



**TOWN OF MANSFIELD**  
**TOWN COUNCIL MEETING**  
**MONDAY, July 28, 2003**  
**COUNCIL CHAMBERS**  
**AUDREY P. BECK MUNICIPAL BUILDING**  
**7:30 p.m.**

**AGENDA**

PAGE

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES.....1

OPPORTUNITY FOR PUBLIC TO ADDRESS THE COUNCIL

PUBLIC HEARING

1. Solid Waste Regulations (7:30 p.m.) .....7

2. Modifications to Fee Waiver Ordinance (7:45 p.m.) .....9

OLD BUSINESS

3. Solid Waste Regulations – Commercial Bulky Waste (Item 4, 07-14-03 Agenda).....11

4. Issues Regarding the UConn Landfill including the UConn Consent Order, Public Participation Relative to the Consent Order and Well Testing (Item #3, 06-09-03 Agenda) ..15

5. Funding of Connecticut Conference of Municipalities (CCM) Lawsuits against the State (Item #5, 05-12-03 Agenda).....39

6. Underage Drinking, University Spring Weekend and President Austin’s Task Force on Substance Abuse (Item #5, 07-14-03 Agenda) .....43

NEW BUSINESS

7. Emergency Smallpox Preparedness .....253

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EXECUTIVE SESSION	

REGULAR MEETING-MANSFIELD TOWN COUNCIL-JULY 14, 2003

The regular meeting of the Mansfield Town Council was called to order by Deputy Mayor Gregory Haddad at 7:25 p.m. in the Council Chamber of the Audrey P. Beck Municipal Building

I. ROLL CALL

Present: Haddad, Hawkins, Holinko, Rosen, Schaefer, Martin, Thorkelson

Absent: Bellm, Paterson

II. APPROVAL OF MINUTES

Mr. Schaefer moved and Mr. Martin seconded to approve the minutes of June 23, 2003 as presented.

So passed unanimously.

Mr. Hawkins moved and Mr. Martin seconded to approve the minutes of June 30, 2003 as presented.

So passed. Mr. Haddad and Mr. Thorkelson abstained.

III. OPPORTUNITY FOR PUBLIC TO ADDRESS THE COUNCIL

Mr. John Federowicz of 568 Browns Road was not in favor of the proposed fees for collection of trash or the use of man-hours to bull doze sod into the ground at the transfer station.

IV. PUBLIC HEARING

1. Amendment to Mansfield Code of Ordinances, Chapter 173, Article V-Ambulance-type Motor Vehicle Exemption

No comments were made and hearing was closed.

V. OLD BUSINESS

2. Amendment to Mansfield Code of Ordinances, Chapter 173, Article V-Ambulance-type Motor Vehicle Exemption.

Mr. Martin moved and Mr. Thorkelson seconded to move, effective July 14, 2003, to adopt the proposed amendment to the Mansfield Code of Ordinances, Chapter 173, Article V-Ambulance-type Motor Vehicle Exemption as presented by town staff in its

draft dated June 23, 2003, and which will become effective 21 days after its publication in a newspaper having circulation in the Town of Mansfield.

So passed unanimously.

3. Issues Regarding the UConn Landfill including the UConn Consent Order, Public Participation Relative to the Consent Order and Well Testing

Town Manager reported that 7 houses will be connected to the University's water supply and 6 houses with wells shall be included in the long-term monitoring program

VI. NEW BUSINESS

4. Solid Waste Regulations Changes-Commercial Bulky Waste

Mr. Martin moved and Mr. Hawkins seconded to move that, effective July 14, 2003, to schedule a public hearing for 7:30 p.m. at the Town council's regular meeting on July 28, 2003 to solicit public comment regarding the proposed amendment to the Mansfield Solid Waste Regulations.

So passed unanimously.

5. Underage Drinking, University Spring Weekend and President Austin's Task Force on Substance Abuse

Mr. Rosen reported that at the last Town/Gown Meeting he introduced the following motion: That representatives of the University of Connecticut and of the Town of Mansfield shall present to each meeting of the Town/University Relations Committee: a) suggestions for improving conditions at UConn's Spring Weekend 2004; and b) progress reports on suggestions already accepted until the final plans have been approved and put into operation. The motion did pass.

6. Storrs Center Development Project

Cynthia van Zelm, Director, explained the naming of the project. This project is named so as not to be confused with Mansfield Center.

Mr. Martin moved and Mr. Holinko seconded that the Mansfield Downtown Partnership Project not be called the Storrs Center Project but the Mansfield Downtown Partnership Project, and that the town staff and representatives be instructed as such.

Mr. Martin moved and Mr. Schaefer seconded to table this item to the first meeting in which the Mayor is present.

Motion so passed. Mr. Thorkelson voted against motion.

7. Successor Collective Bargaining Agreement with CSEA, Local760 (Public Works)

Mr. Martin moved and Mr. Rosen seconded that, effective July 14, 2003, to authorize the Town Manager, to execute the proposed collective bargaining agreement between the Town of Mansfield and CSEA, Local 760 (Public Works) for the term beginning July 1, 2003 and ending June 30, 2006.

So passed unanimously.

8. Recommendation to Purchase Triple Combination Pumper

Finance Director, Jeffrey Smith and Emergency Services Administrator Dave Dagon spoke on the need of the fire trucks and how they would be funded.

Mr. Schaefer moved and Mr. Thorkelson seconded that effective, July 14, 2003, to approve the replacement of engine tank 117 using the funding plan proposed by the Director of Finance in his memorandum dated July 2, 2003, and to authorize staff to schedule a town meeting pursuant to Section C407 of the Town Charter for the purpose of obtaining approval to borrow up to \$325,000 to be applied toward the purchase of two triple combination pumps.

So passed unanimously.

9. Fee Waiver Ordinance-Recommended Changes

Mr. Martin moved and Mr. Schaefer seconded to, effective July 14, 2003, to schedule a public hearing for 7:45 p.m. at the Town Council's regular meeting on July 28, 2003, to solicit public comment regarding the proposed modifications to Mansfield's fee waiver ordinance.

So passed unanimously.

VII. QUARTERLY REPORTS

No comment.

VIII. DEPARTMENTAL REPORTS

No comment.

IX. REPORTS OF COUNCIL COMMITTEES

Personnel committee will meet with Town Council during executive session.

X. REPORTS OF COUNCIL MEMBERS

XI. TOWN MANAGER'S REPORT

The Open Space will be discussing at their next meeting two properties the Town Council expressed with-the Hitchcock property and the McDaniels property.

CCM sent a notice stating that the Governor has not signed a state budget.

The town has executed a \$250,000 agreement for the gift of the walking tract in the new Community Center. This gift will be paid in six years and has no right of assignment.

The stadium road neighbors have been sent a water report.

The Community Center project is estimated to be finished at the end of August and the gym finished at the end of September.

XII. FUTURE AGENDAS

XIII. PETITIONS, REQUESTS AND COMMUNICATIONS

10. E. Paterson re: Receipt of US Department of Agriculture Rural Business Enterprise Grant

11. Connecticut Department of Environmental Protection re: Mansfield Middle School Composting Pilot

12. Army Corps of Engineers re: Letter of Appreciation to Mansfield Volunteer Fire Company

13. Connecticut Conference of Municipalities Legal Analysis: "State has Duty to Pay Grants to Municipalities Absent a State Budget"

14. L. Schilling re: Offer of water Connection-North Eagleville Road Water Service Connections.

15. Eastern Highlands Health District-Quarterly Report

16. Council of Small Towns-"Governor Rowland Signs Second Executive Order"

17. G. Mann re: Resignation from Mansfield Planning and Zoning

18. Town of Mansfield and TCP Communications, Inc. Application for Special Permit

XIV. EXECUTIVE SESSION

At 8:38 p.m. Mr. Martin moved and Mr. Schaefer seconded to go into executive session for a personnel matter.

So passed unanimously.

At 9:35 p.m. Mr. Martin moved and Mr. Schaefer seconded to come out of executive session and return to the regular town council meeting.

So passed unanimously.

XV. ADJOURNMENT

At 9:36 p.m. Mr. Martin moved and Mr. Schaefer seconded to adjourn the meeting.

So passed unanimously.

Gregory H. Haddad, Deputy Mayor

Joan E. Gerdson, Town Clerk

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Town of Mansfield  
Public Hearing  
Solid Waste Regulation Changes-Commercial bulky Waste  
July 28, 2003

The Mansfield Town Council will hold a public hearing at 7:30 p.m. on July 28, 2003 in the Council Chamber of the Audrey P. Beck Municipal Building to solicit public comment regarding a proposed amendment to the Mansfield Solid Waste Regulations. This is for the proposed changes to the Town's Solid Waste Regulations to designate the Willimantic Waste Paper bulky waste receiving facility at 1590 West Main St (Route 32) in Windham as the Mansfield facility for commercial bulky waste."

As this hearing, persons may be heard and written communications received. Packets containing the changes are available in the Town Clerks office, 4 South Eagleville Road.

Joan E. Gerdson  
Town Clerk

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Town of Mansfield  
Public Hearing  
Modifications to Fee Waiver Ordinance  
July 28, 2003

The Mansfield Town Council will hold a Public Hearing at 7:45 p.m. on July 28, 2003, in the Council Chamber of the Audrey P. Beck Municipal Building to solicit public comment regarding the proposed modifications to Mansfield's fee waiver ordinance.

At this hearing persons may be heard and written communications received. Packets containing the changes are available in the Town Clerks office, 4 South Eagleville Road.

Joan E. Gerdson  
Mansfield Town Clerk

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TOWN OF MANSFIELD  
OFFICE OF THE TOWN MANAGER



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Solid Waste Regulation Changes – Commercial Bulky Waste**

Dear Town Council:

As you will recall, we recently raised the rates for bulky waste at our transfer station. Unfortunately, however, the town is still losing several thousand dollars per month on this waste.

Staff and the Solid Waste Advisory Committee (SWAC) have developed two options to discontinue the monthly losses: 1) raise bulky waste prices again; or 2) exclude commercial bulky waste from the transfer station and direct that waste to the Willimantic Waste Paper facility on Route 32. Staff and the SWAC favor the second option, as the Willimantic Waste Paper Company is scheduled to open a bulky waste drop-off site in mid-July, and the prices at which they are willing to accept bulky waste are very competitive. If this change is approved, staff and the SWAC would analyze the residential-only bulky waste costs for a period of time to determine whether an additional increase in the bulky waste fees is warranted.

To effect the proposed change, staff recommends that the Solid Waste Regulations be amended as detailed below. Please note that new language is bold in [brackets] and deleted language is in ~~strike-outs~~.

**§A196-2 Proof of refuse; contractor delivery and transportation**

- A.) No changes.
- B.) Contractors (tree services, [site contractors], demolition companies, etc.) must make arrangements with the Town Department of Public Works in advance of delivering refuse or bulky waste to any Town solid waste facility; otherwise, a delay on unloading may result. [Effective August 1, 2003 commercial (contractor hauled) bulky waste will not be accepted at the Town's transfer station.] Dated proof of refuse source and prepayment of disposal fees shall be required for everyone other than licensed haulers.
- C.) No changes.

**§A196-11 Designation of solid waste and recycling facilities**

- A.) No changes.
- B.) No changes.
- C.) The transfer station located on Route 89 in Mansfield shall be the designated Mansfield disposal area for residential quantities of bulky waste [for residents hauling their own bulky waste in their own vehicles.]
- D.) (NEW) [The Willimantic Waste Paper Company's bulky waste receiving facility located on Route 32 in Windham shall be the designated Mansfield disposal facility for commercially hauled or generated bulky wastes.]
- E.) (Previously D) No changes.

**§A196-12E**

- A.) No changes.
- B.) A maximum of ~~eight~~ [four] cubic yards of bulky waste per vehicle is permitted for use of the transfer station except under written permission from the Town's Department of public works.
- C.) No Changes.

The Town Council has scheduled a public hearing for its July 28<sup>th</sup> meeting to solicit public comment regarding the proposed changes. If, following the public hearing, the Council supports the proposed amendments, staff recommends that the Council approve the changes in its role as the Mansfield Resource Recovery Authority (MRRA).

We suggest the following motion:

*Move, effective July 28, 2003, to adopt the amendments to the Mansfield Solid Waste Regulations as presented by town staff in its draft dated July 28, 2003, and which amendments will become effective 21 days after publication in a newspaper having circulation in the town of Mansfield.*

Respectfully submitted,



Martin H. Berliner  
Town Manager

Attach:(1)

TOWN OF MANSFIELD  
MEMORANDUM  
7/8/03

TO: Martin H. Berliner, Town Manager  
FROM: Lon R. Hultgren, Director of Public Works   
RE: **Solid Waste Regulation Changes – Commercial Bulky Waste**

Willimantic Waste Paper is scheduled to open a bulky waste drop-off site in mid-July (July 15<sup>th</sup> as of today). They will be open at least five days a week and their prices for accepting bulky waste will be competitive (in the range of \$60 per ton).

As the Town continues to lose several thousand dollars a month on bulky waste hauled commercially into our bulky waste transfer station (we are currently charging \$20 per cubic yard), we can either raise our bulky waste prices considerably (\$40/CY) or prohibit commercial bulky waste from the transfer station - - thereby directing it to the Willimantic Waste Paper facility on Route 32 (across from BJ's).

Staff and the Solid Waste Advisory Committee prefer excluding commercial bulky waste from the Town transfer station, and watching the resulting residential-only bulky waste costs before recommending a hike in the bulky waste fees.

Accordingly, here are the changes that need to be made to the Town's Solid Waste regulations to direct commercial bulky waste to the Willimantic Waste Paper site. We recommend these changes be made effective August 1<sup>st</sup> to give us time to publicize this change.

*(Proposed regulation changes are shown in italics)*

**§A196-2. Proof of refuse; contractor delivery and transportation**

- A. No changes
- B. Contractors (tree services, *site contractors*, demolition companies, etc.) must make arrangements with the Town Department of Public Works in advance of delivering refuse or bulky waste to any Town solid waste facility; otherwise, a delay on unloading may result. *Effective August 1, 2003 commercial (contractor hauled) bulky waste will not be accepted at the Town's transfer station.* Dated proof of refuse source and prepayment of disposal fees shall be required for everyone other than licensed haulers.
- C. No changes

**§A196-11 Designation of solid waste and recycling facilities**

- A. No changes
- B. No changes
- C. The transfer station located on Route 89 in Mansfield shall be the designated Mansfield disposal area for residential quantities of bulky waste *for residents hauling their own bulky waste in their own vehicles.*
- D. *(New) The Willimantic Waste Paper Company's bulky waste receiving facility located on Route 32 in Windham shall be the designated Mansfield disposal facility for commercially hauled or generated bulky wastes.*
- E. (Was D) No changes

**§A196-12 E**

- 1. No changes
- 2. A maximum of ~~eight~~ *four* cubic yards of bulky waste per vehicle is permitted for use of the transfer station except under written permission from the Town's Department of Public Works.
- 3. No changes

cc: Virginia Walton, Recycling Coordinator  
file

**TOWN OF MANSFIELD  
OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Issues Regarding the UConn Landfill Including the UConn Consent Order, Public Participation Relative to the Consent Order and Well Testing**

Dear Town Council:

Attached for your information please find correspondence concerning the UConn Landfill, including the consent order, public participation relative to the consent order and well testing. At present, the Town Council does not need to take any action on this item.

