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FALL ANNUAL  
REPRESENTATIVE TOWN MEETING  
MONDAY, NOVEMBER 2, 2015  
7:30 PM  
MCCALL MIDDLE SCHOOL AUDITORIUM

POSTAL PATRON LOCAL



## 2015 FALL TOWN MEETING ARTICLES

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**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 McCall School Auditorium located at 458 Main Street on

**MONDAY, THE SECOND DAY OF NOVEMBER, 2015**

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 2015, 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 2015 Town Meeting, or take any other action in relation thereto.

(Town Manager)

**ARTICLE 4.** 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 the amount that was appropriated for vocational school assessments in department (#3610) budget for fiscal year 2016 by \$51,000.00, or take any other action in relation thereto.

(School Committee)

**ARTICLE 5.** To see if the Town will vote to amend the FY2016 Water Sewer Enterprise Fund appropriations for the MWRA Assessment adjustment, and other debt service, to amend the Chapter 110 transfer, and to amend the use of Water Sewer Retained Earnings, or take any other action in relation thereto.

(Town Manager)

**ARTICLE 6.** To see if the Town will vote to raise and appropriate funds to prepare an update to the 2007 Winchester Public Schools Master Plan, said appropriation shall be raised by a transfer from free cash or any other available funds, or take any other action in relation thereto.

(Town Manager/School Committee)

**ARTICLE 7.** To see if the Town will vote to rescind \$250,000 of unissued debt authorized by Town Meeting under Article 18 on November 6, 2014 for the repair of the Fernway retaining wall.

(Town Manager)

**ARTICLE 8.** To hear and act on the report of the Capital Planning Committee regarding the proposed Capital Plan for FY2017 and place the report on file, or take any other action in relation thereto.

(Capital Planning Committee)

**ARTICLE 9.** To see if the Town will vote to appropriate a sum of money for the following projects:

1. Library Chimney Rebuild
2. Muraco – Replace Fire Alarm – Evaluation and Design Recommendations
3. Lynch – Domestic Water/Heat Distribution – Evaluation and Design Recommendations
4. Muraco – Re-Pave Play Area
5. Bridge Repair over Horn Pond Brook
6. Swanton Street Bridge (Project 8) Engineering Plans
7. Railroad Bridge near Muraco School (Project 10) Engineering Plans
8. Police/Fire/EMS Departments Dispatch Consoles
9. Borggaard Beach – Septic System
10. VFA/Accruent Building Update

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 10.** 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 11.** 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 12.** 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 13.** To see if the Town will vote to raise and appropriate funds to prepare a Master Plan for the Waterfield Parking Lot, said appropriation shall be raised by a transfer from free cash or any other available funds, or take any other action in relation thereto.

(Town Manager)

**ARTICLE 14.** To see if the Town will vote to add a new Chapter, Single-Use, Plastic Carry-Out Bag Reduction, to the Code of By-Laws of the Town of Winchester.

## **PLASTIC BAG REDUCTION BY-LAW**

### **SECTION 1: DEFINITIONS**

The following words shall, unless the context clearly requires otherwise, have the following meanings:

- 1.1 “Person” means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.
- 1.2 “Checkout bag” means a bag provided by a store to a customer at the point of sale.
- 1.3 “Plastic checkout bag” means a single-use bag, comprised of plastic, measuring of any thickness, which is meant to hold customer purchases, and provided by a retail establishment at the point of sale.
- 1.4 “Recyclable paper bag” means a paper bag that is 100 percent recyclable overall and contains at least 40 percent post-consumer recycled content and displays the word "Recyclable" in a highly visible manner on the outside of the bag.
- 1.5 “Reusable bag” means a bag with handles that is:
  - a. Designed and manufactured to withstand, at a minimum, 125 uses. For purposes of this paragraph, “125 uses” means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet.
  - b. Made of fabric; or of durable plastic that is at least 4.0 mils (.0762mm) in thickness.
  - c. Is machine washable or made from a material that can easily be cleaned and disinfected.
- 1.6 “Retail Establishment” means any commercial business facility that sells goods directly to the consumer including, but not limited to, grocery stores, pharmacies, liquor stores, restaurant take-out, mini marts, retail stores and vendors selling clothing, food, books, cards, and personal items.

