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term includes "professional services" but does not include employment agreements or collective bargaining agreements.
- Y. "Specifications" means any description of the physical or functional characteristics, or of the nature of, a supply, service or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- Z. "Supplies" means all property, including but not limited to equipment, parts, materials, printing, insurance, and leases on real and personal property which may only be disposed of or acquired by the Board of Selectmen or Town Legislative Body/Town Meeting.

- AA. "Surplus supplies" means any supplies no longer having any use to the Town. This includes obsolete supplies, scrap materials, and nonexpendable supplies that have completed their useful life cycle.
- BB. "Suspension" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the Town, for a temporary period pending the completion of an investigation, or during any legal proceedings that may ensue because a person is suspected, upon reasonable belief, of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance which may lead to debarment.
- CC. "Using department" means any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation, or other establishment or official of the government of this Town, but not including the Winchester Board of Education or Probate Court which utilizes any supplies, services, or construction purchased under this chapter.

#### 147.05 Purchasing Agent

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

#### 147.06 Authority of the Purchasing Agent

- A. Principal Contracting Officer: The Purchasing Agent shall serve as the principal contracting officer and central procurement officer of the Town. He shall have the power to enter into and sign contracts on behalf of the Town unless other officials are expressly designated by resolution or referendum.
- B. Power to Adopt Internal Operational Procedures: Consistent with the provisions of this chapter, the Purchasing Agent may adopt internal operational procedures governing the Town purchasing division.
- C. Duties: Except as otherwise specifically provided in this chapter, the Purchasing Agent shall have the following powers and duties in accordance with property approved by the Finance Director and Town Manager:
1. To establish, with the approval of the Finance Director and after consultation with the heads of the departments concerned, and enforce, standard specifications for all supplies, materials and equipment required by the several departments, offices and agencies of the Town, except as to the purchases for the Board of Education exempted above;
  2. To prescribe the time of making requisitions from such supplies, materials and equipment and the future period which said requisitions are to cover;

3. To inspect all deliveries of such supplies, materials and equipment, and to cause tests to be made when necessary in order to determine their quality, quantity and conformance with specifications; or to delegate said responsibility to the appropriate department/division head for confirmation.
4. To supervise and monitor such storerooms as the Board of Selectmen may provide by ordinance to serve the several departments, offices and agencies;
5. With the approval of the Manager and Finance Director, and as allowed by law, to transfer or sell to or between departments, offices and agencies supplies, materials and equipment, determined after consultation with the head of the department, office or agency concerned, to be surplus, obsolete or unused; and
6. To maintain an inventory of all moveable equipment belonging to the Town.

#### 147.07 Creation of Procurement Policy

Except as otherwise provided in this chapter, the Board of Selectmen shall have the authority and responsibility to promulgate and approve the procurement policy of the Town of Winchester as an ordinance and the Town Manager shall not exercise authority over the award or administration of any particular contract or any dispute, claim or litigation pertaining thereto. Adoption of this ordinance includes by reference the Town of Winchester Purchasing Manual, instituted October 1982 and revised July 1, 1986.

#### 147.08 Delegation of Authority

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

#### 147.09 Centralization of Procurement Authority

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

- A. Relationship With Using Departments: The Purchasing Agent shall obtain advice and assistance from personnel of using departments in the development of specifications and may delegate in writing to a using department the approval and authority to prepare and utilize its own specifications.
- B. Collection of Data Concerning Procurement: The Purchasing Agent shall cooperate with the Finance Director in the preparation of statistical data concerning the procurement, usage, and disposal of all supplies, services, and construction. All using departments shall furnish such reports as the Purchasing Agent may require concerning usage, needs, and stocks on hand, and the Purchasing Agent shall have authority to prescribe forms to be used by the using departments in requisitioning, ordering, and reporting of supplies, services, and construction.
- C. Accounting Control of all Purchases:
  1. All purchases made and contracts executed by the Purchasing Agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the

