



# *Town of Winchester*

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Board of Selectmen Meeting  
Monday, October 17, 2016

## **BUSINESS**

Docket Item **G - 6:**

DRAFT Fall 2016 Town Meeting Warrant

### Supporting Documents:

**G - 6:**

DRAFT Warrant

### Action Required:

**G - 6:**

Review and discuss.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.  
To the Constables of the Town of Winchester,

GREETING:

In the name of the Commonwealth of Massachusetts you are required to notify and warn the inhabitants of the Town of Winchester to meet at the Winchester High School Auditorium located at 80 Skillings Road on

**THURSDAY, THE TENTH DAY OF NOVEMBER, 2016**

at thirty minutes after seven o'clock in the evening for the Fall Annual Town Meeting at which time and place the following articles are to be acted upon and determined exclusively by representative Town Meeting Members in accordance with the Winchester Home Rule Charter.

**ARTICLE 1.** To hear the reports of the Town Officers and the Finance Committee, or take any other action in relation thereto.

(Board of Selectmen)

**ARTICLE 2.** To see if the Town, acting under Article 2, Section 2.5 (c) of the Winchester Home Rule Charter, and upon the recommendations of the Committee on Rules pursuant to Chapter 2, Section 4.4.3 of the Code of By-Laws of the Town of Winchester, will vote to declare vacant the seats of certain Town Meeting Members for failure to attend one half or more of the total number of sessions of the Winchester Town Meeting held during Fiscal Year 2016, or take any other action in relation thereto.

(Committee on Rules)

**ARTICLE 3.** To see if the Town will vote to raise and appropriate, or transfer from available funds including free cash, a sum of money to supplement or reduce appropriations in the budget article and other articles that were voted at the Spring 2016 Town Meeting, or take any other action in relation thereto.

(Town Manager)

**ARTICLE 4:** EFBPC –alternate member for EFPBC (see email 8/17/16)

**ARTICLE 5:** To see if the Town will raise and appropriate or transfer from available funds a sum of money for local matching funds the Town was required to provide in relation to the 2009/2010 Drug Free Grant program, or take any other action in the relation thereto.

**ARTICLE 6:** To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

If any provision of this by-law shall be determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions of this by-law shall continue in effect to the fullest extent permitted by-law.

**ARTICLE 7:** To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

## **SOLICITATIONS AND CANVASSING:**

### **Section 19.1. STATEMENT OF PURPOSE**

This by-law is intended to secure for residents of the town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. It is framed with deep respect for the principles embodied in the constitutions of the United States and the Commonwealth of Massachusetts and attempts to achieve a workable balance between the right of free speech and the right of privacy. It is intended to be framed narrowly and construed strictly to achieve its purpose by imposing certain restrictions as to the time, place and manner in which solicitation and canvassing are conducted. It is not intended to be applied to political or religious activities entitled to protection under the First Amendment to the United States Constitution.

### **Section 19.2. DEFINITIONS**

- (a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:
  - (1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or
  - (2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.
- (b) "Residential property" includes without limitation each individual dwelling unit.

### **Section 19.3. PROHIBITION AND REQUIREMENTS**

- (a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
- (b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.
- (c) Immediately upon encountering an occupant of any residential property, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform

the occupant of the nature and purpose of his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

(f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.

(g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

#### **Section 19.4. REGISTRATION**

(a) Application. Persons seeking registration certificates in accordance with this by-law shall apply thereof not less than seven days before commencing solicitation or canvassing in the Town of Winchester. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:

- (1) Applicant's name;
- (2) Applicant's business, residence and local address;
- (3) Applicant's business, residence and local telephone numbers;
- (4) Applicant's date of birth;
- (5) Applicant's driver's license number and state of issue;
- (6) Applicant's sex, race, height, weight, hair color and eye color;
- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
- (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
- (11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

#### **Section 19.5. INVESTIGATION AND ISSUANCE**

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for

such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

(1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;

(2) The failure to include any of the information requested in the application.

#### **Section 19.6. CONTENTS OF CERTIFICATE**

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

#### **Section 19.7. APPEAL**

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complicated of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

(b) If the Board of Selectmen fails to render a decision within 30 days the appeal shall be deemed to be upheld.

#### **Section 19.8. EXPIRATION OF CERTIFICATE**

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

#### **Section 19.9. TRANSFER OF CERTIFICATE**

No certificate of registration may be transferred to any other person or entity.

#### **Section 19.10. REVOCATION OF CERTIFICATE:**

The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

#### **Section 19.11. DUTIES OF POLICE DEPARTMENT**

The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

#### **Section 19.12. EXCEPTION**

The provisions of this by-law shall not apply to the following persons:

- (a) Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or any other General Law.
- (b) Any officer or employee of the town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.