## **SECTION 2: RESTRICTIONS**

- 2.1 Retail establishments may not provide checkout bags comprised of any thickness of plastic, unless said bags are reusable.
- 2.2 Nothing in this section shall be read to preclude any establishment from making reusable checkout bags available for sale to customers or utilizing recyclable paper bags as defined in this section at checkout.
- 2.3 The enforcement and penalty provisions of section three shall apply to this chapter.
- 2.4 The Board of Selectmen and/or Town Manager shall promulgate rules and regulations to implement all sections of this by-law.

## **SECTION 3: VIOLATIONS**

- 3.1 If it is determined that a violation has occurred, after the initial 180 day transition phase, the Town of Winchester shall issue a warning notice to the Retail Establishment for the initial violation.
- 3.2 If it is determined that an additional violation of this Chapter has occurred within one year after a warning notice has been issued for an initial violation, the Town of Winchester shall issue a notice of infraction and shall impose a penalty against the retail establishment.
- 3.3 The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:
- (a) \$100 for the first offense
  - (b) \$200 for the second offense
  - (c) For the third and all subsequent offenses there shall be a mandatory court appearance and such penalty as may be determined by the Court, pursuant to Sec. 20-20 and Massachusetts General Laws Chapter 40, Section 21D.
  - (d) No more than one (1) penalty shall be imposed upon a Retail Establishment within a seven (7) calendar day period.
  - (e) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of infraction is issued to pay the penalty.
  - (f) The penalty shall double after fifteen (15) calendars days if the Retail Establishment does not pay the penalty; or fails to respond to a notice of infraction by either denying or objecting in writing to the infraction or penalty.

## **SECTION 4: COMPLIANCE**

- 4.1 All Retail Establishments located in the Town of Winchester shall comply with this by-law.
- 4.2 Violation of any of the requirements of this by-law shall subject a retail establishment to the penalties set forth in Section Three (3) of this by-law.

4.3 All of the requirements set forth in this by-law shall take effect 180 days after the Town Clerk receives approval from the Attorney General concerning all sections of this by-law.

4.4 If any section, subsection, subdivision, sentence, clause, or phrase of this by-law is for any reason held to be unconstitutional or otherwise void or invalid by any court of competent jurisdiction, the validity of the remaining portion of this by-law shall not be affected thereby and remain in full force and effect.

(George Wood, Citizen Petition)

**ARTICLE 15.** To see if the Town will vote to add a new Chapter, Outdoor Dining, to the Code of By-Laws of the Town of Winchester.

## **OUTDOOR DINING**

### **SECTION 1: OUTDOOR DINING LICENSES**

- 1.1 Purpose, scope, authority. The purpose of this bylaw is to provide for the licensing of outdoor dining areas of appropriate design, configuration, and appearance that will be an amenity to the Town during the spring, summer and fall. The Board of Selectmen may issue annual outdoor dining licenses which shall be for the period from April 1 to October 31. Licenses shall be valid for one season and must be reapplied for annually.
- 1.2 Conditions of the license. The Board of Selectmen shall impose such conditions on each license as the Board determines to be appropriate and in the best interest of the Town. License fees shall be established by the Board of Selectmen. The Board of Selectmen may also make such regulations governing outdoor dining licenses as the Board considers to be necessary or appropriate to carry out the purposes of this bylaw.

### **SECTION 2: DESIGN AND APPEARANCE**

- 2.1 Outdoor dining areas containing six or more seats shall be separated from their surroundings by a perimeter fence or barrier (such as potted plantings or temporary bollards). No such fences or barriers may damage the public sidewalk or any portion of the public right-of-way. Perimeter treatments, umbrellas, furniture and trash receptacles shall be supplied by the applicant and shall be maintained in a safe and sanitary manner by the applicant. All trash receptacles shall be covered and trash removed nightly. All perimeter treatments, umbrellas, furniture and trash receptacles must be removed at the end of each season.
- 2.2 All street furniture must be secured or stored inside the building during the hours it is not in use. Street furniture may not be stored in areas where food preparation occurs.
- 2.3 Outdoor dining areas may be placed on the public sidewalk, and on existing on-street parking spaces on public ways.
- 2.4 Outdoor dining areas may not be placed in a travel lane on public ways.

### **SECTION 3: PEDESTRIAN AND WHEELCHAIR PASSAGE**

- 3.1 In no event shall the placement of outdoor dining furniture, umbrellas, perimeter fences or barriers create a pedestrian or wheelchair passage width of less than 48 inches.

Restaurants shall have an accessible path of travel through the dining area at least 36 inches wide.