Respectfully submitted,

*Martin H. Berliner*

Martin H. Berliner  
Town Manager

Attach:(3)

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University of Connecticut  
*Division of Business and Administration*

Architectural and  
Engineering Services

Larry G. Schilling  
*Executive Director*

June 30, 2003

REC'D JUL 02 2003

Raymond L. Frigon, Jr.  
Environmental Analyst  
State of Connecticut, Department of Environmental Protection  
Waste Management Bureau/PERD  
79 Elm Street  
Hartford, CT 06106-5127

**RE: CONSENT ORDER #SRD 101, STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION (CTDEP)  
QUARTERLY PROGRESS REPORT – APRIL, MAY, AND JUNE 2003  
UNIVERSITY OF CONNECTICUT LANDFILL, STORRS, CT  
PROJECT # 900748**

Dear Mr. Frigon:

As specified in Section 8 of the above-referenced Consent Order, the University of Connecticut (UConn) is issuing this Quarterly Progress Report to the Connecticut Department of Environmental Protection (CTDEP). Project progress is discussed for the following topics:

- UConn Landfill Closure
- UConn F Lot Landfill Closure
- UConn Landfill Interim Monitoring Program
- Remedial Action Plan Implementation, Landfill and Former Chemical Pits
- Technical Review Sessions
- Technical Review Session Information
- Hydrogeologic Investigation – UConn Landfill Project
- Long-Term Monitoring Plan
- UConn's Technical Consultants - Hydrogeologic Team
- Discussions of Activities Completed in April 2003
- Discussions of Activities Completed in May 2003
- Discussions of Activities Completed in June 2003
- Schedule for Compliance (Revision No. 3)
- Listing of Project Contacts
- Certification
- Landfill Project Aerial Photograph

The following actions undertaken or completed during this period comprise of:

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*An Equal Opportunity Employer*

61 LeDoyr Road Unit 3038  
Storrs, Connecticut 06269-3038

Telephone: (860) 486-3116

Facsimile: (860) 486-3255

E-mail: [larry.schilling@uconn.edu](mailto:larry.schilling@uconn.edu)

Web: [www.aes.uconn.edu](http://www.aes.uconn.edu)

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**UConn Landfill Closure**

Project Status Background

The Comprehensive Hydrogeologic Report and Remedial Action Plan have been submitted to CTDEP. UConn released the draft Final Comprehensive Hydrogeologic Investigation Report and Remedial Action Plan for the UConn Landfill for public view on January 20, 2003. Copies of the eight-volume report, comments from reviewers (CTDEP, USEPA, and the Town of Mansfield) and a summary fact sheet are available in the research section of the Mansfield Public Library, in the Town Manager's Office, at University Communications and at the CTDEP in Hartford. The comment period on the document and remediation plan ended after the public meeting on February 25, 2003. Comments were accepted at the meeting.

Next Steps

After considering the comments, CTDEP will determine whether to approve or disapprove the proposed plan. This decision will be accompanied by a document that describes how the comments were taken into consideration. This document will be made available to the public.

Permit Application

As part of the U.S. Army Corps of Engineers New England District (ACOE NE) Individual Permit Application for the Closure Plan for the UConn Landfill and Former Chemical Pits, a vernal pool survey was completed within a 600-foot radius of the UConn Landfill in Storrs, CT. Vernal pools are considered "special wetlands" under ACOE NE Programmatic Permit for Connecticut.

Conditional Approval Letter Received

A Conditional Approval letter dated June 5, 2003 regarding of the Comprehensive Hydrogeologic Report and Remedial Action Plan was issued by CTDEP to UConn.

**UConn F-Lot Landfill Closure**

UConn F-Lot Landfill Closure work completed included pavement removal, filling and compacting to grade, electrical system installation, installation of geotextile and 40-mil liner materials, and three inches of asphalt paving.

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**UConn Landfill Interim Monitoring Program (IMP)**

IMP sampling continued during this period. Thirty-one monitoring wells were identified and are being sampled in this current program, consisting of seven monitoring wells for shallow groundwater, five locations for surface water, and nineteen active residential water supply wells. Sampling, as part of the IMP, will continue until the Long-Term Monitoring Plan (LMP) is initiated in January 2004.

**Remedial Action Plan Implementation, Landfill and Former Chemical Pits**

UConn accepted Pre-Qualification Applications on March 31, 2003 from Construction Management firms for the following Project: Remedial Action Plan Implementation, Landfill And Former Chemical Pits, UConn Project Number 900748. UConn is evaluating Construction Management firms.

**Technical Review Sessions**

Public involvement principles are summarized as follows:

- Public involvement includes the promise that the public's contribution can influence decisions.
- The process must be periodically updated to ensure that it is effective in facilitating these principles.
- The process provides participants a way to define how they want to be involved and participate.
- The process supplies participants with information they need in order to participate in a meaningful way.
- The public involvement process seeks out and facilitates the involvement of all those potentially affected.

The specific goals of public involvement at the UConn Landfill Project are:

- To design a process for public involvement that can be fully implemented and is consistent with available time and resources of the sponsoring agencies and other key parties,
- To encourage the broadest possible involvement by the public in all aspects of the site investigation, environmental monitoring programs, and cleanup at the UConn landfill,
- To ensure that information is easily accessible and is as clear as possible to the interested public,
- To ensure the development and dissemination of accurate, comprehensive information about all aspects of the site investigation, environmental monitoring programs, and cleanup, including timely information on potential risks posed by the landfill, and

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- To provide specific procedures for consideration and incorporation of relevant public comments and concerns in key site investigations, environmental monitoring programs, and cleanup decisions.

**Technical Review Session Information**

The Technical Review Committee Meeting (TRC) tentatively scheduled for Thursday, June 12, 2003 was rescheduled for Wednesday, June 25, 2003. Agenda items for the June 25, 2003 TRC meeting included the following:

- Discussion: DEP's Response to Comments Letter
- Discussion: Final Approval of the Report and Remedial Action Plan: Responses to Outstanding Issues
- Presentation: Permitting and Design of the Landfill and Chemical Pits
- Proposed Schedule for Public Review of the Design
- Other
  - Pre-Qualified Construction Managers for Remedial Action Plan Implementation
  - Repair of F-Lot Drainage Pipe
  - Notice of Violation – F-Lot Storm Drain
  - Monitoring Well B7

To summarize, the public involvement process is being utilized to provide public involvement in the CTDEP decision-making process regarding the investigation, environmental monitoring programs, and potential cleanup of the site. In addition, the following has occurred:

- Technical Review Session Information: Regina Villa Associates (RVA) distributed the 2003 *UConn Update* to mailing list individuals.
- Haley & Aldrich distributed the minutes from TRC Meetings.

**Hydrogeologic Investigation – UConn Landfill Project**

Data were qualified using standard procedures and noted on analytical result tables that accompanied reports. Haley & Aldrich and other members of the team are confident that the data from ERI is suitable for the purposes of this hydrogeologic investigation and for design of the proposed remediation. To provide continued confidence in the analytical data, UConn has had up to 20% of the samples analyzed by Phoenix Environmental Laboratories, Inc. (Phoenix) located in Manchester, CT. Phoenix is a State-certified laboratory (<http://www.phoenixlabs.com/Profile.html>), and Phoenix analyses will be in addition

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to the ERI sampling analyses. This included the groundwater sampling and February 2003 Interim Monitoring Sampling Round #10.

As always, the results of the sampling analyses will be discussed with property owners, CTDEP, the Town of Mansfield and the Eastern Highlands Health District (EHHD). Any other future changes will be exchanged with the key parties, including CTDEP, the Town of Mansfield, EHHD and the U.S. Environmental Protection Agency. The February 2003 Sampling Round #10 Interim Monitoring Report was transmitted by Haley & Aldrich to CTDEP, the Town and others on May 2, 2003.

**Long-Term Monitoring Plan**

A multi-year plan will continue sampling of soil gas, surface water, shallow monitoring wells and bedrock wells in the study area and several adjacent private properties to monitor water quality and protect human health and the environment. The results will be reported to CTDEP and property owners and evaluated on a long-term basis.

**UConn's Technical Consultants - Hydrogeologic Team**

Haley & Aldrich: Haley & Aldrich has completed fieldwork for the IMP and quarterly monitoring well samplings for the past quarter. Work also included the preparation and distribution of meeting notes, meeting attendance, and technical input. Haley & Aldrich have prepared and submitted the Comprehensive Hydrogeologic Report and Remedial Action Plan to CTDEP. Haley & Aldrich have assessed data from UConn's ERI throughout the course of the hydrogeologic investigation in accordance with the Quality Assurance Project Plan submitted to the CTDEP. Data were qualified using standard procedures and noted on analytical result tables that accompanied the reports. Work includes public meeting preparation and attendance.

Mitretek Systems: Mitretek's work included meeting attendance and input, technical review of data, fieldwork and coordination with the hydrogeologic team. Consultant assisted in the preparation of the Comprehensive Hydrogeologic Report and Remedial Action Plan, as well as public meeting preparation and attendance.

United States Geologic Survey: The USGS work tasks included Final Supplemental Hydrogeologic Investigation Scope of Work contribution and reviews. The USGS interpreted surface geophysical survey data, conducting and interpreting borehole geophysical surveys and collecting bedrock ground-water level information. The USGS was also involved in hydrogeologic data assessment and evaluation. Consultant

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assisted in the preparation of the Comprehensive Hydrogeologic Report and Remedial Action Plan, as well as public meeting preparation and attendance.

Environmental Research Institute: ERI's work tasks included Final Supplemental Hydrogeologic Investigation Scope of Work contribution and reviews. ERI is conducting sample analyses as part of the UConn Landfill project and IMP. ERI has completed groundwater profiling and soil gas surveys, along with public meeting preparation and attendance.

Phoenix Environmental Laboratories, Inc.: Phoenix is conducting sample analyses as part of the UConn Landfill project and IMP.

Epona Associates, LLC: As subcontractor to Haley & Aldrich, Epona provided professional risk assessment services as well as meeting attendance and technical input. This consultant was involved in data assessment and data evaluation plus coordinating ecological sampling and risk assessment issues. Consultant assisted in the preparation of the Comprehensive Hydrogeologic Report and Remedial Action Plan.

Regina Villa Associates: RVA is the community information specialist. RVA continues to produce and distribute the *UConn Update*. Work also included the integration of review comments and assistance with public involvement as well as public meeting preparation and attendance.

Discussion on Activities Completed in April 2003

UConn:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Reviewed construction management firm qualification statements

Haley & Aldrich:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Conducted sampling for interim monitoring program
- Initiated permitting and design work for landfill and former chemical pits remediation
- Followed up on comment letters and issues with DEP

USGS:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan

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Mitretek:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan

ERI:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Conducted analytical analyses of sampling from interim monitoring program

Phoenix

- Conducted analytical analyses of sampling from interim monitoring program

Epona:

- Reviewed comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan

RVA:

- Kept UConn associates informed of plans for events, responses, etc.
- Followed up on comment letters and issues with CTDEP

Discussion on Activities Completed in May 2003

UConn:

- Requested contractor cost proposal for storm drain pipe lining
- Responded to Notice of Violation for F-Lot drainage piping
- Reviewed comments and prepared responses on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Reviewing construction management firm qualification statements

Haley & Aldrich:

- Assistance in preparing response to Notice of Violation for F-Lot drainage piping
- Followed up on comment letters and issues with CTDEP
- Initiated permitting and design work for landfill and former chemical pits remediation
- Prepared specifications for abandoning well B-7 (damaged)
- Oversaw monitoring well B-7A (replacement) installation
- Reviewed comments and prepared responses on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Storm drain pipe lining design
- Submitted IMP report to CTDEP

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- Prepared and mailed letters to homeowners with results of latest IMP sampling
- Prepared preliminary design and permitting documents for remediation activities

USGS:

- Reviewed comments and prepared responses on the Comprehensive Hydrogeologic Report and Remedial Action Plan

Mitretek:

- Reviewed Army Corps of Engineers wetlands disruption permit application
- Discussed potential responses to comments on the on the Comprehensive Hydrogeologic Report and Remedial Action Plan with Hydro Team

ERI:

- Conducted analytical analyses of sampling from IMP
- Reviewed comments and prepared responses on the Comprehensive Hydrogeologic Report and Remedial Action Plan

Phoenix

- Conducted analytical analyses of sampling from IMP

Epona:

- Reviewed comments and prepared responses on the Comprehensive Hydrogeologic Report and Remedial Action Plan

RVA:

- Interested parties informed of plans for events, responses, etc.
- Followed up on comment letters and issues with CTDEP; distributed comment letters to all key parties, with summary
- Began drafting the *UConn Update*; completion awaits issuance of DEP decision letter

**CTDEP Consent Order  
Progress Report – June 2003  
June 30, 2003**

**Discussion on Activities Completed in June 2003**

**UConn:**

- Evaluation of Construction Management firms for Remedial Action Plan Implementation
- Preparation for June 2003 TRC Meeting
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance
- Prepared responses to comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Issued purchase orders to MCC Construction to correct a drainage problem, to do selective seeding, and to conduct drainage pipe lining project at F=Lot
- Corrected drainage problem at F=Lot

**Haley & Aldrich:**

- Continuation of permitting and design work for landfill and former chemical pits remediation based on draft Remedial Action Plan
- Submitted US Army Corps of Engineers Individual Permit Application
- Prepared responses to comments on the Comprehensive Hydrogeologic Investigation Report and Remedial Action Plan
- Monitored abandonment of damaged well B-7 and installation of replacement well B-7A
- Preparation for June 2003 TRC Meeting
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance

**USGS:**

- Preparation for June 2003 TRC Meeting
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance
- Prepared responses to comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan

**Mitretek:**

- Prepared responses to comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Preparation for June 2003 TRC Meeting
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance

**CTDEP Consent Order  
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ERI:

- Prepared responses to comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Conducted analytical analyses of sampling from IMP
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance

Phoenix

- Conducted analytical analyses of sampling from IMP

Epona:

- Prepared responses to comments on the Comprehensive Hydrogeologic Report and Remedial Action Plan
- Preparation for June 2003 TRC Meeting
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance

RVA:

- Participate in drafting responses to comment letters
- Circulate DEP's response comment letter and attachments to those that commented on the project and include this information in the project web site.
- Facilitate June TRC meeting and follow up on issues that arise from the meeting
- Plan public involvement activities for design in conjunction with all parties
- Hydrogeologic Team Meeting and June 2003 TRC Meeting Attendance
- Continue to communicate with public and respond to public queries
- Draft Summer 2003 *UConn Update*, work with parties on approval, print and circulate

**Schedule for Compliance (Revision No. 3)**

The submitted Plan for presentation, the June 2003 TRC Meeting Agenda Topics, and the Schedule for Compliance for Consent Order SRD-101 Hydrogeologic Investigation - University of Connecticut Landfill, F-Lot, and Chemical Pits, Storrs, CT, has been proposed for modification as follows (*completed items in italics*):

CTDEP Consent Order  
 Progress Report – June 2003  
 June 30, 2003

Schedule for Compliance (Revision No. 3) CTDEP Consent Order SRD-101, Hydrogeologic Investigation of UConn Landfill, F-Lot, and Former Chemical Pits, Storrs, Connecticut <i>(completed items in italics):</i>		
Consent Order Deliverable	Contents	Dates of Presentations and Submittals to CTDEP
Implement Remedial Action Plan for the UConn Landfill, former chemical pits, F-Lot and contaminated groundwater	<ul style="list-style-type: none"> <li>▪ Finalize detailed construction drawings, and specifications</li> <li>Develop bid packages based on approved Remedial Action Plan               <ul style="list-style-type: none"> <li>- Competitive Bidding Process</li> <li>- Select Contractor</li> <li>- Obtain Permits as detailed in The Remedial Action Plan</li> </ul> </li> <li>▪ Mobilization &amp; Fieldwork</li> </ul>	July 2003 through September 2003 (Competitive Bidding Process and Contractor(s) selection)
Initiation of Construction of Approved Remedial Option	Selection of contractors and the beginning of construction of approved remedial options	Fall 2003 mobilize contractor(s) (Contingent on Construction Timetable ***)
Initiation of Long Term Monitoring Plan	IMP sampling continues quarterly to this point	January 2004
Completion of Remedial Construction	Comprehensive final as-built drawings and closure report for the UConn Landfill, former chemical pit area.	May 2004 (Winter - Spring 2004) - Anticipated completion of construction (Contingent on Construction Timetable ***)
Post-Closure Monitoring	Begin post-closure monitoring program of the Remedial Action upon approval from CTDEP	May 2004 (Contingent on Construction Timetable ***)

- \* Interim reports submittals are the data packages that support the presentation accompanied by interpretive text sufficient for review. Comments received at the presentation will be addressed in the interim reports.
- \*\* Results will not be complete until evaluation of data from MW 208R, if permission to drill from the property owner is received.
- \*\*\* Contingent on CTDEP approvals, construction timetable based on bidding market, weather conditions, numerous permitting issues, along with State and local reviews and conditions.