**Section 19.13. SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

**Section 19.14. PENALTY**

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

**ARTICLE 8:** To see if the Town will approve the amendment and restatement of Chapter 14 of the Code of By-Laws of the Town of Winchester, "Demolition of Historic Buildings," by deleting such Chapter in its current state in its entirety and substituting the following in its place:

**CHAPTER 14**

**PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS**

**Section 1. PURPOSE**

This by-law is adopted to promote the preservation and protection of Historically Significant Buildings within the Town that reflect distinctive features of historical, architectural, archeological and culture significance to the Town and to limit the detrimental effect of Demolition on such features of the Town. Through this by-law, owners of Historically Significant Buildings are encouraged to consider alternatives to demolition that will preserve, rehabilitate and restore such buildings while residents of the Town are alerted to proposed and impending Demolitions.

**Section 2. DEFINITIONS**

As used in this chapter:

- 2.1. "Abutters" shall mean any owner of a Lot touching a Lot on which an Eligible Building is located and shall include owners of Lots directly opposite such Lot on any public or private street or way.
- 2.2. "Applicant" shall mean any person(s) or entity(ies) who files an application for a Permit to Demolish a Building. If the Applicant is not the owner of the Building, the owner must indicate on or with the application for a Permit its assent to the filing of the application.
- 2.3. "Building" shall mean a combination of any materials, having a roof, to form a structure for the shelter of person or property. For purposes of determination by the Commission of whether an Eligible Building is Historically Significant, a garage, out-building or carriage house located on a Lot of an Eligible Building shall be considered a separate "Building," and indicated as such in the application for a Permit submitted to the Building Department.
- 2.4. "Business Day" shall mean any day other than a Saturday, Sunday or other day on which the government of The Commonwealth of Massachusetts is authorized or required by law to be closed for business.
- 2.5. "Commission" shall mean the Winchester Historical Commission, created by vote of Winchester Town Meeting pursuant to Massachusetts General Laws, Chapter 40, section 8D.
- 2.6. "Demolition" shall mean any act of (a) pulling down, tearing down, destroying, or razing a Building or substantially all of a Building, (b) moving a Building from its site or foundation from its current location, or (c) commencing the work of any of the foregoing.
- 2.7. "Eligible Building" shall mean any Building or portion thereof located in the Town
- (a) which is listed individually on, or is a contributing Building within a district listed on, the National Register of Historic Places or State Registers of Historic Places,
  - (b) which is included in the Massachusetts Historical Commission's "Inventory of Historic and Archeological Assets of the Commonwealth", or
  - (c) which was constructed during or before 1940.

For the purposes of clause (c) above, evidence that a Building was constructed during or before 1940 shall be determined from sources including Town building or tax assessment records, other historical records, or other reliable independent sources including information provided by the Applicant as is reasonably acceptable to the Commission.

- 2.8. "Hearing" shall mean a public hearing of the Commission held for the purposes of determining if an Eligible Building is a Historically Significant Building in accordance with Section 3.5 and the Demolition thereof should be delayed in accordance with Section 3.6.

2.9. "Historically Significant Building" shall mean an Eligible Building that the Commission determines meets the criteria set forth in Section 3.5.

2.10. "Lot" shall mean a parcel of land with definite boundaries ascertainable by recorded deed or plan.

2.11. "Permit" shall mean a permit issued by the Building Department authorizing the Demolition of a Building.

### **Section 3. PROCEDURES**

3.1. Application for Permit. An Applicant seeking a Permit from the Building Department to Demolish a Building shall, in addition to or as part of such application form and information required by the Building Department, submit to the Building Department the following:

- (a) The address of the Building to be demolished;
- (b) The Applicant's name, address, telephone number and email address (if any), and if the application is not submitted by the Owner of the Building, the owner's information and consent to the application;
- (c) A brief description of the Building(s) to be demolished, together with information, if available to the Applicant, as to the date of construction of the Building (such as a copy of the original building permit application, tax assessment records or other historical records), the condition of the Building(s) and other information as the Applicant would like to submit to describe the reason for the Demolition; and
- (d) A photograph or photograph(s) of the Building.

At the time of the application, each Applicant will be provided with a copy of or reference to this bylaw describing the procedures for the Commission's review of the Permit application. Within three (3) Business Days after receipt of an application for a Permit, the Building Department shall transmit a copy of the application to the chairperson and vice-chairperson of the Commission and to the Town Planner for review in accordance with this bylaw.

3.2. Required Notification to Issue Permit. The Building Commissioner shall not issue a Permit for the Demolition of a Building unless the Building Commissioner has received a notification from the Commission, its Chairperson, Vice-Chairperson or the Town Planner under any one of items (a) through (d) in this Section 3.2, or the Building Commissioner has not received any notification from the Commission, its Chairperson, Vice-Chairperson or the Town Planner on or before thirty (30) Business Days after the date of the Permit application is transmitted by the Building Department under Section 3.1. Notifications to the Building Commissioner shall be that:

- (a) the Building is not an Eligible Building pursuant to Section 3.3(a), or

- (b) the Building is an Eligible Building and the Commission (or an Authorized Person) has determined it is not a Historically Significant Building pursuant to Section 3.3(b), or
- (c) the Building is an Eligible Building and the Commission has determined it is a Historically Significant Building but has not imposed a demolition delay pursuant to Sections 3.6(b), 3.8 or 3.9; or
- (d) the Building is an Eligible Building and the Commission has determined it is a Historically Significant Building and imposed a demolition delay pursuant to Section 4.6(b); and no Permit shall issue until a further notification is issued to the Building Commissioner the period of demolition delay imposed by the Commission for a Historically Significant Building has ended, whether at the end of the time imposed by the Commission or at such earlier date pursuant to Sections 3.8 or 3.9; or
- (e) the Applicant and the Commission have agreed to extend the time for the Commission's determination that an Eligible Building is a Historically Significant Building and/or whether to impose a demolition delay, and the period of such extension.