#### **SECTION 4: TEMPORARY SEATING**

4.1 Due to the seasonal and temporary nature of an outdoor dining area, the seating within an outdoor dining area will not be considered an increase in the number of seats serving a restaurant or eating establishment and will not be counted toward any off-street parking requirement.

#### **SECTION 5: SUBMISSION AND APPROVAL OF APPLICATION**

5.1 Filing procedure. Application for outdoor dining licenses shall be made to the Board of Selectmen, and a copy shall be submitted to the Board of Health, Fire Department, Engineering Department, Planning Department, and Public Safety Officer for their review. When located within the Center Business District or other Mixed Use Zoning Districts, the applicant shall consult with the Design Review Committee prior to seeking a license. Each application will include the name, address and telephone number of the restaurant owner, the proposed dates and times of operation, and a plan meeting the requirements of Section (2) below.

5.2 Plan requirements. A neatly drawn scaled plan and ten copies shall be submitted with the application depicting the precise dimensions and location of the outdoor dining area; the arrangement of outdoor dining furniture, perimeter fencing, umbrellas, and any other obstruction; and the width of sidewalk available for pedestrian and wheelchair passage. The plan will also include a written description of the colors and materials to be used in the outdoor dining area. Photographs or samples of proposed furniture and materials shall be provided upon request of the Board of Selectmen or Design Review Committee.

5.3 Insurance. The licensee shall carry or require that there be carried workers' compensation insurance for all employees and those of its contractors and/or subcontractors engaged in work at the dining facility, in accordance with the state workers' compensation laws. The licensee shall, prior to the issuance of the license, furnish a certificate of insurance to the Town evidencing coverage for workers' compensation insurance. In addition, the licensee shall carry comprehensive public liability and property damage liability insurance and, if applicable, liquor liability insurance, to cover the licensee and its contractors and subcontractors against claims due to accidents which may occur or result from operations under the license. Such insurance shall cover the use of all equipment related to the provision of sidewalk dining services. The comprehensive general liability policy shall insure against all claims and demands for bodily injury and property damage with respect to the sidewalk dining facilities and services and shall be in such form and amount as determined by the Board of Selectmen. The Town shall be named as an "additional insured" in all policies for such insurance. The licensee (and their heirs, successors and assigns in interest) shall also agree to hold harmless, defend and indemnify the Town of Winchester and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under the license. Where such insurance is renewed or replaced, the licensee shall furnish the Town with a certificate of insurance evidencing the same.

5.4 Approval.

(a) The Board of Selectmen may approve an outdoor dining license after determining that the design and location of an outdoor dining area is suitable to its environs and that all other requirements of the license have been met. The Board of

Selectmen shall consider any comments made by the Board of Health, Safety Officer or Design Review Committee prior to rendering a decision.

(b) Upon approval of an outdoor dining area license by the Board of Selectmen, the owner and operator of the restaurant and the Board of Selectmen shall sign a license agreement prepared for these purposes by Town Counsel and shall pay any applicable license fee prior to the commencement of any activities under the license.

(c) Outdoor food preparation shall not be allowed unless approved by the Board of Health in accordance with their procedures and regulations.

(d) Approval of an outdoor dining area license shall not be construed as an approval of any other license or an approval for the alteration or extension of premises where alcoholic beverages are served. The serving or consumption of alcohol outside of premises duly licensed to serve alcohol is expressly forbidden unless approved by the Board of Selectmen

**SECTION 6: SEVERABILITY**

If any provisions, paragraphs, sentence, or clause of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

(Planning Board)

**ARTICLE 16.** To see if the Town will vote to authorize the Board of Selectmen to enter into a Community Choice Electrical Aggregation Program and contract for electric supply for Winchester residents and businesses as per MGL 164, Section 134, or act in any other manner in relation thereto.

(David Judelson, citizen petition)

**ARTICLE 17.** To see if the Town will vote to establish a 75<sup>th</sup> Anniversary of December 7, 1941 committee.

(Town Manager)

**ARTICLE 18.** 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 19.** 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 5<sup>th</sup> day of October two thousand fifteen.



LANCE R. GRENZEBACK, CHAIRMAN  
JAMES A. JOHNSON III, VICE CHAIRMAN  
STEPHEN L. POWERS  
MICHAEL BETTENCOURT  
E. JAMES WHITEHEAD

Board of Selectmen  
Town of Winchester

A true copy:  
ATTEST:  
Richard S. Kelley, Constable