CTDEP Consent Order  
 Progress Report – June 2003  
 June 30, 2003

Schedule for Compliance (Revision No. 3) CTDEP Consent Order SRD-101, Hydrogeologic Investigation of UConn Landfill, F-Lot, and Former Chemical Pits, Storrs, Connecticut (completed items in italics):		
Consent Order Deliverable	Contents	Dates of Presentations and Submittals to CTDEP
<i>UConn Landfill and Former Chemical Pits — Ecological Assessment</i>	<i>Results of Ecological Assessment and Implications of the Assessment on Evaluation of Remedial Alternatives</i>	<i>January 9, 2002 (presentation completed); April 11, 2002 (interim report submitted*)</i>
<i>UConn Landfill and Former Chemical Pits — Conceptual Site Model (CSM), impact on bedrock groundwater quality</i>	<i>CSM details and supporting geophysical, hydrological, and chemical data</i>	<i>February 7, 2002 (presentation completed) April 8, 2002 (interim report submitted*)</i>
<i>Remedial alternatives for the UConn Landfill, former chemical pits, F-Lot, and contaminated ground water</i>	<i>Report will be included as the Remedial Action Plan in the Comprehensive Report</i>	<i>June 13, 2002 (presentation completed)</i>
<i>Comprehensive Hydrogeologic Report and Remedial Action Plan - integration of information in all interim reports and all previous reports</i>	<ul style="list-style-type: none"> <li>▪ <i>Results of Comprehensive Hydrogeologic Investigation</i></li> <li>▪ <i>Remedial Action Plan</i></li> <li>▪ <i>Long Term Monitoring Plan</i></li> <li>▪ <i>Schedule (to include public and agency review, permitting, design, and construction)</i></li> <li>▪ <i>Post-Closure</i></li> <li>▪ <i>Redevelopment Plan for the UConn Landfill and F-Lot</i></li> </ul>	<i>August 29, 2002 (presentation**)</i>  <i>October 31, 2002 (Comprehensive Report Submitted to CTDEP)</i>
<i>Comprehensive Final Remedial Action Plan Report</i>	<i>Release of Report and Plan for CTDEP and public review of remedial design</i>	<i>January 2003</i>
Remedial Action Design to include comprehensive interpretive design of the Landfill final cap	Detailed design drawings and specifications of the preferred remedial alternative(s)	<i>TRC Meeting tentatively scheduled for Thursday, June 12, 2003 was rescheduled for <u>Wednesday, June 25, 2003.</u> Summer 2003 (Comprehensive Design Submittal)</i>

CTDEP Consent Order  
Progress Report – June 2003  
June 30, 2003

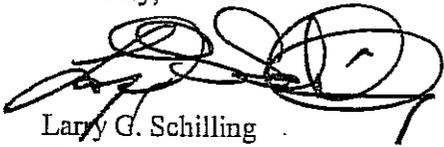
**Certification**

As part of this submission, I am providing the following certification:

I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense.

Please contact James M. Pietrzak, P.E. at (860) 486-5836 or me if you need additional information.

Sincerely,



Larry G. Schilling  
Executive Director  
Architectural and Engineering Services

LGS/IMP

**CTDEP Consent Order  
Progress Report – June 2003  
June 30, 2003**

**Listing of Project Contacts**

*Town of Mansfield*

Martin Berliner  
Town of Mansfield  
Audrey P. Beck Building  
4 South Eagleville Rd.  
Mansfield, CT 06268-2599  
(860) 429-3336

*U.S. Environmental  
Protection Agency*

Chuck Franks  
U.S. Environmental  
Protection Agency  
Northeast Region  
1 Congress St. (CCT)  
Boston, MA 02114-2023  
(617) 918-1554

*Haley & Aldrich, Inc.*

Rick Standish, L.E.P.  
Haley & Aldrich, Inc.  
800 Connecticut Blvd.  
East Hartford, CT 06108-7303  
(860) 282-9400

*CT Department of Environmental Protection*

Raymond Frigon  
Project Manager  
CT Department of Environmental Protection  
Water Management Bureau  
79 Elm St.  
Hartford, CT 06106-5127  
(860) 424-3797

*University of Connecticut*

Scott Brohinsky, Director  
University of Connecticut  
University Communications  
1266 Storrs Rd., Unit 144  
Storrs, CT 06269-4144  
(860) 486-3530

Richard Miller, Director, Environmental Policy  
University of Connecticut  
Gulley Hall, Unit 2086  
Storrs, CT 06269  
860-486-8741

James Pietrzak, P.E., CHMM  
Senior Project Manager  
University of Connecticut  
Architectural & Engineering Services  
31 LeDoyt Rd., Unit 3038  
Storrs, CT 06269-3038  
(860) 486-5836

**CTDEP Consent Order  
Progress Report – June 2003  
June 30, 2003**



**UConn Landfill Project Aerial Photo, March 28, 2003**

**CTDEP Consent Order  
Progress Report – June 2003  
June 30, 2003**

cc:

Gail Batchelder, HGC Environmental  
Consultants  
Martin Berliner, Town of Mansfield  
Scott Brohinsky, UConn  
Thomas Callahan, UConn  
Marion Cox, Resource Associates  
Brian Cutler, Loureiro  
Amine Dahmani, ERI  
Elida Danaher, Haley & Aldrich  
Dale Dreyfuss, UConn  
John England, CTDEP  
Nancy Farrell, RVA  
Charles Franks, USEPA  
Peter Haeni, F.P. Haeni, LLC  
Allison Hilding, Mansfield Resident  
Traci Iott, CTDEP  
Carole Johnson, USGS

Ayla Kardestuncer, Mansfield Common Sense  
John Kastrinos, Haley & Aldrich  
Alice Kaufman, USEPA  
Jennifer Kertanis, CTDPH  
Wendy Koch, Epona  
Prof. George Korfiatis, Stevens Institute of  
Technology  
George Kraus, UConn  
Peter McFadden, ERI  
Richard Miller, UConn  
Robert Miller, Eastern Highlands Health District  
Elsie Patton, CTDEP  
Dr. John Petersen, UConn  
James Pietrzak, UConn  
Susan Soloyanis, Mitretek  
Rick Standish, Haley & Aldrich  
William Warzecha, CTDEP

REC'D JUL 14 2003

Haley & Aldrich, Inc.  
800 Connecticut Blvd.  
Suite 100  
East Hartford, CT 06108-7303  
Tel: 860.282.9400  
Fax: 860.282.9500  
Dir: 860.282.9600  
www.HaleyAldrich.com



10 July 2003  
File No. 91221-605

Connecticut Department of Environmental Protection  
Water Management Bureau/PERD  
79 Elm Street  
Hartford, Connecticut 06106-5127

Attention: Raymond L. Frigon, Jr.

Subject: Comprehensive Hydrogeologic Investigation Report  
And Remedial Action Plan  
UConn Landfill  
Storrs, Connecticut

Ladies and Gentlemen:

**OFFICES**

Boston  
Massachusetts

Cleveland  
Ohio

Dayton  
Ohio

Detroit  
Michigan

Kansas City  
Kansas

Los Angeles  
California

Manchester  
New Hampshire

Newark  
New Jersey

Portland  
Maine

Rochester  
New York

San Diego  
California

Santa Barbara  
California

Tucson  
Arizona

Washington  
District of Columbia

In response to the Conditional Approval letter from the Connecticut Department of Environmental Protection (DEP) dated 5 June 2003, the University of Connecticut (UConn) landfill team, on behalf of UConn, is requesting that the installation of one new deep monitoring well for the Long Term Monitoring Plan be eliminated. This proposed well, designated B402R(MW) on Figure 69 of the above referenced plan, is not currently considered necessary considering the conditions in the referenced letter for extension of public water supply and long term monitoring of private wells. We believe that access to private property to install the well would be difficult to obtain. We understand that elimination of this proposed monitoring well does not require formal approval and that the Long Term Monitoring Plan will be modified to reflect this change unless otherwise notified by the DEP.

Please call me if you have any questions concerning this matter.

Sincerely yours,  
HALEY & ALDRICH, INC.

Richard P. Standish, P.G., LEP  
Vice President

Connecticut Department of Environmental Protection  
Water Management Bureau/PERD  
10 July 2003  
Page 2

C: Elsie Patton, DEP  
Charles Franks, U.S. EPA  
Martin Berliner, Town of Mansfield  
Robert Miller, Eastern Highland Health District  
Gail Batchelder, HGC  
John Peterson, UConn  
Richard Miller, Esq., UConn  
Larry Schilling, UConn  
Jim Pietrzak, UConn  
Ayla Kardestuncer, Mansfield Common Sense  
Allison Hilding, Mansfield Common Sense  
Nancy Farrell, Regina Villa Associates  
Marion Cox, Re Source Associates

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University of Connecticut  
*Division of Business and Administration*

Architectural and  
Engineering Services

Larry G. Schilling  
*Executive Director*

REC'D JUL 14 2003

July 10, 2003

Commissioner Arthur Rocque, Jr.  
State of Connecticut  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

**RE: Conditional Approval Letter, June 5, 2003  
Tentative Schedule for the Design, Approval, and Construction for the  
Extension of Water Service, UConn Landfill - Consent Order No. SRD-101,  
June 26, 1998**

Dear Commissioner Rocque:

As requested in the referenced Department of Environmental Protection (CTDEP) letter, the University of Connecticut (UConn) is providing a tentative schedule for the design, approval, and construction for the extension of the University's water system to Meadowood Road, plus two houses on North Eagleville Road.

The CTDEP Conditional Approval requires that the following residences to be connected to UConn's water supply:

- 10 Meadowood Road
- 11 Meadowood Road
- 21 Meadowood Road
- 22 Meadowood Road
- 28 Meadowood Road
- 213 North Eagleville Road
- 219 North Eagleville Road

UConn has authorized Lenard Engineering, Inc.(LEI) to conduct surveying and review existing property information and to accomplish the design of the water main and services for these residences.

---

*An Equal Opportunity Employer*

31 LeDoyt Road Unit 3038  
Storrs, Connecticut 06269-3038

Telephone: (860) 486-3116  
Facsimile: (860) 486-3255  
e-mail: [larry.schilling@uconn.edu](mailto:larry.schilling@uconn.edu)  
web: [www.aes.uconn.edu](http://www.aes.uconn.edu)

UConn has notified all residences of CTDEP requirements and has requested resident approval to install a service connection and abandon the existing well at the property.

Tentative Schedule for the Design, Approval, and Construction for Extension of Water Service

- 1) Complete design plans, submit to CTDEP and Department of Public Health (CTDPH) for approvals - August 30, 2003
- 2) Allow six weeks for CTDEP and CTDPH review and approvals - October 15, 2003
- 3) Allow six weeks to advertise and review bids - November 28, 2003
- 4) Award contract - December 31, 2003

Since it will be late 2003 before UConn could award a contract, construction will be scheduled for early spring 2004.

- 5) Review of contractor's submittals - January to March 2004
- 6) Start construction - April 1, 2004
- 7) End construction - July 1, 2004

Items that may affect this schedule are:

- Availability of funding,
- Traffic impacts and school schedule in Spring 2004,
- Weather conditions, and
- Getting prompt responses from residents to agree to tie-in, and allow LEI to conduct measurements on their property and in their basements.

Commissioner Arthur Rocque, Jr.  
Tentative Schedule  
July 10, 2003  
Page 3

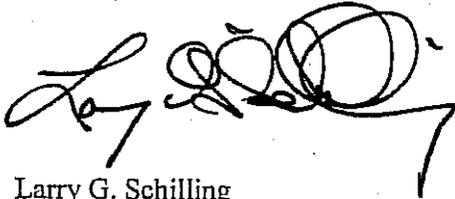
**Certification**

As part of this submission, I am providing the following certification:

I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense.

Please contact James M. Pietrzak, P.E. at (860) 486-5836 or me if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry G. Schilling". The signature is stylized and somewhat cursive, with a large loop at the end.

Larry G. Schilling  
Executive Director  
Architectural and Engineering Services

LGS/JMP

Commissioner Arthur Rocque, Jr.  
Tentative Schedule  
July 10, 2003  
Page 4

cc:

Gail Batchelder, HGC Environmental Consultants  
Martin Berliner, Town of Mansfield  
Scott Brohinsky, UConn  
Thomas Callahan, UConn  
Marion Cox, Resource Associates  
Brian Cutler, Loureiro  
Dale Dreyfuss, UConn  
James Ericson, Lenard  
Nancy Farrell, RVA  
Charles Franks, USEPA  
Alice Kaufman, USEPA  
George Kraus, UConn  
Richard Miller, UConn  
Robert Miller, Eastern Highlands Health District  
Elsie Patton, CTDEP  
Dr. John Petersen, UConn  
James Pietrzak, UConn  
Rick Standish, Haley & Aldrich  
William Warzecha, CTDEP

TOWN OF MANSFIELD  
OFFICE OF THE TOWN MANAGER



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Funding of Connecticut Conference of Municipalities (CCM) Lawsuits against the State**

Dear Town Council:

At its May 12<sup>th</sup> meeting, the Town Council authorized the Town Manager to express the town's interest in participating in the shared financing of two lawsuits that the Connecticut Conference of Municipalities (CCM) had brought against the State of Connecticut to compel the state to pay municipalities under two grant programs – Payments in Lieu of Taxes for New Machinery and Equipment, and Town Aid Road. CCM subsequently withdrew the lawsuits when the state agreed to pay about \$60 million (roughly 75-percent of the original appropriations) to Connecticut municipalities.