Nothing in this Section is intended to prevent the Building Commissioner from issuing a Permit to Demolish a Building for the reasons in Section 3.13.

### 3.3. Determinations of Eligible Buildings and those of No Historical Significance.

- (a) **Eligible Buildings.** The Commission chairperson, vice-chairperson, Town Planner or other Town employee designated by the Commission (such person being an "Authorized Person") within ten (10) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1 shall (i) determine if the Building described in the application is an Eligible Building based on information submitted with the Permit application, any additional information submitted by the Applicant, review of building department and tax assessor's office records, other public records or historical data and the results of any prior review of the Building to determine if it was an Eligible Building, and (ii) notify the Applicant and the Building Department of such determination. If the Authorized Person, within such ten (10) Business Day period is unable to make a determination that a Building is an Eligible Building based on available records, the Permit application shall be referred to the Commission for a determination at a Hearing as to whether the Building is an Eligible Building. The Applicant is encouraged to present any information with the Permit application that the Applicant believes will assist the Authorized Person or Commission in making its determination. The Hearing will be held not later than twenty (20) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1.
- (b) **Preliminary Determination of No Historical Significance.** Upon a determination that the Building is an Eligible Building, the Authorized Person may further determine based on the information submitted with the Permit application, any

additional information submitted by the Applicant, review of building department and assessor's office records and other public records or historical data, visual inspection, familiarity with the history or neighborhood, or prior review of the Eligible Building by the Commission and determination of no Historical Significance, that an Eligible Building is presumptively not a Historically Significant Building and not subject to the delay provisions of this bylaw and shall notify the Applicant and the Building Department of its determination, such notice to be provided within ten (10) Business Days after the date the Permit application is transmitted by the Building Department pursuant to Section 3.1.

3.4. Determination of Historical Significance by Commission; Public Hearing. Subject to any preliminary determination under Section 3.3(b), the Commission shall determine at a Hearing and based on the Criteria set forth in Section 3.5 whether an Eligible Building proposed for Demolition is a Historically Significant Building. The Hearing shall be held within twenty (20) Business Days after the date the Permit Application is transmitted by the Building Department pursuant to Section 3.1, unless the Commission and the Applicant jointly agree to extend the time for the Hearing. The Commission shall give public notice of the Hearing not less than 5 days prior to the date of the Hearing by posting notice at Town Hall and by mailing notice of the date, time, location and subject matter of the Hearing to the Applicant, Abutters and to other persons deemed by the Commission to be affected thereby.

3.5. Criteria for Determination of an Eligible Building being a Historically Significant Building. If at such Hearing the Commission determines that the Demolition of the Eligible Building would be detrimental to the American history, architecture, archeology, engineering and culture of the Town, such building shall be considered a "Historically Significant Building". An Eligible Building's Historical Significance shall be evidenced by demonstrating that such Eligible Building has a quality of significance in American history, architecture, archeology, engineering and/or culture and which possesses integrity of location, design, setting, materials, workmanship, feeling and/or association, and:

- (a) is associated with events that have made a significant contribution to the broad patterns of our history,
- (b) is associated with the lives of significant persons in our past,
- (c) embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction, or

(d) has yielded or may be likely to yield, information important to history or prehistory.<sup>1</sup>

3.6. Commission's Determinations at Hearing; Demolition Delay.

(a) Not a Historically Significant Building. If at a Hearing (i) the Commission determines by a majority vote (of those members present and voting) that an Eligible Building is not a Historically Significant Building pursuant to Section 3.5 hereof or (ii) there is a tie vote (in which case the Commission shall be deemed to have determined that such Eligible Building is not a Historically Significant Building). The Commission shall notify the Building Commissioner, with a copy to the Applicant, of its determination at the Hearing within ten (10) Business Days of the closing of the Hearing.

(b) Historically Significant Building. If at a Hearing the Commission determines by a majority vote (of those members present and voting) that an Eligible Building is a Historically Significant Building pursuant to Section 3.5 hereof, the Commission shall further determine if it will require a twelve (12) month delay in the Demolition of the Historically Significant Building. The Commission shall notify the Building Commissioner, with a copy to the Applicant, of its determination at the Hearing within ten (10) Business Days of the closing of the Hearing.