- credit of such office, department, or agency a sufficient unencumbered appropriation for which the contract or order is to be issued.
2. The purchase order is the instrument used to initiate and control purchasing. A signed requisition stating goods or services desired must be submitted to the Purchasing Agent prior to a P.O. being issued and services or supplies secured by any Town department, division, agency or employee/volunteer. During normal Town business hours (Monday-Friday, 8:00 a.m. – 4:00 p.m.) the requisition followed by a P. O. number must be processed against appropriate accounts prior to vendor/service provider release of goods/services. Emergency purchases in a state of local or state-wide emergency or after regular Town business hours must be followed on the next regular day of Town business with a requisition and invoice copy to the Purchasing Agent for issuance of a P.O. number.
  3. Failure to follow the above procedures will be cause for denial of Town financial responsibility and necessitate the employee/volunteer/Town representative having to pay the expense out of his/her own pocket.
- D. The Director of Finance is empowered in accordance with (Sec. 902C Town Charter) to institute interim fiscal year controls and at least monitor and control normal routine departmental expenses on a quarterly basis with the advice of the Purchasing Agent and department head based on budget requests and details submitted during the budget process leading to the Annual Town Budget Meeting. Said controls shall be communicated to all departments, divisions, commissions and boards as well as the Board of Selectmen before implementation.

#### 147.10 Methods Of Source Selection

Unless otherwise authorized by law, all Town contracts shall be awarded by competitive sealed bidding, pursuant to Section 147.11, except as provided in Sections 147.12 through 147.17.

#### 147.11 Competitive Sealed Bidding

- A.1) Invitation for Bids: Where competitive sealed bidding is utilized, an invitation for bids shall be issued which shall include a purchase description of all contractual terms and conditions applicable to procurement.
- A.2) If any purchase or contract for purchasing, including a continuing order or contract for the purchase of the same commodity over a period of time, involves the expenditure of three thousand dollars (\$3,000) or more, the Purchasing Agent shall invite sealed bids or proposals, unless it shall be determined by the Board of Selectmen to be against the best interest of the Town by a vote to grant a bid waiver.
- B. Public Notice: Adequate public notice of the Invitation for Bids shall be given prior to the date set forth therein for the opening of bids, as required by law, or in accordance with policy dictated by State and/or Federal agencies. Such notice shall include publication at least ten (10) days prior to the bid being opened in a newspaper having a general circulation in the Town.
- C. Bid Opening: Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified in the Invitation for Bids, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

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

#### 147.12 Competitive Sealed Proposals

- A. **Conditions for Use:** When the Purchasing Agent, in accordance with policy approved by the Town Manager and Finance Director, determines in writing that the use of competitive sealed bidding is not required by law and is either not practicable or not advantageous to the Town, a contract may be entered into through receipt of competitive sealed proposals. Competitive sealed proposals may also be used for the procurement of professional services whether or not the written determination described herein has been made. Further, if it is the written determination of a majority of a group consisting of the Finance Director, Purchasing Agent, Town Manager and representative of the department expecting to utilize such professional services that the competitive sealed proposal procedure is impractical or otherwise unsuitable, the procurement of the necessary professional service may be made on the basis of non-competitive negotiations without regard to Sections 147.12 and 147.13.
- B. **Request for Proposals:** Competitive sealed proposals shall be solicited through a request for proposals.
- C. **Public Notice:** Adequate public notice of the request for proposals shall be given in the same manner provided for competitive sealed bidding in Section 147.11.
- D. **Receipt of Proposals:** Sealed proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and open for public inspection as with public bid documents.
- E. **Evaluation Factors:** The request for proposals shall state the relative importance of the evaluation factors and price.

- F. Discussion with Responsible Offerors and Revisions of Proposals: As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonable susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- G. Award: Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Town, taking into consideration the evaluation factors set forth in the request for proposals, and price. Other factors or criteria to be used in the evaluation must be stated in writing prior to the award and be communicated to each proposer as part of the solicitation process. The contract file shall contain the basis on which the award is made.

147.13 Small Purchases (Informal Bids/Quotations)

Except as otherwise required by law, any procurement not exceeding three thousand dollars (\$3,000.) as set by Town Charter and procurement policy may be made in accordance with small purchase procedures approved by the Finance Director; provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. If the actual price of a procurement obtained through such small purchase procedure exceeds, by fifteen percent or more, the maximum amount established by such policy, the Purchasing Agent may determine that the procurement be made using Section 147.11 or Section 147.12.