CCM is now requesting a contribution of \$600 from Mansfield. Because Mansfield and other town and cities across the state rely heavily upon the grant programs at issue, staff recommends that the Council support CCM's request.

If the Council supports this recommendation, the following motion is in order:

*Move, effective July 28, 2003 to authorize the Town Manager to contribute up to \$600 toward the funding of two lawsuits – Andover et. al v. Ryan and Andover et al v. Wyman - that the Connecticut Conference of Municipalities brought against the State of Connecticut to compel the state to pay municipalities under two grant programs.*

Respectfully submitted,

Martin H. Berliner  
Town-Manager

Attach:(2)



# CONNECTICUT CONFERENCE OF MUNICIPALITIES

900 Chapel St., 9th Floor, New Haven, CT 06510-2807 • Phone (203) 498-3000 • Fax (203) 562-6314 • www.ccm-ct.org

REC'D JUL 21 2003

July 16, 2003

TO: Town Manager Martin H. Berliner, Mansfield

FROM: Joel Cogen, Executive Director and General Counsel

RE: **CCM lawsuits against the State:** *Andover et al v. Ryan* (New-machinery PILOTS)  
and  
*Andover et al v. Wyman* (Town aid roads)

Thanks for your interest in participating in the financing of CCM's lawsuits against the State to compel payment of the two grants that state officials had illegally refused to pay -- PILOTS for New Machinery and Equipment, and Town Aid Road grants.

### The cases:

CCM brought the lawsuits in January after the State refused to make the payments, totaling \$80.6 million.

CCM sued on behalf of all cities and towns, including yours. We were joined in the lawsuits by a representative group of municipalities as named co-plaintiffs.\*

*The legal fight ended only after the State agreed to pay \$60 million to the cities and towns -- about three quarters of the original appropriations. CCM withdrew the lawsuits when the State made the payments. Your town received a total of \$108,043 as a result.*

Each municipality is asked to share pro rata in the costs of the lawsuits.

### Your action needed:

CCM's lawsuits on behalf of municipalities are financed by voluntary assessment of interested cities and towns. The cost is divided among participating municipalities on a pro rata basis.

We anticipate that your municipality's pro rata share for these two cases would be \$600.

Enclosed is a return form to affirm your municipality's participation.

cc: Town Attorney

\* The suits were called *Andover et al v. Ryan* and *Andover et al v. Wyman* because the Town of Andover was alphabetically the first of the 17 named plaintiffs. See the enclosed clipping for details.

Enclosures (2)

RETURN FORM

1.          My municipality will participate in the mutual financing of CCM's lawsuits in *Andover et al v. Ryan* and *Andover et al v. Wyman*.
- Please send me an invoice in the amount of \$600.
2.          I will seek approval of the appropriate local body authorizing my municipality's participation in *Andover et al v. Ryan* and *Andover et al v. Wyman*.
- Please send me an invoice in the amount of \$600.
- I will request an invoice if the necessary approval is granted.
3.          My municipality will not participate in the financing of CCM's lawsuit in this case.

\_\_\_\_\_  
Name of person completing form

\_\_\_\_\_  
Position

\_\_\_\_\_  
Municipality

Return to:   CCM, 900 Chapel Street, 9th floor, New Haven, CT 06510-2807  
              Attn. Barbara Ryan  
Fax to:       (203) 562-6314

## Statutes ignored

# CCM lawsuits called for State to release \$80.6 million promised to municipalities

High-up state officials illegally refused to pay \$80.6 million in two state grants to Connecticut municipalities, so CCM filed two lawsuits to compel immediate payment of the funds.

CCM sued on behalf of all 147 member cities and towns, and was joined in one or both of the suits by a representative group of 17 municipalities as named co-plaintiffs.

Then the legislature and the Governor changed the law, replacing the statutes that provided the funding.

Both cases asked the court for a *writ of mandamus*, which orders a public official to do something that he or she is clearly obligated by law to do. The law was clear when the suits were commenced.

The first suit is against Marc Ryan, Secretary of OPM. It sought an order that \$68.1 million be released immediately to reimburse municipalities for state-mandated property tax exemptions for certain machinery, equipment, and commercial vehicles — payments-in-lieu-of-taxes.

Ryan was required by law (section 12-94b of the general statutes) to have certified by December 15, 2002 the amount that each town must receive, so the funds could be paid by the State Comptroller before December 31 of that year. But the funds remained uncertified and unpaid. Newspapers reported that Ryan said he was too busy to certify the funds for payment.

The second suit asked that Comptroller Nancy Wyman be directed to draw an order for payment of \$12.5 million

in Town Aid Road grants that were supposed to be paid to all 169 towns by January 31. Just before releasing the money, Wyman said, OPM Secretary Ryan "pulled the allotment and "withheld the funds" — an action he had no legal authority to take and she had no legal authority to obey.

Wyman acknowledged her statutory duty to pay the grants, but said Ryan's request prevented her from doing so. "The actions of Secretary Ryan appear to be in violation of the General Statutes," she wrote, but "this office cannot make such payment without a demand for payment" from Ryan or Governor Rowland, and the Governor did not respond to her request that he order the release of the Town Aid Road funds.

However, CCM's lawsuit asserted that neither the Governor nor the Secretary of OPM has "the authority to prevent the Comptroller from fulfilling her constitutional duty to draw an order for payment."

In 1972, in a similar case, the Connecticut Supreme Court ruled that the grants to the municipalities must be paid immediately, and held that the statutes left no discretion in that regard to the responsible state official. The case was *Bridgeport et al v. Agostinelli*. Nathan Agostinelli was the State Comptroller. The case was brought by CCM, which coordinated and directed the multi-municipal action, just as in the present two cases.

Buttressing that view is a 1995 opinion of Attorney General Blumenthal, which found that OPM had no authority to deviate from the statutory requirements of Section 12-94b, concerning the same property tax exemption for certain machinery, equipment, and commercial vehicles, and concluded that "OPM is obliged to reimburse the town."

CCM and the municipal co-plaintiffs are represented by Attorneys Mary-Michelle Hirschhoff and Isabel Chenoweth in both cases. Hirschhoff has been representing CCM in its wide-ranging *amicus curiae* actions since 1993. The state officials are represented by the Office of the Attorney General.

With CCM as co-plaintiffs are Andover, Bozrah, Enfield, Middletown, New Britain, New Haven, Newtown, Portland, Stamford, and Westport in both cases; Killingly and Norwalk in the machinery and equipment grants case (*Andover et al v. Ryan*); and Darien, East Windsor, Ellington, and Stratford in the town aid road case (*Andover et al v. Wyman*). ■



**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**

Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Underage Drinking, University Spring Weekend and President Austin's Task Force  
on Substance Abuse**

Dear Town Council:

Attached please find correspondence from the Connecticut Conference of Municipalities (CCM) sent in response to Council member Hawkins' request for information concerning the question of how to control large gatherings of students at off-campus locations. This information should be helpful as we continue to study the issues of underage drinking, University spring weekend and substance abuse in our communities.

Respectfully submitted,

Martin H. Berliner  
Town Manager



*President:* Lucian J. Pawlak., Mayor of New Britain • *First Vice-President:* Mary Lou Strom, Councilmember of Enfield • *Second Vice-President:* Phillip K. Schenck, Jr., Town Manager of Avon • *Treasurer:* Michael P. Stupinski, First Selectman of Ellington • *Secretary:* Herbert C. Rosenthal, First Selectman of Newtown

*Directors:* Martin H. Berliner, Town Manager of Mansfield, Maryann Boord, First Selectman of Durham, Mark D. Boughton, Mayor of Danbury, R. Leon Churchill, Jr., Town Manager of Windsor, Dale P. Clark, First Selectman of Sterling, Anthony DaRos, First Selectman of Branford, Michael A. DeNegrils, Mayor of Wolcott, Diane Goss Farrell, First Selectwoman of Westport, Wayne L. Fraser, First Selectman of East Lyme, Mitchell R. Goldblatt, First Selectman of Orange, Timothy C. Griswold, First Selectman of Old Lyme, Robert F. Harrel, Jr., First Selectman of Darlen, Martin L. Heft, First Selectman of Chester, Edward L. Kallnowski, First Selectman of Portland, Alex Knopp, Mayor of Norwalk, Eddie A. Perez, Mayor of Hartford, Keith J. Robbins, First Selectman of Bozrah, Linda Roberts, First Selectman of East Windsor, Dominique S. Thornton, Mayor of Middletown, Edward F. Tum, Sr., First Selectman of Andover

*Past Presidents:* Stephen T. Cassano, Mayor of Manchester, Susan D. Morrow, First Selectman of East Haddam, John DeStefano, Jr., Mayor of New Haven, John Weichsel, Town Manager of Southington, Dannel Malloy, Mayor of Stamford, Wesley J. Johnson, Sr., Mayor of Ledyard

*Executive Director and General Counsel:* Joel Cogen • *Associate Director-Public Policy and Advocacy:* James J. Finley, Jr.

June 18, 2003

Hon. Alan Hawkins  
Town Council  
Town of Mansfield  
242 Spring Hill Road  
Storrs, Connecticut 06268

Dear Councilman Hawkins:

This is in response to your request for information concerning controlling large gatherings of students at off campus locations. CCM recently contacted the following municipalities with universities as to how they manage public nuisances, such as noise, parking, drinking, and social gatherings on private property. These towns commonly confront such issues with their off-campus student populations; their responses are summarized below:

**Fairfield:** First Selectman Ken Flatto indicated that the town has had problems with regulating activities on private property and has enacted ordinances to help resolve those problems. I have enclosed "Recovery of Costs for Repeat Violations" (for disorderly conduct). Please contact Assistant Town Attorney Eileen Wilcox (203/256-3189) for more information regarding how the town has dealt with these issues.

**Hamden:** Lieutenant Richard Dunham of the Hamden Police Department informed me that the town has increased its patrols of private apartment complexes that are known to house large numbers of students. He stated that these patrols are meant to enforce established laws dealing with noise levels, underage drinking, etc. Lt. Dunham also mentioned that the town received a grant to aid in controlling the purchase of alcohol by minors and that the liquor stores in the areas are very helpful. The department also has a relationship with Quinnipiac University. There are two officers present on campus from the late afternoon until 4:00am, one officer on foot, the other patrolling in a car. For additional information, Lt. Dunham can be contacted at 203-230-4926.

**Middletown:** Deputy Police Chief Phil Passina informed us that the town has a community-policing program to help control noise, loitering, drinking, and other public nuisances in housing complex associations. The police department assigns a district sergeant to every district in town that has a complex. The district sergeants are responsible for patrolling the complexes and enforcing local laws and regulations. The department also facilitates meetings between the management of the housing complex associations and the town to develop strategies to control noise, partying, parking, etc. The associations work in collaboration with the police to help rectify any issues of concern. To help keep residents aware of rules and regulations, notices are posted throughout the housing complexes. If residents do not comply with these rules and regulations a meeting is called between the residents, police and the management of the housing complex to discuss the issues. The town also uses local ordinances, such as its public nuisance ordinance, to assist in maintaining order within the towns

housing complexes. Chief Passina (860/344-3202) indicated that he would gladly discuss any questions or concerns that you may have.

I have enclosed the following materials for your review:

#### Residential Parking Ordinances

- Greenwich Code § 14-24.1 "Resident Parking License."
- City of Groton, "An Ordinance Imposing Restriction on Parking in Designated Residential Districts and Authorizing the Conditional Issuance of Residential Parking Permits to Residents of Such Districts."
- New Haven Code § 29-55, "Residential Parking."
- Stamford Code Article III, "Residential Parking Permit Program."
- Stratford Code §§ 203-15 through 203-22, "Parking Permits."

#### Alcohol Possession and Consumption Ordinances

- Town of Berlin, "An Ordinance Regulating Possession of Alcohol by Persons Under 21 Years of Age."
- Cheshire Code § 10-9, "Possession and transportation of alcoholic liquors by minors."
- Cromwell Code Article III, "Consumption in Public Areas and Motor Vehicles and Possession by Minors."
- Darien Code § 31-1 "Alcoholic Beverages-Serving to, possession or consumption by minors; possession or consumption upon school property."
- Ellington Code "Alcoholic Possession by Minors."
- Farmington Code Chapter 76, "Alcoholic Beverages."
- Glastonbury Code Division 2, "Possession of Alcohol."
- Madison Code §§ 4-2 through 4-4, "Consumption on public, quasi public property."
- Newington Code "An Ordinance Regarding Alcohol Possession by Minors."
- Norwalk Code Chapter 12, "Alcoholic Beverages."
- Orange Code Chapter 172, "Alcoholic Beverages."
- Stratford Code Chapter 47, "Alcoholic Beverages."

I have enclosed "Town Ordinances Concerning Possession of Alcohol by Minors on Private Property," *The Office of Legislative Research*, by Daniel Duffy, Principal Analyst and John Rapp, Principal Analyst, January 31, 2003, and CCM's *Information Kit*, "Noise Regulations."

I hope that you find this information useful. If you have any further questions please contact me at your leisure.

Sincerely,



Lisa E. Giordano  
Research Assistant

Enclosures (20)

cc: Town Manager Martin Berliner

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**NIMLO Model Ordinance Service**

**SECTION 20-202. Legislative Findings.**

(a) **General Findings.** The City Council finds that, based on public testimony, public planning studies, and other sources, the continued vitality of the City depends on the preservation of safe, healthy, and attractive neighborhoods and other residential areas. The Council further finds that one factor that threatens the safety, health and attractiveness of the City's neighborhoods is the excessive and burdensome practice of nonresidents parking their motor vehicles for extended periods of time in certain neighborhoods. The number of nonresident motor vehicles attempting to park in those areas often exceeds the number of available parking spaces. A preferential parking system for designated neighborhoods will help to reduce the burden of those excess vehicles on the residents of those neighborhoods and, thus, promote the general welfare of the City.