3.7. Alternatives to Demolition. At any time during the Hearing, prior to the issuance of the Commission's determinations, or during the period of Demolition delay, the Commission may invite the Applicant, and any other persons deemed affected by the proposed Demolition, to participate in a discussion of alternatives to Demolition including but not limited to: incorporation of the Building into the future development of the site; adaptive re-use of the Building; utilization of financial incentives to rehabilitate the Building; rezoning, or seeking a new owner willing to purchase and preserve, restore or rehabilitate the Historically Significant Building.

3.8. Unconditional Early Issuance of Permit. The Commission, after its determinations of Historical Significance and imposition of Demolition delay, may reduce or eliminate the period of delay and/or may impose conditions on the Demolition and shall notify the Building Commissioner of its revised determination, if:

(a) The Commission is satisfied that there is no reasonable likelihood that either the Applicant or some other person or group is willing to purchase, preserve, rehabilitate or restore such building,

(b) The Commission is satisfied that for at least twelve (12) months (which time period may precede the date of the Permit application) the Applicant or owner of the Historically Significant Building has made continuing bona fide and reasonable efforts to

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<sup>1</sup> The criteria for determination of Historical Significance set forth herein are the Criteria for Evaluation found in the Code of Federal Regulations., Title 36, Part 60 (<https://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf>)

locate a purchaser to preserve, rehabilitate and restore such Building, and that such efforts have been unsuccessful, or

(c) The Commission is satisfied that it is in the best interest of the community, as assessed by the Commission to allow the Demolition of the Historically Significant Building.

3.9. Conditional Early Issuance of Permit. Notwithstanding the provisions of Section 3.6, the Building Commissioner may issue a Permit subject to conditions agreed to by the Commission and the Applicant and the owner (if the Applicant is not the owner) of a Historically Significant Building at any time after receipt of written agreement from the Commission and the Applicant and the owner to the effect that the Commission is satisfied that Demolition of the Historically Significant Building, subject to the conditions specified in such agreement, is the outcome most likely to secure the intent of this by-law and that the Applicant and owner (if the Applicant is not the owner) agrees to abide by the conditions specified.

3.10. Appeals. An appeal may be taken by the Applicant to the board of appeals within twenty (20) Business Days after a determination by the Commission that the subject of a Permit application is a Historically Significant Building.

3.11. Communications. Unless another form of communication is expressly specified herein, all written notifications under this Chapter 14 shall be made by and delivery, the U.S. Postal Service, electronic mail, facsimile transmission (with confirmation of receipt in writing by other means) or overnight delivery service.

3.12. Historically Significant Buildings Subject to Prior Permit Applications.

- (a) No Change in Ownership. In the event that (i) an application for a Permit has previously been submitted with respect to an Eligible Building, (ii) such Eligible Building was determined by the Commission to be a Historically Significant Building, (iii) such Building was not Demolished following any imposed period of delay, and (iv) subsequently a new application for a Permit is submitted for the Building by the same Applicant (or owner if the initial Application was not submitted by the owner), then such Building shall not be subject to a Hearing nor any further period of delay so long as (1) the ownership of the Building has not changed since the date of the Commission's initial determination, and (2) there is no new information about the Building's significance in history, architecture, archeology, engineering or culture in accordance with the Criteria set forth in Section 3.5 that was not known to the Commission at the time of the initial determination.
- (b) Effect of Conveyances. In the event that (i) an application for a Permit has previously been submitted with respect to an Eligible Building, (ii) such Eligible Building is determined by the Commission to be a Historically Significant Building, (iii) such Building was not Demolished following any imposed period

of delay, and (iv) subsequently a new application for a Permit is submitted for the Building by a different Applicant or owner, the Permit application shall be subject to review by the Commission in accordance with this bylaw in the same fashion as any other Permit application.

3.13. Overriding Safety Issue or Emergency Conditions. Nothing in this by-law shall restrict the authority of Building Commissioner to order the Building owner, or the Town, to demolish a building at any time if the Building Commissioner determines that the condition of the Building or part thereof presents an imminent and substantial danger to the public health or safety. The Building Commissioner shall endeavor to provide the Chairperson and Vice-Chairperson of the Commission and the Town Planner with prior written notice of its issuance of a Permit in connection with the foregoing.

#### **Section 4. ENFORCEMENT AND REMEDIES**

4.1. Enforcement by Building Commissioner. The Building Commissioner is authorized to institute any and all proceedings in law or equity as the Building Commissioner deems necessary and appropriate to obtain compliance with the requirement of this by-law, or to prevent a violation thereof.

4.2. Demolitions In Violation of By-Laws. No building permit shall be issued with respect to any Lot upon which an Eligible Building has been intentionally demolished in violation of this by-law for a period of two (2) years after the date of the completion of such Demolition. The Demolition of an Eligible Building pursuant to a Permit issued on the basis of incorrect information shall be considered to be an intentional Demolition in violation of this by-law.

4.3. Vacant Historically Significant Buildings. The owner of a Building that the Commission has found to be a Historically Significant Building, shall be responsible for properly securing such Building, if vacant (excluding temporary vacancies), to the satisfaction of the Building Commissioner. Should the owner fail to so secure such Building, the loss of such Building (e.g. fire) may be considered an intentional Demolition for the purposes of Section 4.2.