Sec. 147.13a Local Vendor Preference

- A. For all bids and quotes submitted for purchases exceeding \$3,000.00 but less than \$1,000,000.00, any qualified and registered local vendor who has submitted a bid or quote not more than 5% higher than the lowest qualified bid or quote will be awarded the contract or purchase order, subject to any limiting provision of this Ordinance, so long as such local vendor agrees to provide the supplies, materials, equipment, commodities and/or services which are the subject of such contract or purchase order at the same price as the lowest qualified bid or quote received. In the event that more than one local vendor submits a bid or quote not more than 5% higher than the lowest qualified bid or quote, the award shall be to that local vendor submitting the lowest qualified bid or quote.
- B. For purposes of this section, a qualified and registered local vendor is defined as one who maintains a principal place of business located within the town limits of Winchester by occupying real property in which to conduct such business or by paying personal property taxes on business property to the Town of Winchester. Evidence of the maintenance of such principal place of business may include the ownership or long-term lease of real estate from which the principal place of business is operated or the payment of property taxes on the personal property of the business to be used in the performance of the bid.

- C. The Town Manager shall prepare a local vendor registration form and shall have it made available to all local businesses. When such form has been properly completed and filed by a local vendor with and approved by the Town Purchasing Agent, such local vendor shall be a qualified and registered local vendor in the Town for the purposes of this section.
- D. This section shall not apply in any situation where the preference created by this section would violate federal and state law or any existing contracts.

147.14 Sole Source Procurements

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

147.15 Emergency Procurements

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

147.16 Modification of Contracts

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

147.17 Cancellation of Invitation for Bids or Requests for Proposals

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

147.18 Finality of Determinations

The determinations required by Sections 147.03, 147.06, 147.10, 147.11, 147.12 and 147.14 are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

147.19 Specifications – Duties of Purchasing Agent

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

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

#### 147.20 Contractual Remedies

##### A. Authority to Resolve Protested Solicitations and Awards:

1. Right to Protest: Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. The protest shall be submitted in writing within 14 calendar days after such aggrieved person knows via notice of award to all bidders from the Purchasing Agent or his designee or should have known of the facts giving rise thereto.
2. Authority to Resolve Protests: The Purchasing Agent shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.
3. Decision: If the protest is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.
4. Notice of Decision: A copy of the decision under this Section shall be mailed or otherwise furnished immediately to the protestant and Town Attorney and any other party intervening.
5. Finality of Decision: A decision under this Section shall be final and conclusive unless fraudulent, or unless any person adversely affected by the decision commences an action in court.
6. Stay of Procurements During Protests: In the event of a timely protest under this Section, the Town shall not proceed further with the solicitation or with the award of the contract until the Purchasing Agent has issued his decision in writing or makes a written, predecision determination that the award of the contract without delay is necessary to protect substantial interests of the Town.

##### B. Authority to Debar or Suspend:

1. Authority: After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consultation with the using agency and the Town Attorney, shall have authority to debar a

person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the using agency and the Town Attorney, shall have authority to suspend a person from consideration for award of contracts if there is reasonable belief for debarment. The suspension shall not be for a period exceeding three months.

2. Causes for Debarment or Suspension: The causes for debarment or suspension include the following:
    - a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
    - b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Town contractor;
    - c) Conviction under state or federal anti-trust statutes arising out of the submission of bids or proposals;
    - d) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment action:
      - i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in contract; or
      - ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
    - e) Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Town contractor, including debarment by another governmental entity for any of the causes listed in this chapter; and
    - f) For violation of the ethical standards set forth in this chapter.
  3. Decision: The Purchasing Agent shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.
  4. Notice of Decision: A copy of the decision under this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person, the Town Attorney, and any other party intervening.
  5. Finality of Decision: A decision under this Section shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person commences an action in court.
- C. Authority to Resolve Contract and Breach of Contract Controversies:
1. Applicability: This Section applies to controversies between the Town and a contractor and which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