(b) **Specific Findings.** The Council makes the following specific legislative findings in support of preferential residential parking to illustrate the compelling need for the enactment of this Ordinance. The Council intends the findings as illustrations only and not the only available factual examples supporting adoption of the Ordinance:

(1) The maintenance of the attractiveness and liveability of the City's neighborhoods and other residential areas will enhance the safety, health and welfare of the City's residents;

(2) On a daily basis a large number of City residents who own motor vehicles must park those vehicles in or near their residences;

(3) Certain neighborhoods and other areas of the City do not have sufficient on or off-street parking to accommodate the convenient parking of residents' motor vehicles;

(4) The influx of motor vehicles from nonresidents that compete for the limited available parking in those areas further burdens the residents of those areas;

(5) The City has certain parking "attractors," including [list them; e.g., a university, hospital, sports stadium, beach, military base, etc.] that further aggravate the residents' parking problems;

(6) Unnecessary vehicle miles, air and noise pollution, and the inconvenience of not finding parking caused by the conditions above create unacceptable hardships for the neighborhoods' residents;

(7) If the City allows those adverse conditions to continue unchecked, those adverse conditions will contribute to the decline of the living conditions in the neighborhoods and the attractiveness of residing within the City, resulting in injury to the general public welfare; and

(8) A system of preferential residential parking as enacted by this Ordinance will serve to promote the health, safety, and welfare of all of the City's residents by reducing unnecessary motor vehicle travel and air and noise pollution, improving the attractiveness of living in the City's neighborhoods, and encouraging the use of public mass transit facilities available now and in the future. The Ordinance also will serve the public welfare by ensuring a more stable and valuable property tax base in order to generate the revenues necessary to provide essential public services.

**SECTION 20-203. Authorization.**

The City Council is enacting this Ordinance pursuant to Section \_\_\_\_\_ of the City Charter and Section(s) \_\_\_\_\_ of the \_\_\_\_\_ State Code.

**SECTION 20-204. Definitions.**

For the purposes of this Ordinance, the following words shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

**ARTICLE 20-2: NIMLO MODEL RESIDENTIAL PARKING PERMIT ORDINANCE**

**Section**

- 20-201 Purpose and Intent
- 20-202 Legislative Findings
- 20-203 Authorization
- 20-204 Definitions
- 20-205 Designation of Residential Parking Permit Areas
- 20-206 Survey and Designation Criteria
- 20-207 Designation Process
- 20-208 Posting of Residential Parking Permit Area
- 20-209 Notice to Residents of Designation of Residential Parking Permit Area
- 20-210 Issuance of Residential Parking Permits
- 20-211 Renewal of Residential Parking Permits
- 20-212 Transfer or Replacement of Residential Parking Permits
- 20-213 Issuance of Permits for Visitors
- 20-214 Issuance of Permits for Persons Doing Business with a Resident
- 20-215 Display of Visitor and Business Parking Permits
- 20-216 Use of Parking Permits
- 20-217 Exemptions
- 20-218 Designation of Trial Residential Parking Permit Area
- 20-219 Withdrawal of Designation of Residential Parking Permit Area
- 20-220 Regulations
- 20-221 Enforcement and Collection of Fees
- 20-222 Penalty
- 20-223 Revocation of Permit
- 20-224 Severability

(a) Reduce hazardous traffic conditions resulting from nonresidents competing with residents to park their vehicles in certain residential districts;

(b) Protect those residential districts from polluted air, excessive noise, and refuse caused by the entry of nonresident vehicles;

(c) Protect the residents of those residential districts from unreasonable burdens in gaining access to their residences;

(d) Preserve the character of those districts as residential districts;

(e) Encourage the use of public transportation;

(f) Promote efficiency in maintaining streets in those residential districts in a clean and safe condition;

(g) Preserve the value of the property in those residential districts;

(h) Promote traffic safety and the safety of children and other pedestrians in those residential districts;

(i) Prevent dangers arising from the blocking of fire lanes, hydrants and other facilities that emergency vehicles require, both in reaching victims and in transporting them to hospitals;

(j) Facilitate the movement of traffic in the event of accidents and other disasters; and

(k) To promote the peace, comfort, convenience, and welfare of all inhabitants of the City.

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**SECTION 20-201. Purpose and Intent.**

The City Council of the City of \_\_\_\_\_  
is enacting this Ordinance in order to:

## Residential Parking Permits

(a) *Commuter vehicle* means a motor vehicle, other than a resident vehicle as defined below, parked in a residential area in which it is not registered with the State of \_\_\_\_\_ Department of Motor Vehicles.

(b) *Curbside parking space* means twenty (20) linear feet of curb, exclusive of those portions of the curb where parking, apart from the provisions of this Ordinance, is not presently permitted.

(c) *Lease* means that a person pays rent or other remuneration for the use of a parcel of real property as the person's residence or place of business.

(d) *Motor vehicle* means an automobile, truck, recreation vehicle, motorcycle, or other motor-driven or self-propelled form of transportation.

(e) *Owns* means that a person has at least a one-quarter interest in a parcel of real property within a residential parking permit area.

(f) *Resident vehicle* means a motor vehicle parked in a residential area in which it is registered with the State of \_\_\_\_\_ Department of Motor Vehicles.

(g) *Residential district* means a contiguous or nearly contiguous area containing public streets and highways or parts thereof primarily abutted by residential property or residential and nonbusiness property (such as schools, parks, churches, hospitals and nursing homes).

(h) *Residential parking permit area* means a residential district where curbside parking on public highways is limited to not more than two (2) consecutive hours between 7:00 a.m. and 6:30 p.m. on weekdays, excepting holidays, unless the vehicle properly displays a parking permit authorized by this Ordinance.

### SECTION 20-205. Designation of Residential Parking Permit Areas.

In order for the City Council to determine whether a residential district, or portion thereof, shall be designated, or shall continue to be designated, as a residential parking permit area, the Chief Executive or the Chief Executive's designee shall conduct, upon the Chief Executive's initiative or upon a petition signed by a majority of the residents in the district or portion thereof, a public hearing prior to such designation and prior to the withdrawal of such designation. The public hearing shall be held only after due notice has been published two (2) times in a newspaper of general circulation in the City. The notice shall clearly state the purpose, time and location of the public hearing, the exact location and boundaries of the proposed, or existing, residential parking permit area, and the proposed parking permit fees to be charged. In addition to the published notice, a similar notification shall be prominently posted [or shall be mailed to every residence] in the proposed or existing residential parking permit area. During such public hearing any interested person shall be entitled to appear, to be heard, and to submit a written statement for the record. The Chief Executive or the Chief Executive's designee may impose a reasonable limitation upon the length of time that any interested person may speak at the hearing. The Chief Executive or the Chief Executive's designee shall maintain a record of all oral and written statements by all interested persons.

### SECTION 20-206. Survey and Designation Criteria.

(a) To enable the City Council to determine whether a residential district, or portion thereof, shall be designated, or shall continue to be designated, as a residential parking permit area, the Chief Executive or the Chief Executive's designee also shall conduct, on a weekday within fifteen (15) days following completion of the public hearing, between 7:00 a.m. and 6:30 p.m., a block-by-block parking survey of the proposed, or existing, residential parking permit area.

## NIMLO Model Ordinance Service

(b) In determining whether commuter vehicles sufficiently impact a residential district, or portion thereof, so that the district may be designated a residential parking permit area, the Chief Executive or the Chief Executive's designee shall consider factors including but not limited to the following:

(1) The extent that legal on-street parking spaces are occupied by motor vehicles during the period proposed for parking restrictions;

(2) The extent that vehicles parking in the area during the period proposed for parking restrictions are commuter vehicles;

(3) The extent that residents cannot obtain adequate curbside parking adjacent to or near their residences because of widespread use of available curbside parking spaces by commuter vehicles;

(4) The effect on the safety of the residents from intensive commuter vehicle parking;

(5) The extent of air and noise pollution, hazardous conditions, and deterioration of the residential environment as a result of traffic congestion and insufficient parking in the area;

(6) The extent that the designation of a residential parking permit area would be likely to reduce traffic congestion and any other problems referred to above;

(7) The extent and need for parking by the general public in the residential district;

(8) The desire of the residents in the proposed, or existing, residential parking permit area for the institution of a residential parking permit system and the willingness of those residents to bear the costs incidental to the issuance of parking permits authorized by this Ordinance; and

(9) The extent that no reasonable alternative is feasible or practicable that would reduce traffic congestion and any other problems referred to above without unduly impacting surrounding residential areas.

(c) No residential district, or portion thereof, shall be designated as a residential parking permit area unless the survey of the district reveals the following:

(1) The total number of curbside parking spaces occupied by vehicles equals or exceeds seventy-five percent (75%) of the number of curbside parking spaces on the public streets and highways of the proposed, or existing, residential parking permit area; and

(2) The total number of curbside parking spaces occupied by commuter vehicles equals or exceeds twenty-five percent (25%) of the total number of curbside parking spaces occupied by motor vehicles in the proposed or existing residential parking permit area.

### SECTION 20-207. Designation Process.

(a) Within thirty (30) days following the close of the public hearing, the Chief Executive or the Chief Executive's designee shall recommend by written report to the City Council, based on the record of the public hearing and the results of the survey, whether to designate the residential district or portion thereof under consideration as a residential parking permit area or whether to withdraw the designation of an existing residential parking permit area. The report also shall demonstrate that the Chief Executive or the Chief Executive's designee, in making the recommendation, has taken into account the factors enumerated in Section 20-206 of this Ordinance.

(b) Within forty-five (45) days following its receipt of the report, the City Council shall vote, as applicable:

(1) Whether to designate the residential district or portion thereof under consideration as a residential parking permit area; or

(2) Whether to withdraw the designation of an existing residential parking permit area.

## Residential Parking Permits

### SECTION 20-208. Posting of Residential Parking Permit Area.

(a) Following the City Council's affirmative vote to designate a residential parking permit area, parking signs shall be erected in the designated area.

(b) The signs shall indicate prominently that curbside parking on public streets and highways in the designated area is limited to not more than two (2) consecutive hours between 7:00 a.m. and 6:30 p.m. on weekdays, excepting holidays, unless the vehicle properly displays a parking permit authorized by this Ordinance.

### SECTION 20-209. Notice to Residents of Designation of Residential Parking Permit Area.

Following the City Council's affirmative vote to designate a residential parking permit area, the Chief Executive or the Chief Executive's designee shall mail to every residence within the designated residential parking permit area the following documents:

(a) A Notice of Designation that shall inform the residents in the designated area of:

(1) The existence, exact location, and numerical designation of the residential parking permit area;

(2) The parking restrictions applicable to all vehicles in curbside parking spaces along public streets and highways in the designated area that do not properly display a parking permit authorized by this Ordinance; and

(3) The procedures to obtain a residential, visitor, or business parking permit.

(b) An Application for Residential Parking Permit on which the applicant is to provide the following information for each vehicle to receive a residential parking permit:

(1) The name and residential address of the owner of the vehicle;

(2) The name, residential address, and driver's license number of the principal operator of the vehicle;

(3) The make, model, license plate number and registration number of the vehicle; and

(4) The signature of the applicant for the residential parking permit.

(c) The applicant shall demonstrate proof of residency and motor vehicle ownership in a manner determined by the Chief Executive or the Chief Executive's designee.

(d) The City Council may, by resolution, limit the number of permits issued to any residence if such limitation would further the goals of the residential parking permit process.

### SECTION 20-210. Issuance of Residential Parking Permits.

(a) Upon the applicant's payment of a ten dollar (\$10.00) residential parking permit fee, submission of a completed and validated residential parking permit application, and fulfillment of all applicable provisions of this Ordinance controlling issuance, renewal, or transfer of residential parking permits, the applicant shall receive one (1) residential parking permit for the vehicle described in the application. The residential parking permit shall be securely affixed to the inside bottom left corner of the front windshield of the vehicle and shall display the following information:

(1) The license plate number and registration number of the vehicle;

(2) The numerical designation of the residential parking permit area; and

## NIMLO Model Ordinance Service

(3) The expiration date of the residential parking permit, which shall be one (1) year from the date of issuance.

(b) No residential parking permit shall be issued to a vehicle whose owner and principal operator do not reside within the designated residential parking permit area.

(c) The applicant for, and holder of, the residential parking permit shall be the owner or principal operator of the vehicle receiving the parking permit.

(d) A vehicle shall be issued a residential parking permit only if it displays valid state license plates, unless state law does not require the vehicle to display license plates.

### **SECTION 20-211. Renewal of Residential Parking Permits.**

(a) Upon the holder's payment of a ten dollar (\$10.00) residential parking permit renewal fee, verification of the holder's prior submission of a completed and validated residential parking permit application, fulfillment of all applicable provisions of this Ordinance controlling issuance, renewal, or transfer of residential parking permits, on or before the expiration date of the existing residential parking permit, the holder shall receive a new residential parking permit.

(b) The expiration date to be displayed on the new residential parking permit shall be one (1) year following the expiration date of the existing residential parking permit.

### **SECTION 20-212. Transfer or Replacement of Residential Parking Permits.**

(a) Upon the holder's payment of a five dollar (\$5.00) residential parking permit transfer fee, submission of a completed and validated residential parking permit application, fulfillment of all applicable provisions of this Ordinance controlling

issuance, renewal, or transfer of residential parking permits, and surrender of the existing residential parking permit, the holder shall receive a new residential parking permit to be transferred to another qualifying vehicle.

(b) Upon the holder's payment of a five dollar (\$5.00) residential parking permit replacement fee, verification of the holder's prior submission of a completed and validated residential parking permit application, fulfillment of all applicable provisions of this Ordinance controlling issuance, renewal, or transfer of residential parking permits, and affirmation that the holder's permit was lost, stolen, or destroyed, the holder shall receive a new residential parking permit. The lost, stolen or destroyed permit shall be considered void, and any use of a voided permit is prohibited.

(c) The transfer or replacement of the residential parking permit shall not affect the permit's original expiration date.

### **SECTION 20-213. Issuance of Permits for Visitors.**

Upon application of any resident of a residential parking permit area, the Chief Executive or the Chief Executive's designee shall issue a visitor parking permit to the resident for the visitor's vehicle to be limited to that particular parking permit area and for a period not exceeding thirty (30) days. No more than two visitor parking permits shall be issued to any one resident at any one time. For the purposes of this Ordinance, the resident shall be the holder of and responsible for the use and misuse of the visitor parking permits issued to the resident.

### **SECTION 20-214. Issuance of Permits for Persons Doing Business with a Resident.**

Upon application of any resident of a residential parking permit area and any person doing business with this resident, the Chief Executive or the Chief Executive's designee shall issue a business parking permit to the resident for the vehicle of the person

## Residential Parking Permits

doing business with the resident to be limited to that particular parking permit area for a period not exceeding the estimated time, as shown on the application, required to complete the business transaction. No business parking permit shall be valid for more than thirty (30) days. For the purposes of this Ordinance, the resident shall be the holder of and responsible for the use and misuse of the business parking permits issued to the resident.

### SECTION 20-215. Display of Visitor and Business Parking Permits.

All visitor and business parking permits shall be displayed on or about the front windshield of the vehicle so as to be easily visible from outside the vehicle. Such parking permits shall contain the following information:

- (a) The numerical designation of the residential parking permit area;
- (b) The name and address of the resident to whom the parking permit was issued on behalf of the visitor or person doing business with the resident; and
- (c) The expiration date of the parking permit.

### SECTION 20-216. Use of Parking Permits.

(a) A parking permit shall not guarantee or reserve a parking space within a designated residential parking permit area. A parking permit shall not authorize the standing or parking of any vehicle in such places and during such times when the stopping, standing or parking of vehicles is prohibited or set aside for specified types of vehicles, and shall not excuse the observance of any traffic regulation, other than the two-hour parking limit enforced in the residential parking permit area.