4.4. Regulations, Fees. The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

#### **Section 5. Application for Pre-emptive Determination of Historical Significance**

An owner of a Building may at any time request a review by the Commission as to the Historical Significance of such Building. Within ninety (90) days following receipt of such request, the Commission shall conduct such review at a regularly scheduled meeting of the Commission and notify Abutters thereof. At such meeting and based upon information available to the Commission including information provided by such owner, the Commission shall make a determination that (i) such Building is a Historically Significant Building, (ii) such Building is

not a Historically Significant Building, or (iii) there does not exist sufficient information to make a determination as to the Historical Significance of such Building.

If the Commission determines such Building is not a Historically Significant Building, such determination will be in perpetuity, unless, following such determination and upon the later submission of an application for a Permit, it is found that such Building is associated with previously unknown significance in American history, architecture, archeology, engineering and culture as set forth in Section 3.5. If the Commission determines there is insufficient information available in the reasonable opinion of the Commission to make such a determination or the Commission determines that such Building is a Historically Significant Building and such owner disagrees, such owner may, in either case and at its sole cost and expense, hire or request the Commission to hire a consultant, which consultant is mutually acceptable to the Commission and the Applicant, to complete a Massachusetts Historical Commission Survey Form if no up to date Form exists and provide such additional relevant information to the Commission as such owner may elect. Upon receipt of such Form and additional information, as applicable, at a regularly scheduled meeting of the Commission, with notice to Abutters, the Commission shall reassess its prior determination and advise such owner of any change to its prior determination. A fee for an initial determination and any reassessment may be assessed by the Commission, which shall be payable by such owner, to cover the costs to the Commission or Town therewith.

#### **Section 6. EXISTING EXCLUSIONS**

Notwithstanding anything contained herein to the contrary, property owners of Eligible Buildings who elected to be excluded from the application of this by law in accordance with a 2001 amendment hereto,<sup>2</sup> shall continue to be excluded and the exclusion shall apply to their respective successors and assigns provided, however, the current property owners of such Eligible Buildings may rescind such election at any time by notification thereof in writing to the Commission.

#### **Section 7. SEVERABILITY**

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

**ARTICLE 9:** To amend the Zoning Bylaw by adding Section 8.10.

### **PROPOSED COMMUNITY RESOURCE OVERLAY DISTRICT**

#### **8.10 Community Resource Overlay District (CROD)**

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<sup>2</sup> Section 6 of the 2001 amendment to this by law permitted property owners of Eligible Buildings a one-time "opt out" from the protections afforded by these by laws.

8.10.1 **Purpose.** The purpose of the Community Resource Overlay District (CROD) is to encourage and promote the use of land and facilities located within the Overlay District that serve as community resources in the Town of Winchester where the primary use of the land or facility is for nonprofit educational, agricultural, cultural, institutional, or civic purposes, by providing for certain accessory uses as described in this Section 8.10.

8.10.2 **Overlay District.** The CROD is established as an overlay district in the locations shown on the Town of Winchester Zoning Map. Where the CROD authorizes uses not allowed in the underlying zoning district or establishes different standards or procedures from those otherwise set forth in this Zoning Bylaw, the provisions of the CROD shall control.

8.10.3 **Definitions.** See Section 10.0 – Community Resource Overlay District

8.10.4 **Applicability.** The CROD Accessory Uses that are set forth in Section 8.10.5 shall be permitted as of right on Community Resource Property located in the CROD. The application of the CROD shall not restrict the uses, including other accessory uses, allowed as of right, under the Dover Amendment (M.G.L Ch 40A Section 3), or by special permit in the underlying zoning district.

8.10.5 **Table of Use Regulations for CROD.** The Table of Accessory Uses shall be permitted on a Community Resource Property according to the following Symbols:

- Y** Permitted as of Right- See Section 9.5.1 of this Bylaw for applicability of Site Plan Review.
- N** Not Permitted; Prohibited
- SP** Permitted only under a special permit granted by the designated Special Permit Granting Authority, as provided for in Subsection 9.4 of this Bylaw

Use	CROD #1: Wright-Locke Farm	
1. Demonstrations, classes, instruction or other educational lectures and assemblies whether conducted by the Community Resource Property owner, occupant or a third party.	<b>Y</b>	
2. Activities which follow from the primary use of the Community Resource Property, for example, preparation, assembly, or packaging of products from agricultural crops, whether such crops are grown on the Community Resource Property or at another location.	<b>Y</b>	

3. The sale of merchandise related to the primary use of the Community Resource Property.	Y	
4. The use of the land or facility(ies) for the conduct of social gatherings or similar types of events either open to the public or by private invitation, whether conducted or sponsored by the Community Resource Property owner, occupant or by third parties.	Y	
5. The serving of food and alcohol, whether in connection with a special event conducted by the Community Resource Property owner, occupant or third party. <i>(All serving of food and alcohol shall be subject to the normal permitting procedures from the appropriate Town permit granting authority).</i>	Y	
6. Leasing of space associated with the primary Community Resource Use.	Y	

8.10.6 **Other Accessory Uses.** This Section 8.10 is not meant to limit any accessory uses currently permitted under the Dover Amendment (M.G.L Ch 40A Section 3).