2. Authority: The Purchasing Agent is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in this Section.
  3. Decision: If such a controversy is not resolved by mutual agreement, the Purchasing Agent shall promptly issue a decision in writing. The decision shall state the reasons for the action taken.
  4. Notice of Decision: A copy of the decision under this Section shall be mailed or otherwise furnished immediately to the contractor.
  5. Finality of Decision: The decision under this Section shall be final and conclusive, unless fraudulent, or unless the contractor commences an action in court.
  6. Failure to Render Timely Decision: If the Purchasing Agent does not issue the written decision required under this Section within 120 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.
- D. Time Limitations on Actions
1. Protested Solicitations and Awards: Any legal action under this chapter shall be initiated within 90 days after the aggrieved person knows or should have known of the facts giving rise to the action.
  2. Debarments and Suspension for Cause: Any action challenging a suspension or debarment shall be commenced within six months after receipt of the decision of the Purchasing Agent under this chapter.
  3. Actions Under Contracts or for Breach of Contract: The statutory limitations on an action between private persons on a contract or for breach of contract shall apply to any action commenced pursuant to this chapter.

147.21 Supply Management

The Purchasing Agent may promulgate operational procedures governing:

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

147.22 Cooperative Purchasing

- A. Purchasing Agreements: The Town of Winchester may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units, and open-ended state public procurement unit contracts which are made available to other public procurement units.

- B. Sale, Acquisition, or Use of Supplies: The Town of Winchester may sell to, acquire from, or use any supplies belonging to another public procurement unit independent of the requirements of Section 147.10 and Section 147.21.
- C. Cooperative Use of Supplies and Services: The Town of Winchester may enter into an agreement, independent of the requirements of Section 147.10 and Section 147.21 with any other public procurement unit for the cooperative use of supplies or services, under the terms agreed upon between the parties.
- D. Joint Use of Facilities: The Town of Winchester may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit under the terms agreed upon between the parties.

147.23 Ethics in Public Contracting

- A. Standards of Conduct – Statement of Policy: Public employment is a public trust. It is the policy of the Town to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the Town. Such policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Town procurement organization.

To achieve the purpose of this Section, it is essential that those doing business with the Town also observe the ethical standards prescribed herein.

- B. General Standards of Ethical Conduct for Employees: Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this general prescribed standard, employees shall meet the specific standards set forth in this Section and Sections 147.24, 147.25, 147.27, and 147.28.
- C. General Standards of Ethical Conduct for Non-Employees: Any effort to influence any public employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.
- D. Conflict of Interest: It shall be a breach of ethical standards, and a conflict of interest, for any employee to participate directly or indirectly in a procurement when the employee knows that:
  1. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
  2. A business or organization in which the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or
  3. Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

- E. Financial Interest in a Blind Trust: Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the Purchasing Agent and Town Attorney.
- F. Discovery of Conflict of Interest, Disqualification, and Waiver: Upon discovery of potential or actual conflict of interest, an employee shall promptly file a written statement of disqualification with the Purchasing Agent and shall withdraw from further participation in the transaction involved.

#### 147.24 Employee Disclosure Requirements

- A. Disclosure of Benefit Received from Contract: Any employee who has or obtains any benefit from any Town contract, in which the employee participates directly or indirectly, with a business in which the employee has a financial interest shall report such benefit to the Purchasing Agent. Any employee who knows or should have known of such benefit, and fails to promptly report such benefit to the Purchasing Agent, is in breach of the ethical standards of this chapter.

#### 147.25 Gratuities and Kickbacks

- A. Gratuities: It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a purchase request, influencing the content of any specification of procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefore. This Section is intended to supplement, and not limit, the provision of Section 147.13.
- B. Kickbacks: It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order as may be prohibited by State and Federal regulations imposed by the Town's acceptance of State and/or Federal grant funds.