(b) Whenever the holder of a residential, visitor, or business parking permit, or the vehicle for which the parking permit was issued, no longer fulfills one or more of the applicable provisions of

this Ordinance controlling issuance, renewal or transfer of parking permits, the holder shall notify the Chief Executive or the Chief Executive's designee, who may then direct the holder to surrender the parking permit.

(c) Until its expiration, surrender or revocation, a parking permit shall remain valid for such time as the holder continues to reside within the designated residential parking permit area.

(d) A parking permit shall be valid only in the residential parking permit area for which it is issued.

(e) It shall be a violation of this Ordinance for the holder of a parking permit to fail to surrender the permit when directed to do so.

(f) It shall be a violation of this Ordinance for any person to represent in any fashion that a vehicle is entitled to a parking permit authorized by this Ordinance when it is not so entitled. The display of a parking permit on a vehicle not entitled to such a parking permit shall constitute such a representation.

(h) It shall be a violation of this Ordinance for any person to duplicate, or attempt to duplicate, by any means, a parking permit authorized by this Ordinance. It also shall be a violation of this Ordinance for any person to display on any vehicle such a duplicate parking permit.

### SECTION 20-217. Exemptions.

(a) Whenever metered parking is in effect in any portion of a residential parking permit area, the parking spaces controlled by meters shall be excepted from the provisions of this Ordinance so long as the control by meters continues.

(b) A petition filed with the Chief Executive or the Chief Executive's designee requesting the exemption of a particular street segment of a residential parking permit area, signed by a majority of the residents of that street segment, will automatically exempt that particular street segment from designation as a residential parking permit area.

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(c) The provisions of this Ordinance shall not supersede the provisions of the City Code and state laws relating to parking by disabled persons.

(d) The following vehicles are specifically exempted from the parking restrictions imposed by this Ordinance:

(1) A motor vehicle owned by or operated under contract to a utility when used in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work in the designated residential parking permit area.

(2) A motor vehicle identified as owned by or operated under contract to a federal, state, or local governmental agency and being used in the course of official government business.

(3) An authorized emergency vehicle as defined by state law.

### **SECTION 20-218. Designation of Trial Residential Parking Permit Area.**

Notwithstanding any other provision of this Ordinance, the City Council may establish a residential parking permit area or areas on a trial basis for a period not to exceed ninety (90) days. During that period the City Council shall not act on any other petitions for establishment of such area. Any permit parking area established on a trial basis pursuant to this Section shall, at the expiration of the trial period established by the City Council for that area, continue to be a permit parking area as established by this Ordinance unless and until the City Council shall declare otherwise. The provisions of Sections 20-205 to 20-209 of this Ordinance shall apply to the establishment of a trial residential parking permit area under this Section.

### **SECTION 20-219. Withdrawal of Designation of Residential Parking Permit Area.**

(a) Following the City Council's affirmative vote to withdraw the designation of an existing

residential parking permit area, the Chief Executive or the Chief Executive's designee shall mail to every residence within the existing residential parking permit area a notice of the Council's withdrawal of the designation. Said notice shall specify the effective date of the withdrawal of the designation.

(b) The effective date of the withdrawal of the designation of an existing residential parking permit area shall be thirty (30) days following the date of the City Council's affirmative vote to withdraw the designation.

### **SECTION 20-220. Regulations.**

The Chief Executive or the Chief Executive's designee is authorized to establish, after due notice and opportunity for interested parties to be heard, all written regulations necessary to implement and enforce the provisions of this Ordinance.

### **SECTION 20-221. Enforcement and Collection of Fees.**

(a) The Chief of Police shall be responsible for the enforcement of this Ordinance.

(b) The Director of Finance shall be responsible for the collection of fees pursuant to this Ordinance.

### **SECTION 20-222. Penalty.**

Any person violating any provision of this Ordinance shall, upon conviction thereof by a court of competent jurisdiction, be fined not more than two hundred-fifty dollars (\$250.00) for each violation and, in default of any fine so imposed, shall be imprisoned for a period not to exceed three (3) days for each violation.

### **SECTION 20-223. Revocation of Permit.**

In addition to the penalties provided above for violation of this Ordinance the Chief Executive or the

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## Residential Parking Permits

Chief Executive's designee may revoke the residential parking permit of any person found to be in violation of this Ordinance, and, upon written notification thereof, the person shall surrender such permit to the Chief Executive or the Chief Executive's designee. Failure to surrender a revoked residential parking permit when requested to do so shall constitute a separate violation of this Ordinance.

### **SECTION 20-224. Severability.**

Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

## RESIDENTIAL PARKING PERMITS: EDITOR'S COMMENTARY

### I. Introduction

This ordinance revises and supersedes the prior NIMLO Model Ordinance on Residential Parking Permits that appears in the former NIMLO Model Ordinance Service as Sections 9-1301 through 9-1318. The ordinance is designed to assist local government attorneys in drafting similar regulatory language to establish a residential parking permit system.

### II. Legal Analysis

#### A. The *Richards* Decision

A local government's imposition of a residential parking permit ordinance that distinguishes between resident and nonresident parking privileges in order to reduce air and noise pollution as well as traffic congestion and safety concerns caused by nonresident vehicles is valid under the Fourteenth Amendment's Equal Protection Clause. *County Board of Arlington County, Virginia v. Richards*, 434 U.S. 5, *reh'g denied*, 434 U.S. 976 (1977). The United States Supreme Court's decision in *Richards* resolved a split among the lower courts over whether the residential parking permit distinction violated the Fourteenth Amendment's equal protection guarantee for nonresidents.

*Richards* arose following Arlington's enactment of a residential parking permit system as a zoning ordinance in 1974. Under the Arlington ordinance, the county manager designated as a parking permit zone a residential neighborhood near a large complex of high-rise office and commercial buildings. The ordinance banned all parking by vehicles not displaying a parking permit during weekday business hours. Service and delivery vehicles were exempted from the ban, and there were provisions for the issuance of guest, visitor, and business guest permits. Several employees of the office complex, who previously commuted to work by parking their cars in the parking permit zone, challenged the ordinance as a denial of due process and equal protection.

After hearing evidence the county circuit court entered a final order declaring that: the classification between residents and nonresidents of the parking permit zone bore no reasonable relationship to the ordinance's stated objectives; the classification was arbitrary and unreasonable; and the ordinance was violative of due process and equal protection. On appeal the Virginia Supreme Court affirmed the trial court's ruling that the ordinance's classification between residents and nonresidents bore no reasonable relationship the ordinance's stated objectives. Conceding that the ordinance need not meet the compelling governmental interest test to pass constitutional muster, the Virginia Supreme Court determined that the ordinance still offended the equal protection guarantee of the Fourteenth Amendment under the rational basis test. *County Board of Arlington County, Virginia v. Richards*, 231 S.E.2d 231, 253 (Va.), *rev'd*, 434 U.S. 5 (1977).

The United States Supreme Court, on the basis of certiorari briefs, issued a *per curiam* opinion in overruling the Virginia Supreme Court. The Court first found that a community may reasonably limit on-street parking available to commuters as well as restricting the flow of outside traffic into particular residential areas in order to reduce air and noise pollution, traffic hazards, and litter. 434 U.S. at 7. Although noting that, "by definition, discrimination against nonresidents would inhere in such restrictions," the Court emphasized that "the Constitution does not outlaw these social and environmental objectives, nor does it presume distinctions between residents and nonresidents of a local neighborhood to be invidious." *Id.* The Court concluded that the Fourteenth Amendment's Equal Protection Clause requires only that the distinction drawn by a residential parking permit ordinance rationally promote the regulation's objectives, and that the Arlington ordinance, on its face, met that test. *Id.*, citing *New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) and *Village of Belle Terre v. Boraas*, 416 U.S. 1, 8, (1974).

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Subsequent to the *Richards* decision, the Appellate Department of the Los Angeles County Superior Court upheld a Beverly Hills, California residential parking permit ordinance against state and federal equal protection and privileges and immunities clause challenges. *People v. Housman*, 210 Cal. Rptr. 186 (Cal. App. Dep't Super. Ct. 1984). The court declined to deviate from *Richards* by applying the strict scrutiny test to the ordinance because the court found that the ordinance did not affect any fundamental rights:

The right to use city streets for the purpose of travel or parking is not in that category of fundamental rights subject to strict scrutiny under either article XIV of the federal Constitution or article I, section 7 of the California Constitution.

*Id.* at 192, citing *Escobedo v. California*, 222 P.2d 1 (Cal. 1950) (finding that the usage of highways is subject to reasonable regulation for the public good).

The court concluded that, under the rational basis test, the parking permit ordinance's distinctions were reasonable and, therefore, permissible under the state and federal constitutions. *Id.* Likewise, the court rejected the state and federal privileges and immunities clause challenges, again applying the rational basis test and finding the ordinance reasonable. *Id.*

### B. Historical Perspective

Prior to the Supreme Court's *Richards* decision, the lower courts were divided over the constitutionality of ordinances establishing residential parking permit areas. In 1970, an Ohio Court reviewed a challenge to an ordinance establishing a system of special parking privileges by permit for certain residents. *State v. Whisman*, 263 N.E.2d 411 (Oh. Ct. Com. Pleas 1970). The ordinance provided that for streets with parking congestion, the public safety director was authorized to issue parking permits first to residents of the affected streets and then to residents of the municipality if there were

enough remaining parking spaces. *Id.* at 412-13. In no event could parking permits be issued to nonresidents of the municipality. *Id.*

The court found that the ordinance:

[U]nequivocally confers upon the residents of the areas involved the exclusive first right to park vehicles in those areas . . . attempts unconstitutionally to vest uncontrolled and unbridled discretion in the Safety Director by failing to provide standards or criteria for his guidance . . . creates rights in residents of the area superior to other citizens of New Boston. . . [and] absolutely discriminates against all persons who are not residents of New Boston, by making it an offense for them to park in the area.

*Id.* at 415.

Under rational basis analysis, the court found that the classifications lacked a valid justification. *Id.* Emphasizing that the ordinance merely granted special parking rights to residents in contravention of the rights of the general public, the court said that "although an owner of premises abutting on a street possesses the right of ingress and egress, he has no right superior to that of any other member of the public at-large to park automobiles in front of his premises." *Id.*

Contrary to *Whisman*, the Supreme Judicial Court of Massachusetts, in *Commonwealth v. Petralia*, 362 N.E.2d 513 (Mass. 1977), upheld the constitutionality of a Cambridge, Massachusetts traffic regulation permitting only authorized city residents to park their vehicles in certain areas of the city. Noting that a legislative classification need not be perfect in order to survive a constitutional challenge, the Court found that the residential parking permit ordinance dealt rationally with the public interest in reducing highway congestion and air pollution and in encouraging the use of public transportation. *Id.* In concluding that the ordinance did not deny nonresidents equal protection, the Court criticized the Ohio and Virginia courts for their holdings in

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*Whisman* and *Richards*, respectively for not considering the broader factors, including air pollution and traffic congestion, that might have justified those ordinances. *Id.* at 458.

### C. State Law Challenges

Although residential parking permit ordinances are permissible under the United States Constitution's Equal Protection Clause as well as, apparently, similar state constitutional provisions, certain permitting requirements have failed under state laws that limit the traffic and parking restrictions that localities may impose. In two cases, *New York State Public Employees Federation v. City of Albany*, 527 N.E.2d 253 (N.Y. 1988), and *People v. Speakerkits, Inc.*, 633 N.E.2d 1092 (N.Y. 1994), the New York Court of Appeals held that localities lacked the legislative authority to enact residential parking permit ordinances that distinguished between residents and nonresidents.

In *Albany* the Court found that, despite a general delegation of power to localities to regulate their streets, the New York legislature retains ultimate control over the streets and had not delegated the specific power to the city to enact the residential parking permit ordinance. 527 N.E.2d at 257. Although the city stressed the similarity between its ordinance and the Arlington County ordinance at issue in *Richards*, the Court stated:

However, whether the contested plan could be enacted consistent with the Federal Constitution is not at issue here. The question is one of power. While the Legislature could delegate to the localities the power to enact such a plan, it has not done so and the ordinance is ultra vires.

*Id.* The Court also held that the city's ordinance was inconsistent with the state's common law rule that residents and nonresidents have equal rights to use the streets and highways. *Id.* at 256.

In *Speakerkits*, the Court agreed to revisit the residential parking permit issue by reviewing an ordinance that was similar, if not more restrictive,

than Albany's. 633 N.E.2d at 1093. However, for reasons similar to its *Albany* holding, the Court invalidated the ordinance as exceeding the locality's police powers and conflicting with state statutory and common law that prohibited excluding nonresidents from the free use of highways. *Id.*

Since the *Speakerkits* decision, a lower New York court has upheld a residential parking permit ordinance that provides permits to both residents and nonresidents. *Woick v. Town of East Hampton*, 615 N.Y.S.2d 447 (N.Y. App. Div. 1994), *appeal denied*, 647 N.E.2d 121 (N.Y. 1995). Under that ordinance, residents are entitled to a permit because of their payment of real estate taxes, while nonresidents must pay a \$100 fee. *Id.* at 448. Additionally, the New York legislature recently amended its statute governing the local regulation of traffic to specifically authorize several localities to enact residential parking permits in certain areas of those localities. See N.Y. Veh. & Traf. Law §§ 1604-b, c (McKinney's Supp. 1994).

### III. Drafting Guidelines

The following guidelines will review several provisions of the NIMLO Model and discuss certain alternative provisions that a drafter may wish to consider. An ordinance that is less or more specific than the NIMLO Model may better serve the needs of a particular community and still pass judicial scrutiny, provided that the ordinance contains the essential elements discussed below.

#### A. Authorizing Legislation

Prior to considering the adoption of a residential parking permit ordinance, the drafter should confirm the authority pursuant to which the local government will enact the ordinance (e.g., charter provision, police power, home rule power, state statute, etc.). As the *Albany* and *Speakerkits* cases demonstrate, a local government may not be able to rely on its general police powers alone to enact a residential parking permit ordinance that distinguishes between residents and nonresidents. Rather, the local government may need specific authorizing legislation from the state.

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### B. Legislative Findings and Surveys

Legislative findings and parking surveys are essential to establishing a local government's rationale for enacting a residential parking permit ordinance that distinguishes between residents and nonresidents. As the NIMLO Model lists, there are numerous health and safety concerns created by too many motor vehicles competing for too few parking spaces in a residential area. A parking survey of a proposed permit area can show, based on the number of available parking spaces, how many of those spaces are filled at certain times of day and, of that number, how many spaces are occupied by commuter vehicles.

For example, before instituting a residential parking permit system in the North Beach area of San Francisco, that city's traffic department conducted a study of the area. The study revealed that during a typical workday 68 percent of the cars parked in the area did not belong to residents of the area. The study also revealed that drivers were cramming 4,300 cars into the area's 4,100 legal parking spots each day. *Solving Residential Parking Problems*, The American City & County (June 1978).