8.10.7 **Conflicting Provisions.** If the provisions of this Section 8.10 are in conflict with any other section of the Winchester Zoning Bylaw, Section 8.10 shall govern.

\*\*\*\*\*

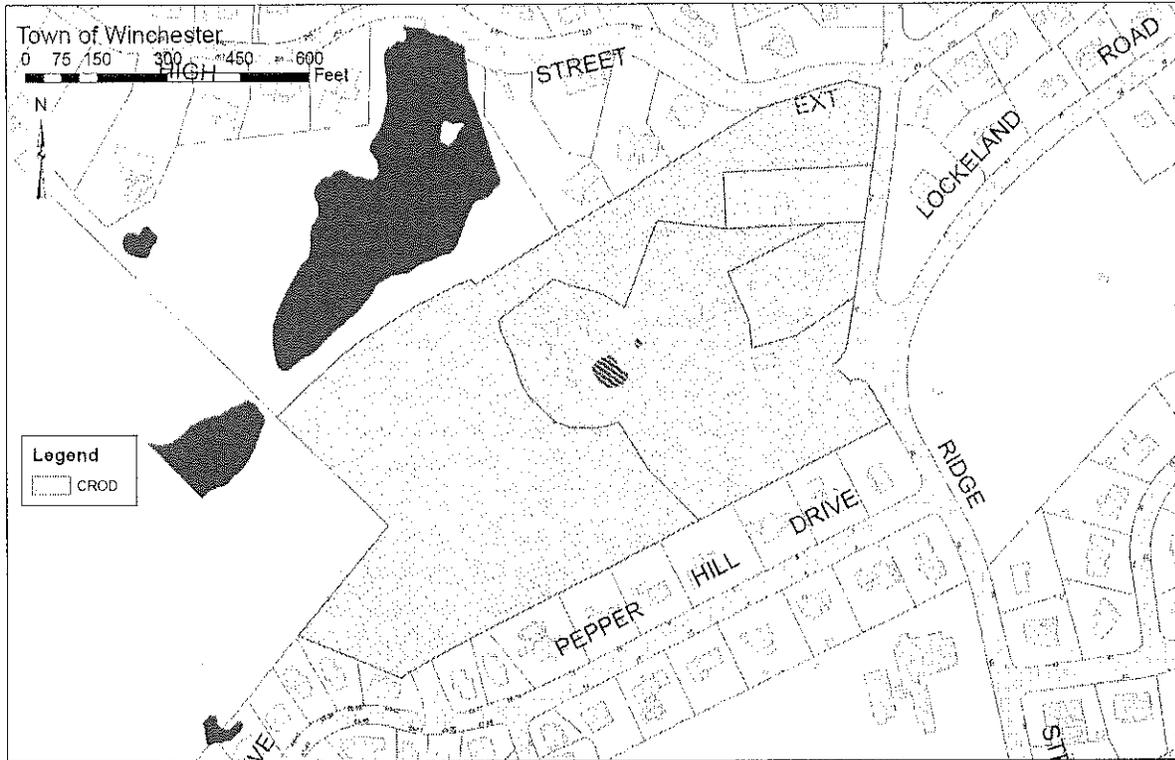
**COMMUNITY RESOURCE OVERLAY DISTRICT (CROD).** Within this Section, the following terms shall have the following meanings:

**Community Resource Property.** Land and facilities having as their primary Use a Community Resource Use.

**Community Resource Use.** A primary use of a property for a nonprofit educational, agricultural, cultural, institutional, or civic purpose.

**CROD Accessory Use.** A CROD Accessory Use is a use carried out on a Community Resource Property if related and subordinate to the Community Resource Use and includes the uses set forth in Section 8.10.5. CROD Accessory Uses are in addition to and not in limitation of accessory uses that would be otherwise permitted in the zoning district, whether as of right, under the Dover Amendment, or by special permit.

**MODIFY EXISTING WINCHESTER, MA ZONING MAP TO REFLECT NEW OVERLAY DISTRICT:**



**ARTICLE 10:** To see if the Town will vote to hear and act on the report of the Personnel Board and take any action in connection with recommendations as to wages and salaries, working conditions, new or revised rates of wages and salaries, changes, additions, adjustments or revisions of wages and salaries and in classifications and definitions, and in amending, revising and adding to the Personnel Policy Guide as well as in other matters thereto related; and to raise and appropriate money for any adjustments or revisions of wages and salaries of employees subject and not subject to collective bargaining agreements or in any job classifications, and to provide for salary or wage adjustments not otherwise provided for, said monies to be expended by the departments affected; determine in what manner the monies shall be raised by taxation or otherwise, or take any other action in relation thereto.

(Personnel Board)

**ARTICLE 11:** To see if the Town will vote to transfer from free cash or other available funds, a sum or sums of money, for the purpose of engineering and associated consultations pertaining to the location of electronic transmission lines in Winchester as proposed by Eversource in accordance with its petitions to the Energy Facility Siting Board, Department of Public Utilities EFSB 15-04/DPU 15-140, 141 and EFSB 15-03/DPU 15-64, 65 or take any other action relative thereto.