#### 147.26 Restrictions on Employment of Present and Former Employees

- A. Contemporaneous Employment Prohibited: It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to be or become, while such an employee, employed by any person contracting with the governmental body.
- B. One Year Restriction: It shall be a breach of ethical standards for any former employee, within one year after cessation of the former employees' official responsibility, knowingly to act as a principal, or as an agent for anyone other than the Town, in connection with any:

- a. Judicial or other proceeding, application, request for ruling, or other determination unless said employee is served with a court subpoena in a Town related proceeding.
  - b. Contract;
  - c. Claim; or
  - d. Charge or controversy
- in matters which were within the former employee's official responsibility, where the Town is a party or has a direct or substantial interest.
- C. Disqualification of Business: It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the Town, in connection with any:
- 1. Judicial or other proceeding, application, request for ruling, or other determination;
  - 2. Contract;
  - 3. Claim; or
  - 4. Charge or controversy
- in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the Town is a party or has a direct and substantial interest.
- D. Selling to the Town:
- 1. The term "sell" as used in this subsection means signing a bid, proposal, or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowance, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale, including those cases where the actual contract therefore is subsequently negotiated by another person. Provided, however, that this subsection is not intended to preclude a former employee from accepting employment with a private business solely because the former employee's employer is a contractor with this Town, nor shall a former employee be precluded from serving as a consultant to this Town.
  - 2. It shall be a breach of ethical standards for any former employee to sell or attempt to sell supplies, services, or construction to the Town for one year following the date employment ceased.

147.27 Prohibition Against Contingent Fees

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

147.28 Use of Confidential Information

It shall be a breach of ethical standards for any employee or former employee within one calendar year from the date of termination of Town employment knowingly to use

confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

147.29 Personal Access to Procurement Information

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

147.30 Civil and Administrative Remedies

- A. Existing Remedies Not Impaired: Civil and administrative remedies against employees which are in existence on the effective date of this ordinance shall not be impaired.
- B. Supplemental Remedies: In addition to existing remedies for breach of ethical standards of this ordinance, the Town Manager may impose any one or more of the following, not necessarily in the order as listed:
  - 1. Oral or written warnings or reprimands;
  - 2. Suspension with or without pay for specified periods of time; and
  - 3. Termination of employment.
- C. Recovery from Employee: The value of anything received by an employee in breach of the ethical standards of this ordinance or regulations promulgated thereunder shall be recoverable by the Town as provided in Section 147.32.
- D. Due Process: All procedures under this Section shall be in accordance with due process requirements and existing state/federal law.

147.31 Civil and Administrative Remedies Against Non-Employees

- A. Existing Remedies Not Impaired: Civil administrative remedies against non-employees which are in existence on the effective date of this ordinance shall not be impaired.
- B. Supplemental Remedies: In addition to existing remedies for breach of the ethical standards of this Section, the Town Manager may impose one or more of the following:
  - 1. Oral or written warnings or reprimands;
  - 2. Termination of a transaction; and
  - 3. Suspension or debarment.
- C. Recovery from Non-Employee: The value of anything transferred in breach of the ethical standards of this ordinance or regulations promulgated thereunder by a non-employee shall be recoverable by the Town from such person as provided in Section 147.32.
- D. Right of Town to Suspend or Debar:
  - 1. Suspension of a contractor may be imposed during an investigation of charges of a serious and compelling nature based on probable cause indicating the existence of a breach of ethical standards under this ordinance or other irregularities of a serious and compelling nature which would affect the integrity of the contractor.
  - 2. Debarment of a contractor may be imposed by reason of a finding of any breach of ethical standards under this ordinance or for a finding of other irregularities of a serious nature affecting the integrity of the contractor.
- E. Due Process: All procedures under this Section shall be in accordance with due process requirements.

147.32 Recovery of Value Transferred or Received

- A. General Provisions: The value of anything transferred or received in breach of the ethical standards of this Section by an employee or a non-employee may be recovered from both the employee and the non-employee.
- B. Recovery of Kickbacks by the Town: Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the Town and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

147.33 Waiver

On written request of an employee, the Town Manager may grant an employee or former employee a written waiver from the application of Sections 147.23 D or 147.26 and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the Town so require, or when the ethical conflict is insubstantial or remote.