The NIMLO Model includes parking space occupancy percentage criteria (e.g., "75 percent of the available parking spaces are full between 7:00 a.m. and 6:30 p.m.") that are based on the criteria of the residential parking permit ordinances of several local governments, including Arlington County, Virginia (the Supreme Court upheld Arlington's ordinance in *Richards*). In residential districts with little or no off-street parking facilities (e.g., driveways or garages) for resident parking, the drafter may need to reduce one or both of the suggested percentages in the NIMLO Model. Such a reduction would ease the requirements for the residential district to qualify as a residential parking permit area.

### C. Exemptions to Permit Districts

A local government that includes an exemption provision similar to Model Ordinance Section 20-217 also should impose a limitation on the minimum

number of residences that may exclude a street segment from inclusion in a residential parking permit area. If the minimum is too low, the parking permit area may become splintered by numerous small street segments not included in the parking permit area. This will make enforcement of the ordinance more difficult and may subject the ordinance to a legal challenge that the ordinance permits the establishment of noncontiguous parking permit areas in which it is nearly impossible to know exactly where the ordinance is in effect.

The NIMLO Model does not contain an exemption request limitation because the limit that the local government imposes will be largely determined by the residential building density in the parking permit area. However, a local government may use administrative regulations to implement the exemption and to impose the minimum residences limitation.

### D. Two-Hour Parking Limitation

The NIMLO Model imposes a two-hour parking limitation on vehicles not displaying a residential parking permit. In residential districts that abut a heavily commercial area, as opposed to a business office area or a mass transit depot that would attract significant all-day commuter parking, a three-hour parking limitation might be preferable in order to lessen any adverse impact on merchants in the area.

The NIMLO Model does not absolutely ban nonresident vehicle parking because of the possible detrimental impact that the elimination of potential customer parking spaces would have on merchants whose stores are in or abut the parking permit zone. Although enforcement of a residential parking permit ordinance might be much easier with a nonresident parking ban, the ban's likely adverse effect on area merchants might outweigh that administrative convenience. Thus, a local government should consider imposing a parking ban only when there is adequate off-street customer parking for business customers in the area.

A local government contemplating the creation of residential parking permit areas also should review the availability of metered spaces in the proposed

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permit areas. Establishing a residential parking permit area in a residential district that contains many long-term parking meters will frustrate the purposes of a permit ordinance. In such areas the permit ordinance will operate more effectively if the local government reduces the maximum time limit on the meters and the number of meters.

### E. Signage and Enforcement

To improve enforcement of a parking permit ordinance the parking permits and signage for each parking permit area, in addition to displaying the area's numerical designation, should be color-coded, with a separate and distinct color for each parking permit area. The local government also should encourage residents in parking permit areas to notify the proper officials when they observe vehicles parking in violation of the ordinance.

### F. Severability

The NIMLO Model's severability provision, Section 20-224, specifies that severability is intended throughout and within the provisions of the ordinance. The severability provision is designed to permit a court to strike a portion of the ordinance that is overbroad, vague or otherwise unconstitutional, while upholding the remainder of the ordinance.

## IV. Reference Sources

The NIMLO Model is based on provisions contained in ordinances from the following cities and counties: Beverly Hills, Huntington Beach, San Diego, and San Francisco, California; Greensboro, North Carolina; Philadelphia, Pennsylvania; Alexandria, Virginia; and Shorewood, Wisconsin. Copies of those ordinances are available from NIMLO.

The following annotation also may be of assistance in drafting a residential parking permit ordinance:

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Lynn Considine Cobb, *Validity of Regulations Providing for Reserved Parking Spaces or Parking*

*Priority on Publicly Owned Property for Members of a Designated Group*, 70 A.L.R.3d 1323 (1976).

The Editor wishes to thank Donna M.C. Giliberto, General Counsel of the New York State Conference of Mayors, for her assistance in providing background materials on legal challenges to residential parking permits. The Editor also wishes to acknowledge Jennifer Dine, a third year student at the Catholic University of America Columbus College School of Law, for her assistance in researching legal challenges to residential parking permit ordinances.

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(2) ~~Forty-four dollars (\$44.) for each one-year period.~~  
(Ords. & Reg. § 21a-10, 4/28/1953; 9/21/1978; 10/19/1978; 4/16/1982.)

← Sec. 14-24.1. Resident parking license.

(a) There is created a parking license permitting use of any nonmetered parking stall located in those parking lots situated on the north side of Arcadia Road running to the railroad property of the Con-Rail system [one hundred fifteen (115) spaces], and further located on the west side of Sound Beach Avenue, bounded by the Old Greenwich Elementary School, which license shall entitle any vehicle bearing the same to park therein upon payment of a fee as hereafter provided. These licenses shall be available to residents of the Town of Greenwich and proprietors of local business establishments only.

(1) These permits shall further be valid in those permit parking areas situated at the Old Greenwich, Riverside and Cos Cob Railroad Stations.

(b) There is created a parking license permitting use of the designated parking area in the Cos Cob Boating Facility Parking Lot, situated on the east side of Strickland Road, between the dates of November 15 and April 15, which license shall entitle any vehicle bearing the same to park therein upon payment of a fee as hereinafter provided. These licenses shall be available to residents of the Town of Greenwich and proprietors of local business establishments only.

(c) The parking license fees shall be as follows:

(1) Twenty-two dollars (\$22.) for each six-month period.

(2) Forty-four dollars (\$44.) for each one-year period.  
(9/21/1978; as amended 10/19/1978; 12/29/1978; 12/9/1982.)

Sec. 14-25. Regulations not exclusive.

The provisions of Sections 14-3 through 14-24 shall not be deemed to be mutually exclusive. Every street and parking lot referred to in or affected by more than one (1) of these sections shall be subject to the provisions of each such section to the

extent it affects any such street or parking lot. In case of any conflict, the provisions of the section of the greatest severity shall control.

(Ords. & Reg., § 21a-11, 4/28/1953.)

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61. AN ORDINANCE IMPOSING RESTRICTION ON PARKING IN DESIGNATED RESIDENTIAL DISTRICTS AND AUTHORIZING THE CONDITIONAL ISSUANCE OF PARKING PERMITS TO RESIDENTS OF SUCH DISTRICTS.

Section 1. Definitions.

As used in this ordinance,

(a) Residential District shall mean a contiguous or nearly contiguous area containing public highways or parts thereof primarily abutted by residential property or residential and non-business property such as schools, parks, churches, hospitals and nursing homes;

(b) Residential Parking Permit Area shall mean a residential district where curbside parking on public highways is limited to not more than two (2) consecutive hours between 7 a.m. and 10 p.m. on weekdays, excepting holidays, unless the vehicle properly displays a parking permit authorized by this ordinance; and

(c) Curbside Parking Space shall mean twenty (20) linear feet of curb, exclusive of those portions of the curb where parking, apart from the provisions of this ordinance, is not presently permitted.

Section 2. Designation of Residential Parking Permit Area.

(a) Upon receipt of a request for designation of a street or streets as a residential parking permit area, the Mayor and Council may designate by resolution a residential district or portion thereof a residential parking permit area. In considering whether or not so to designate an area, the Mayor and Council shall consider the following criteria:

- (1) Parking demand;
- (2) The proportion of residential parking and nonresidential parking;
- (3) Widths of streets in the area;
- (4) Traffic flow in the area;
- (5) General availability of off-street parking; and
- (6) Other criteria as set forth in Section 10 of this ordinance

Section 3. Withdrawal of Designation of Residential Parking Permit Area.

The Mayor and Council may, at any time, withdraw the designation of an existing residential parking permit area or portions thereof by a majority vote of those members present and voting. Such withdrawal shall become effective thirty (30) days after such vote. Notice of such action shall be mailed to all holders of residential parking permits within the area affected.

Section 4. Posting of Residential Parking Permit Signs.

(a) Following the City Council's affirmative vote to designate a residential parking permit area, parking signs shall be erected in the designated area.

(b) The signs shall be of such character as to inform readily an ordinarily observant person that curbside parking on public highways in the designated area is limited to not more than two (2) consecutive hours between 7 a.m. and 10 p.m. on weekdays, excepting holidays, unless the vehicle properly displays a parking permit authorized by this ordinance.

Section 5. Issuance of Residential Parking Permits.

(a) Any person over the age of sixteen (16) who resides within the residential parking permit area may apply for a residential parking permit by completing and signing an application designed to provide the following information:

- (1) the name and residential address of the owner of the vehicle;
- (2) the name, residential address and driver's license number of the principal operator of the vehicle;
- (3) the make, model, color and registration number of the vehicle;
- (4) the number of vehicles whose owners or principal operators reside at the applicant's residence and the number of off-street parking spaces available for such vehicles within the residential parking permit area.

(b) No residential parking permit shall be issued to a person who has exclusive access to off-street parking space within the residential parking permit area.

(c) No residential parking permit shall be issued for a vehicle whose owner or principal operator does not reside within the residential parking permit area or which is not registered in the State of Connecticut unless such registration is not required.

(d) Whenever the chief of police or his designee shall find that the applicant qualifies under the provisions of this ordinance for a residential parking permit, he shall issue to the ~~one (1) residential parking permit for the vehicle described in the application.~~ The permit shall be affixed by a member of the police department to the vehicle in a conspicuous location and ~~shall contain the following information:~~

- (1) the registration number of the vehicle;
- (2) the designation of the residential parking permit area;
- (3) the expiration date of the permit which shall be December 31st of the year in which it is issued.

Section 6. Renewal and Transfer of Permits.

- (a) Upon submission of evidence to the chief of police that he is still qualified for a residential parking permit, a holder of a valid permit for the previous year shall be entitled to a new residential parking permit for the current year.
- (b) Upon surrender of his existing residential parking permit and completion of a new application, the holder of a valid residential parking permit shall receive a new parking permit to be transferred to another qualifying vehicle.

Section 7. Use of Residential Parking Permits.

- (a) A parking permit shall not guarantee or reserve a parking space nor shall it excuse the observance of any traffic or parking regulation other than the time limit on parking.
- (b) It shall be a violation of this ordinance to use a permit in any residential parking permit area other than the one for which the permit was issued.
- (c) It shall be a violation of this ordinance for the holder of a residential parking permit to use his permit when he or his vehicle no longer fulfills one or more of the applicable provisions of this ordinance controlling issuance of residential parking permits.
- (d) It shall be a violation of this ordinance for any person to represent in any fashion that a vehicle is entitled to a parking permit authorized by this ordinance when it is not so entitled. The display of a parking permit on a vehicle not entitled to such permit shall constitute such a representation.
- (e) It shall be a violation of this ordinance for any person to duplicate or attempt to duplicate a residential parking permit or to display on any vehicle such a duplicate parking permit.

Section 8. Penalty.

Any person who shall violate any of the provisions of this ordinance shall, upon conviction, be fined not more than one hundred dollars (100.00) or imprisoned not more than thirty (30) days or both and his permit may be revoked. Revocation of the permit or conviction of a violation in a court of law shall be considered as just cause for denial of future residential parking permits to such person.

Section 9. Separability.

The provisions of this ordinance are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of the regulation or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance, to which the ordinance or part thereof is held inapplicable, had been specifically exempted therefrom.

Section 10. Statement of Purpose.

The Mayor and Council of the City of Groton finds and declares that the provisions of this ordinance are enacted for the following reasons:

- (a) to reduce hazardous traffic conditions resulting from the use of streets within residential districts for vehicles parked by persons not residing within the residential districts;
- (b) to protect the residential districts from polluted air, excessive noise, and refuse caused by the entry of such vehicles;
- (c) to protect the residents of these residential districts from unreasonable burdens in gaining access to their residences;
- (d) to preserve the character of these districts as residential districts;
- (e) to encourage the use of public transportation;
- (f) to promote efficiency in the maintenance of streets in these residential districts in a clean and safe condition;
- (g) to preserve the value of the property in these residential districts;
- (h) to promote traffic safety and the safety of children and other pedestrians in these residential districts;
- (i) to forestall dangers arising from the blocking of fire lanes, hydrants and other facilities required by emergency vehicles, both in reaching victims and in transporting them to hospitals;

(b) In the case that a question arises whether an alderperson, city/town clerk or mayor has properly used the privileges outlined in subsection 29-54(a) above, for the actual conduct of city business, an appropriate city official designated by the traffic and parking authorities shall require the alderperson, the state legislators, the city/town clerk or mayor in question to attest in written, sworn affidavit form as to the nature and length of the business conducted. If it is found that the alderperson, the state legislators, city/town clerk or mayor did not park for the purpose of official city business, the appropriate penalty for violation of traffic and/or parking regulations shall be applied.

(c) The following provisions of the Code of General Ordinances of the City of New Haven shall not apply to members of the board of aldermen of state legislators while engaging in official city business: section 29-30, references to Group I penalties only; section 29-31, references to parking in meter spaces on a public street or highway overtime and beyond the period of legal parking time, only; section 29-32(a) references to fines for parking in any parking meter space in a parking facility overtime and beyond the period of legal parking time, only; sections 29-61, 29-62, and 29-65, references to deposit of coins into parking meters and limitation on parking time at meters only. (Ord. of 10-17-83, § 1; Ord. of 11-18-85)

Editor's note—Section 29-54 was originally designated as § 29-13, and has been redesignated for classification purposes at the discretion of the editor.

**Sec. 29-55. Residential parking.**

(a) Upon petition thereto of the residents of a majority of the residences on a block, the board of aldermen may create a residential parking zone, which shall include, but not be limited to, that block from which said petition originated.

(b) When signs are erected designating a block, or a portion of a block, as a park of a residential parking zone, no person shall park a vehicle along the street curb in such designated block or portion of a block, without having displayed in plain view a permit to park in such designated zone.

(c) The director of traffic and parking shall, within six (6) months of the effective date of this section 29-55, present to the

board of aldermen, for their approval, recommendations to implement subsection (b) of this section 29-55, which regulations shall include, but no be limited to, the following:

- (1) *Decals.* Each resident of a block designated as a part of a residential zone may apply for a permanent resident decal, which decal shall have the symbol of the residential zone permanently affixed to it as a part of its design and shall be permanently affixed to the vehicle for which it is issued.
- (2) *Visitor's permits.* Each residential household may apply for temporary permits for use by visitors to the zone for which the decal allows residential parking. Said visitor's permits shall only be used for parking in the residential zone for which they are issued, and the symbol designating such zone shall be permanently affixed to such visitor permits. The director of traffic and parking shall determine an appropriate number of visitor permits to be issued to each household, said number to be uniformed throughout all residential zones.
- (3) *Special event permits.* Each residential household may, upon application to the department of traffic and parking, be issued special event visitor permits, of a number in excess of the number of visitor's permits issued pursuant to paragraph (2) of this subsection, except that in no case shall such special event permits be issued which are valid for more than two (2) consecutive days, and each special event permit shall have its expiration date clearly marked in large characters and shall be so placed in the vehicle as to be plainly visible.
- (4) *Signage.* All residential zones shall be clearly signed as same by the department of traffic and parking. Motor vehicles parked in a residential zone so signed and not having a permit to park within the zone so signed shall be in violation of this section and shall be subject to a penalty as set forth in section 29-30(a), hereof, and shall be ordered towed upon complaint to the authority issuing the violation.
- (5) No decal shall be issued to any person who has not paid the current taxes and all back taxes owing on the motor vehi-

cle to which the decal is to be affixed, said payment to be attested to by the tax collector of the city in a form suitable for the purposes.