(Town Manager)

**ARTICLE 12: DPW – HS Facility Plant Operator (part of Personnel Board?)**

**ARTICLE 13:** To see if the Town will vote to amend the Council on Aging's By-laws.

**ARTICLE 3**

**MEMBERSHIP**

**Section A: Regular Members:**

The membership of the Council on Aging is composed of eleven members, who serve without pay and are appointed by the Selectmen. Service of board members is limited to two consecutive three year terms. The Selectmen may appoint a retiring member for additional terms. Their terms shall be staggered. A vacancy in membership shall be filled by the Selectmen.

**Section B: Associate Members:**

In order to broaden the basis of expertise, the Council may appoint Associate Members to a term of three years. Associate Members may be reappointed for additional terms. They shall be encouraged to attend meetings but without the right to vote or hold office.

**ARTICLE 4**

**RELATIONSHIP WITH WINCHESTER SENIORS ASSOCIATION INC.**

The Town appointed Council on Aging and the Winchester Seniors Association Inc. are independent organizations. They both work cooperatively, however, in the common area of improvement of the total well-being of the Winchester senior citizens.

**ARTICLE 5**

**OFFICERS**

**Section A:**

1. The officers shall be a Chairperson, Vice Chairperson, Treasurer and a Secretary.
2. The officers shall perform the duties prescribed by the by-laws and by the Parliamentary Authority adopted.

**Section B:**

The Chairperson shall preside at all meetings of the Council on Aging, appoint committee chairpersons as necessary, serve as an ex-officio member of all committees, except the Nominating Committee. The Chairperson shall serve not more than two consecutive terms.

**Section C:**

The Vice-Chairperson shall preside at all meetings and assume the responsibilities in the absence of the Chairperson.

**Section D:**

The Treasurer shall be custodian of all Council on Aging funds, disbursing such funds only upon authorization of the Council, authenticate expenditures against budget, keep a record of funds, report regularly to the Council on Aging, and submit all bills to the comptroller for reimbursement with at least six signatures of Council on Aging members. ~~The above funds shall include any from State Grants or other sources. In addition the Treasurer shall be involved in the budget preparation.~~

**Section E:**

The Secretary shall keep records of all Council on Aging meetings and proceedings.

**ARTICLE 6**

**ELECTIONS**

**Section A:**

The officers shall be elected annually. The Chairperson of the Council on Aging shall appoint a Nominating Committee at the first regular meeting in March. The Nominating Committee shall present a proposed slate of Officers to be voted on by the Council on Aging, at the last regular meeting in April. The Chairperson's term shall be two years. All other officers shall be elected annually.

**Section B:**

A vacancy in office shall be filled by the recommendation of the Chairperson and voted on by the Council.

**ARTICLE 7**

**ORGANIZATION**

**Section A:**

Operating direction of the Council on Aging is accomplished through a five member Executive Committee: Council on Aging Chairperson, Vice Chairperson, Treasurer, Secretary and Administrator Director. Meetings of the Executive Committee shall be held as required by Council on Aging Business.

**Section B:**

The functions of the Executive Committee shall include, but are not limited to:

1. Establishing the agenda for all Council on Aging meetings.
2. Representing the Council on Aging on official business and interfacing with the Board of Selectmen, the Town Manager, the Winchester Seniors Association and its officers and committees and other outside agencies when no member of the Council has been previously designated.

**Section C:**

The Council on Aging ~~Administrator~~ Director shall implement policies and procedures and oversee day-to-day operations. The Administrator works cooperatively with the Winchester Seniors Association.

**ARTICLE 8**

**MEETINGS**

**Section A:**

Meetings of the Council on Aging shall be held at a minimum of ten monthly meetings per calendar year. Special meetings may be called by two Members of the Executive Committee or by a majority of the Members.

**Section B:**

The quorum of the Council on Aging shall consist of a majority of the members.

**Section C:**

Official meetings shall be governed by Roberts Rules of Order with exceptions as adopted by this Council on Aging.

**ARTICLE 9**

**STANDING RULES**

**The Council:**

- a. Shall cooperate with the Commonwealth of Massachusetts Executive Office of Elder Affairs.
- b. Shall keep informed of all State and Federal legislation concerning funding, information exchange and program planning.
- c. Shall cooperate with public and private agencies working wholly or in part in the field of aging in Winchester.
- d. Shall present an annual report to the Board of Selectmen with a copy of the report to the Executive Office of Elder Affairs.

e. Shall be authorized to recommend a paid Administrator and such other staff as may be necessary, all of whom are appointed by the town Manager.

f. Shall seek out and negotiate the necessary agreements for needed financial resources from Town, Regional, State, and Federal Agencies. In kind grants and contributions from private sources may be sought. The Council may work on joint enterprises with the Winchester Seniors Association.