**ADOPTED JANUARY 20, 1987; EFFECTIVE FEBRUARY 13, 1987; AMENDED 1/5/09, PUBLISHED IN THE REPUBLICAN-AMERICAN ON 1/7/09; EFFECTIVE 1/22/09.**

**SEC. 148 SENIOR CITIZENS COMMISSION**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

- a) **Established Composition:** There shall be a commission to study the needs of the aged and to coordinate programs for such persons in the Town of Winchester, consisting of nine (9) electors of the Town of Winchester, appointed by the Board of Selectmen. The members so appointed shall be persons interested in the consideration and solution of the problems of the aged. In addition to the nine (9) members of the Commission, the Mayor, or his designee, and the Town Manager shall be ex-officio members of the Commission. Three (3) appointments shall be for three (3) years, three (3) appointments for two (2) years and three (3) appointments for one (1) year. The Board of Selectmen shall fill any vacancy in any such position for the unexpired portion of a member's term pursuant to the provisions of the Town Charter.
- b) **Offices, Meetings, Agenda:** A chairman, vice-chairman, and a secretary shall be elected by the members of the Commission from among the members. The Commission shall be empowered to determine the time and place of its meeting and agenda.
- c) **Recommendations of the Commission Regarding Personnel:**
  1. The Commission may recommend candidate(s) to the Town Manager for the appointment of the Senior Citizen Director. The Commission may further recommend to the Town Manager such other personnel as it may deem necessary and proper for the effective administration, management and operation of the Senior Center and for the other senior citizen activities, provided that, there shall be sufficient funds appropriated for the employment of such other personnel.
  2. In the alternative, the Director shall employ such other personnel as he deems necessary and proper, subject to prior consultation with the Commission and approval of the Town Manager, provided that, there shall be sufficient funds appropriated for the employment of such other personnel.
- d) **General Duties of the Commission:** The Commission shall study continuously the conditions and needs of elderly persons in the community in relation to housing, economic employment, health, recreation, transportation, and other necessary matters. The Commission shall analyze the services provided to the aged by both public and private agencies, and shall recommend to and advise the Town Manager and the Director of the policies, programs and actions the Commission deems necessary for the effective administration, management and operation of the Senior Center and other major senior citizen activities.
- e) **General Duties of the Director:** The Director shall be responsible for the implementation of the policies promulgated by the Town of Winchester and shall be responsible for all phases of the administration and management of the Senior Center and other senior citizen activities, including their daily operations. The Director shall further assist elderly persons in learning of the community resources available to them and shall assist such elderly persons in applying for federal, state and local benefits. In addition, the Director shall publicize and make known the availability of such federal, state and local resources and benefits. The Director shall be subject to all applicable state guidelines and regulations in the daily operation of the Senior Center and for other senior citizen activities.

- f) **Budget:** Prior to the preparation of the annual Town Budget by the Selectmen, the Director shall draft a proposed budget for the administration, management and operation of the Senior Center and for any other ongoing, proposed or anticipated senior citizen activities. The proposed budget shall be submitted to the Town Manager. Prior to the submission of the proposed budget to the Town Manager, the Commission shall review the proposed budget and shall make any recommendations it deems necessary. The Commission shall further prepare an annual report of its proceedings and expenditures during the preceding year and shall submit the same with the proposed budget to the Town Manager. Copies of the proposed budget together with the Commission's recommendations and its annual report of proceedings and expenditures shall be filed with the Board of Selectmen.
- g) **Discrimination:** The Commission established by this Article shall neither practice nor allow any discrimination because of any person's sex, color, creed, national origin or political views.

This ordinance becomes effective fifteen (15) days from publication. **EFFECTIVE OCTOBER 10, 1987.**

**SEC. 149 PLANNING & ZONING COMMISSION APPLICATION FEES**

Be it hereby enacted and ordained that the application fees of the Planning and Zoning Commission of the Town of Winchester are hereby amended and established as follows:

<u>APPLICATION</u>	<u>FEE</u>
a) Zone Change	\$5.00 per acre \$100 minimum fee No maximum fee
b) Development Plan for Multi-Family Residential Use	\$100 per unit for the first 100 units \$50 per unit for each unit in excess of 100 units No maximum fee
c) Zone Change & Site Plan	\$15.00 per acre plus \$5.00 per one-thousand square feet of building space. \$100 minimum fee No maximum fee
d) Site Plan	\$10.00 per acre plus \$5.00 per one-thousand square feet of building space. \$100 minimum fee No maximum fee
e) Site Plans for Additions and Renovations	\$5.00 per one-thousand square feet of building space. \$75.00 minimum fee. No maximum fee.
f) Special Permit; Special Exception	\$75.00
g) Change in Text of Zoning or Subdivision Regulations	\$100.00
h) Signs	\$50.00
i) Subdivisions & Resubdivisions	\$150.00 per lot fronting on existing street \$200.00 per lot fronting on proposed street.

- j) Modification of any Prior Approval                      \$50.00 plus \$5.00 per  
   thousand square feet  
   of any additional  
   building space.

The fees set forth above are the Minimum Application Fees required. When the Planning and Zoning Commission determines that the application will require the use of outside consultant services, it may add to the minimum fee a surcharge fee to fund the approximate actual cost of those services.

The expenses for such outside consultants may be estimated by the Planning and Zoning Commission upon receipt of the application, based upon the projected expenses of reviewing, evaluating and processing the application. This reasonable estimate, together with the appropriate application fee given above, shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted. For the purpose of this Ordinance an "outside consultant" means a professional who is not an employee of the Town including, but not limited to, engineering, traffic, legal, environmental and planning professionals.

Any portion of the surcharge fee not expended by the Town on the project shall be rebated to the applicant upon completion of the review, evaluation and processing of the application.

The Commission shall bill the applicant for any costs incurred by the Town in excess of the surcharge fee paid by the applicant. This bill shall be paid by the applicant prior to the issuance of any permits.

**ADOPTED BY THE BOARD OF SELECTMEN, APRIL 4, 1988, EFFECTIVE  
MAY 5, 1988; AMENDED MARCH 2, 1989, APRIL 6, 1998, MAY 2, 1998;  
PUBLISHED IN THE REPUBLICAN-AMERICAN ON APRIL 24, 2007; TO BE  
EFFECTIVE MAY 15, 2007.**

**SEC. 150      BLASTING ORDINANCE**

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut:

1. No blasting shall be permitted in the Town of Winchester except under the conditions hereinafter set forth.
2. Any and all blasting requires a permit from the Town Fire Marshal. Such blasting permit must be obtained by the individual or firm doing the actual blasting. If blasting work is to be done by a subcontractor, then the subcontractor must secure the permit and comply with the rules and regulations.
3. Either a blasting bond or an appropriate certificate of insurance must be furnished in order to obtain a permit. A blasting bond shall be in the amount of two million dollars (\$2,000,000.00). This bond will cover all permits issued to the applicant for the duration of the permit. The blasting bond must be in the office of the Fire Marshal before the permit will be issued.
4. In lieu of a blasting bond, an applicant may furnish an appropriate certificate of insurance to the Fire Marshal as follows:
  - a. Such insurance shall show public liability in the following amounts:

Bodily Injury	\$ 50,000.00 for any one person
	\$1,000,000.00 for any one accident
Property damage liability	\$ 50,000.00 for any one accident
	\$1,000,000.00 for the aggregate
  - b. Said certificate shall name the Town of Winchester and shall provide that the issuing insurance company shall furnish the Town with thirty (30) days written notice prior to canceling the policy.
  - c. Said insurance certificate must state "covers blasting" or "includes blasting".
  - d. Said insurance certificate must be in the Fire Marshal's office before a blasting permit will be issued.
5. Permits will be issued for a maximum of 30 days, and the permit shall state the location of the job, amount of powder, dynamite and the number of caps to be purchased, transported and used.
6. Job Site Requirements: "Two way radio" warning signs, flag men and all other requirements of the rules and regulations of the State of Connecticut Department of Public Safety as well as any and all requirements of the Connecticut General Statutes must be adhered to. No temporary magazines will be allowed in the Town of Winchester. No explosives, powder or caps shall be stored on the job site for more than a 12-hour period of time.

**OPERATIVE AUGUST 4, 1988, AS AMENDED EFFECTIVE OCTOBER 30, 1988.**