## ARTICLE 10

### AMENDMENTS

These by-laws may be amended at any regular meeting of the Council on Aging by a vote of two-thirds of the members. All amendments must be presented in writing at least two weeks prior to voting.

June 1, 1988

Revised:

May 1, 1990

February 9, 1993

June 13, 2007

November 18, 2009

June 12, 2012

~~August 11, 2016~~

September 14, 2016

**ARTICLE 14.** To see if the Town will raise and appropriate or transfer from available funds a sum of money to be transferred to the Worker's Compensation Reserve Fund established in accordance with Massachusetts General Law Chapter 40 Section 13c to pay future workers compensation claims, or take any other action in relation thereto.

(Town Manager)

**ARTICLE 15.** To see if the Town will vote to appropriate the premium paid to the Town upon the sale of bonds dated October 27, 2016 for the remodeling and reconstruction of, and an addition to, Winchester High School, which bonds are the subject of a Proposition 2½ debt exclusion, to pay costs of the project being financed by such bonds or notes and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by the same amount, or to take any other action relative thereto.

(Town Manager)

**ARTICLE 16.** To repurpose the bond proceeds that are unspent in the following projects (please confirm my authorization votes):

- a. Fund 8863 Public Safety Building auth FTM 11/08 Art 12 - \$83.48
- b. Fund 8869 Drainage auth FTM 11/08 Art 23 - \$16,602.03
- c. Fund 8887 Public Safety Building auth FTM 11/14 art 7 - \$34,337.79

(Town Manager)

**ARTICLE X.** To hear and act on the report of the Capital Planning Committee regarding the proposed Capital Plan for FY2018 and place the report on file, or take any other action in relation thereto.

(Capital Planning Committee)

**ARTICLE X.** To see if the Town will vote to appropriate a sum of money from unexpended capital accounts, which projects are complete, to the Capital Stabilization Fund and/or the Building Stabilization Fund established under Chapter 69 of the Acts of 2002, or take any action in relation thereto.

(Capital Planning Committee)

**ARTICLE X.** To see if the Town will vote to appropriate a sum of money for the following projects:

1. McCall School Gym Ceiling Replacement: \$95,000;
2. DPW Wall/Stable Demolition/Repair: \$150,000;
3. McCall School Conversion of existing space, Design: \$50,000;
4. New Fire Pumper: \$550,000;
5. VFA Building Inventory Phase II: \$51,187;

Said appropriations shall be made from the Building Stabilization Fund or Capital Stabilization Fund established under Chapter 69 of the Acts of 2002, or take any other action in relation thereto.

(Capital Planning Committee)

**ARTICLE X.** To see if the Town will vote to appropriate a sum of money for a community lead service water line replacement program to reduce the potential for elevated lead levels at customer taps and to maintain high water quality conditions, including the replacement of lead neck connections, and the replacement or rehabilitation of public and privately-owned water service lines containing lead, including all design, engineering and other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing from the Massachusetts Resources Authority or otherwise; and to take any other action relative thereto.

(Capital Planning Committee)

**ARTICLE X.** To see if the Town will vote to appropriate a sum of money for the following projects:

1. Water Filtration Plant, Replacement of Scada system including all design, engineering and other costs incidental or related thereto: \$175,000;
2. EPA MS4 Stormwater Permit – NOI Preparation: \$13,000;

said appropriation shall be from the Water and Sewer Retained Earnings or otherwise; or take any other action in relation thereto.

(Capital Planning Committee)

**ARTICLE X.** To see if the Town will vote to raise and appropriate, or transfer from the Parking Meter Fund or other available funds, a sum of money for the maintenance of the parking meters, maintenance of the parking lot and other costs associated with the collection and enforcement of parking ticket revenues, including the payments to the Massachusetts Department of Conservation and Recreation (DCR) at the Wedgemere Lot, or take any other action in relation thereto.

(Town Manager)

**ARTICLE X.** To see if the Town will vote to amend the water and sewer rates currently in effect in accordance with Chapter 7, Section 3 of the Code of By-Laws, or take any other action in relation thereto.

(Board of Selectmen)

**ARTICLE X.** To see if the Town will vote to accept committee reports, dissolve old committees, authorize new committees, or take any other action in relation thereto.

(Board of Selectmen)

**ARTICLE X.** To see if the Town will vote to take appropriate action to comply with provisions of M.G.L. Chapter 59, Section 21C, a law known as "2 ½ Tax Limitation", or take any other action in relation thereto.

(Town Manager)

And you are hereby directed to serve this warrant by mailing a printed copy thereof, by you attested, to every occupied dwelling house in said Town and by posting on the Town bulletin board at least ten days before the holding of said meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk before the day of said meeting.

Given under our hands and seals this 24<sup>th</sup> day of October two thousand sixteen.

LANCE R. GRENZEBACK, CHAIRMAN  
E. JAMES WHITHEAD, VICE CHAIRMAN  
STEPHEN L. POWERS  
MICHAEL BETTENCOURT  
DAVID P. ERRICO

Board of Selectmen  
Town of Winchester

A true copy:  
ATTEST:  
Gregory Quill, Constable