- (6) No decal shall be issued for affixing to any vehicle unless all current and past parking fines owed on said vehicle have been paid, payment to be attested to by the tag division of the department of traffic and parking.
- (7) Decals shall be issued during the month of September. Decals for new residents may be issued during other months, but the full fee for such issuance shall be charged.
- (8) Misuse:
  - a. No person shall sell, offer for sale, give, trade or otherwise transfer his or her resident parking decal to another person, or affix said decal to a motor vehicle other than the one for which it was issued, nor shall any person alter any such decal.
  - b. No person shall use a visitor permit, or allow his or her visitor permit to be used, for any purpose except parking while actually visiting the household of the person to whom the visitor permit was issued.
  - c. Misuse of any permits issued pursuant to this section shall constitute an infraction, punishable by a fine of up to one hundred dollars (\$100.00) for each offense.

(d) The director of traffic and parking shall, on the anniversary of the effective date of this section, and annually on the same date thereafter, submit to the board of aldermen a report of the operation of this section, with data to include, but not be limited to:

- (1) The number of permits issued pursuant to the regulations established pursuant to this section.
- (2) The number of special event visitor permits issued pursuant to this section.
- (3) Changes to the regulations established pursuant to this section, which recommended changes shall take effect upon favorable vote of the board of aldermen, pursuant to the rules of that board.

(e) The director of traffic and parking shall establish a fee schedule for the issuance of permits issued pursuant to this section, but in no case shall the fees established be in excess of three dollars (\$3.00) for each permanent decal, three dollars (\$3.00) for each visitor permit; and fifty cents (\$0.50) for each issuance of special event permits. No pro-rata for fees shall be established. (Ord. of 7-6-87; Ord. of 3-7-88, § 1)

*Editor's note*—An ordinance enacted July 6, 1987, approved by the mayor July 13, 1987, and effective July 23, 1987, amended the Code by adding provisions designated as § 29-14; for purposes of classification and in order to keep related material together, said provisions have been redesignated as § 29-55, at the discretion of the editor.

**Secs. 29-56—29-59. Reserved.**

## DIVISION 2. PARKING METERS\*

### Sec. 29-60. Definitions.

(a) *Operator* shall mean the person operating or in control of a vehicle on a parking facility or public highway.

(b) *Parking* shall mean the standing of a vehicle whether occupied or not upon a highway or parking facility otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers or loading or unloading merchandise or when stopped for any traffic regulations, traffic signs or signals.

(c) *Parking facility* shall mean and shall include lots, garages, parking terminals or other structures and accommodations for the parking of motor vehicles off the street or highway and open to public use.

(d) *Vehicle* as used in this division shall mean any device used for conveyance, drawing or other transportation of persons or property, whether on wheels or runners or otherwise, when on a public highway, except those which are operated upon rails or tracks. (Ord. of 4-1-40, § 1; Ord. of 12-15-53, § 1)

\*Cross reference—For penalties for overtime parking, see §§ 29-30—29-82.

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on a city street, no person shall operate a truck on such street in violation of such regulation.

- B. The traffic authority shall post signs on any street advising of such regulations, such signs to comply with the Manual on Uniform Traffic Control Devices. No such regulation shall apply to a truck having an origin or destination on the street subject to the regulation.

§ 231-30. Violations and penalties.

Any person who violates § 231-29 of this Article shall be fined not more than one hundred dollars (\$100.) for each offense.

ARTICLE III

**Residential Parking Permit Program**  
[Adopted 7-9-84 as Ord. No. 532]

§ 231-31. Legislative purpose.

This Article is enacted in response to the serious adverse effects caused certain areas and neighborhoods of the city by motor vehicle congestion, particularly the long-term parking of motor vehicles on the streets of such areas and neighborhoods by non-residents thereof. As set forth in more specific detail in § 231-32 of this Article, such long-term parking by nonresidents threatens the health, safety and welfare of all the residents of the city. In order to protect and promote the integrity of these areas and neighborhoods, it is necessary to enact parking regulations restricting unlimited parking by nonresidents therein while providing the opportunity for residents to park near their homes. Uniform parking regulations restricting residents and nonresidents alike would not serve the public interest. Rather, such regulations would contribute to neighborhood decline while ignoring the public transit alternatives to automobile travel available to nonresidents. For the reasons set forth in this Article, a system of preferential resident parking is hereby enacted for the City of Stamford.

## § 231-32. Findings.

- A. General finding. The Board of Representatives finds as a result of public testimony, evidence both generated by professional urban planning studies and derived from other sources, that the continued vitality of the City of Stamford depends on the preservation of safe, healthy and attractive neighborhoods and other residential areas therein. The Board further finds that the flight of residents and property owners from major metropolitan cities can be traced in part to the deterioration of such cities as attractive and comfortable places in which to reside. The Board further finds that one factor that has contributed to this deterioration in the city is the excessive and burdensome practice of nonresidents of certain areas and neighborhoods parking their motor vehicles for extended periods of time therein. Since there is in the city at any one time a large surplus of motor vehicles over available on- and off-street public parking spaces, this condition detracts from a healthy and complete urban environment. A system of preferential resident parking will serve to reduce a number of strains on residents of the city and thus promote the general public welfare.
- B. Specific findings. The following specific legislative findings of the Board of Representatives in support of preferential resident parking are set forth as illustrations of the need compelling the enactment of this Article. They are intended as illustrations only and do not exhaust the subject of the factual basis supporting its adoption:
- (1) The safety, health and welfare of the residents of the city can be greatly enhanced by maintaining the attractiveness and livability of its neighborhoods and other residential areas.
  - (2) It is a fact of modern living in the city that a large portion of Stamford residents possess automobiles and as a result are daily faced with the need to store these automobiles in or near their residences.

- (3) Certain neighborhoods and areas of the city do not have sufficient on- or off-street space to accommodate the convenient parking of motor vehicles by residents thereof in the vicinity of their homes.
- (4) Such areas as described in Subsection B(3) above are often further burdened by influxes of motor vehicles owned by nonresidents which compete for the inadequate available on-street parking spaces.
- (5) There further exist certain parking "attractors" within the city, i.e., hospitals, office parks, mass transit stations and terminals and locations convenient for commuter parking, which further exacerbate resident parking problems.
- (6) Unnecessary vehicle miles, noise, pollution and strains on interpersonal relationships caused by the conditions set forth herein work unacceptable hardships on residents of these neighborhoods and other residential areas by causing the deterioration of air quality, safety, tranquility and other values available in an urban residential environment.
- (7) If allowed to continue unchecked, these adverse effects on the residents of the city will contribute to a decline of the living conditions therein, a reduction in the attractiveness of residing within said city and do frequent injury to the general public welfare.
- (8) A system of preferential resident parking as enacted in this Article will serve to promote the safety, health and welfare of all the residents of the city by reducing unnecessary personal motor vehicle travel, noise and pollution and by promoting improvements in air quality, the convenience and attractiveness of urban residential living and the increased use of public mass transit facilities available now and in the future. The public welfare will also be served by ensuring a more stable and valuable property tax base in order to generate the revenues necessary to provide essential public services.

## § 231-33. Definitions.

- A. As used in this Article, the following terms shall have the meanings indicated:

**LEASES** — Means that a person pays rent or other remuneration for use of a parcel of real property as his residence or place of business.

**MOTOR VEHICLE** — Includes an automobile, truck, motorcycle or other motor-driven form of transportation not in excess of six-thousand (6,000) pounds of gross weight.

**NONRESIDENT VEHICLE** — A motor vehicle parked in a designated residential parking permit area if the address at which said vehicle is registered with the State Department of Motor Vehicles or the similar authority in another state is not within such residential parking permit area.

**OWN** — Means that a person has at least a one-fourth interest in a parcel of real property within a residential parking permit area.

**PERSON** — A natural person.

**RESIDENTIAL AREA** — A contiguous or nearly contiguous area containing public streets and highways or parts thereof where residents dwell.

**RESIDENTIAL PARKING PERMIT AREA** — A residential area designated as herein provided wherein resident vehicles displaying a valid permit as described herein shall be exempt from parking time restrictions established pursuant to this Article.

**RESIDENTIAL VEHICLE** — A motor vehicle parked in a designated residential parking permit area if the address at which such vehicle is registered with the State Department of Motor Vehicles is within such residential parking permit area.

- B. The masculine form as used in this Article, if applicable as shown by the context thereof, shall apply to a female person.

**§ 231-34. Consideration of area designation.**

The traffic authority shall, upon recommendation of the Traffic Director, consider for designation as a residential parking permit area those residential areas meeting and satisfying the objective criteria therefor established in this Article. It may, at its discretion, but subject to the provisions hereinafter contained, then designate by resolution certain residential areas as residential parking permit areas in which resident vehicles displaying a valid parking permit may stand or be parked without limitation by parking time restrictions established by this Article. Said resolution shall also state the applicable time limitation, period of the day for its application and the fee to be charged upon permit issuance.

**§ 231-35. Area designation criteria.**

- A. A residential area shall be deemed eligible for consideration as a residential parking permit area if, based on surveys and studies prepared at the direction of the Traffic Director or his designee, relevant objective criteria establish that the residential area is impacted by nonresident vehicles for any extended period during the day or night, weekends or during holidays.
  - B. In determining whether a residential area identified as eligible for residential permit parking may be designated as a residential parking permit area, the Traffic Director and the traffic authority shall take into account factors which include but are not limited to the following:
    - (1) The extent of the desire and need of the residents for residential permit parking and their willingness to bear the administrative costs in connection therewith.
    - (2) The extent to which legal on-street parking spaces are occupied by motor vehicles during the period proposed for parking restriction.
    - (3) The extent to which vehicles parking in the area during the period proposed for parking restriction are commuter vehicles rather than resident vehicles.
    - (4) The extent to which motor vehicles registered to persons residing in the residential area cannot be ac-
-

commodated by the number of available off-street parking spaces.

**§ 231-36. Area designation process.**

- A. Upon receipt of a verified petition signed by residents of at least sixty-five percent (65%) of the dwelling units in the residential area proposed for designation, the Traffic Director or his designee shall undertake or cause to be undertaken such surveys or studies as are deemed necessary to determine whether a residential area is eligible for residential permit parking. Such surveys or studies shall be completed within ninety (90) days of receipt of a petition calling for such surveys or studies to be undertaken, unless otherwise provided by the Traffic Authority.
- B. Within thirty (30) days of the completion of the surveys and studies to determine whether designation criteria are met, the Traffic Director or his designee shall notice as herein provided a public hearing or hearings in or as close to the neighborhood as possible on the subject of the eligibility of the residential area under consideration for residential permit parking. Said hearing or hearings shall also be conducted for the purpose of ascertaining boundaries for the proposed residential permit parking area as well as the appropriate time limitation on parking and the period of the day for its application.
- C. Notice of public hearing or hearings provided for herein shall be published in an official newspaper of the city at least ten (10) days before the hearing date. The notice shall clearly state the purpose of the hearing, the location and boundaries tentatively considered for the proposed residential permit parking area and, if applicable, the proposed permit fee to be charged therefor. During such hearing or hearings, any interested person shall be entitled to appear and be heard, subject to appropriate rules of order adopted by the Traffic Director or his designee.

**§ 231-37. Recommendations of Traffic Director.**

- A. Within sixty (60) days of the completion of the hearing or hearings conducted with regard to a particular residential
-

area, the Traffic Director shall recommend by written report to the traffic authority, based on the record of such hearing or hearings and the surveys and studies performed, whether to designate the residential area under consideration as a residential permit parking area.

- B. In the report of the Traffic Director, he shall set forth the evidence generated as a result of surveys and studies performed, significant subjects and concerns raised at the public hearing or hearings conducted, findings relative to those designation criteria listed in § 231-35 deemed applicable to the residential area and conclusions as to whether the findings justify designation as a residential permit parking area for that particular area, the proposed boundaries of the residential permit parking area, a proposed time limitation and period of the day for its application and a proposed fee to be paid upon permit issuance.
- C. The designation process and designation criteria set forth in this Article shall also be utilized by the Traffic Director and the traffic authority in determining whether to remove designation as a residential permit parking area from a particular residential area.

**§ 231-38. Issuance of permits.**

- A. Parking permits shall be issued by the Department of Traffic and Parking. Each such permit shall be designed by the Department of Traffic and Parking to state or reflect thereon the particular residential permit parking area as well as the license number of the motor vehicle for which it is issued. No more than one (1) parking permit shall be issued to each motor vehicle for which application is made. The Traffic Director is authorized to issue rules and regulations, not inconsistent with this Article, governing the manner in which persons shall qualify for parking permits.
- B. Parking permits may be issued for motor vehicles only upon application by the following persons:
  - (1) A legal resident of the residential permit parking area who has a motor vehicle registered in his name or

who has a motor vehicle for his exclusive use and under his control.

- (2) A person who owns or leases commercial property and actively engages in business activity within a residential permit parking area. However, no more than one (1) parking permit may be issued for each business establishment for a motor vehicle registered to or under the control of such a person.
- C. Proof of residency or ownership shall be demonstrated in a manner to be determined by the Traffic Director.
- D. Proof of motor vehicle ownership or vehicle use and control shall be demonstrated in a manner determined by the Traffic Director.
- E. Visitor permits may be issued by the Department of Traffic and Parking upon request of a bona fide permit holder. Not more than six (6) visitor permits shall be issued to any permit holder. Visitor permits shall be valid for the same period as the permit held by the person requesting such visitor permit(s) remains in force. Visitor permits shall be subject to annual renewal.

**§ 231-39. Erection of signs.**

Upon the adoption by the traffic authority of a resolution designating a residential permit parking area, the Department of Traffic and Parking shall cause appropriate signs to be erected in the area, indicating prominently thereon the time limitation, period of the day for its application and conditions under which permit parking shall be exempt therefrom.

**§ 231-40. Display of permits.**

Permits shall be displayed in a manner determined by the Director of Traffic and Parking.

**§ 231-41. Permit parking exemptions.**

- A. A resident motor vehicle on which is displayed a valid parking permit as provided for herein shall be permitted to stand or be parked in the residential permit parking area for which the permit has been issued without being limited by time restrictions established pursuant to this Article. Said resident motor vehicle shall not be exempt from parking restrictions or prohibitions established pursuant to authority other than this Article. All other motor vehicles, other than vehicles specified in Ch. 9 of this Code, parked within a residential permit parking area shall be subject to the time restrictions adopted as provided in this Article as well as the penalties provided for herein.
- B. A residential parking permit shall not guarantee or reserve to the holder thereof an on-street parking space within the designated residential permit parking area.

**§ 231-42. Permit application; duration.**

Each parking permit issued by the Department of Traffic and Parking shall be valid for one (1) year from the date of issuance. Permits may be renewed annually upon reapplication in the manner required by the Traffic Director. Each application or reapplication for a parking permit shall contain information sufficient to identify the applicant, his residence address or address of real property owned or leased within a residential permit parking area, the license number of the motor vehicle for which application is made and such other information as may be deemed relevant by the Traffic Director.

**§ 231-43. Permit fees.**

Each residential parking permit shall be issued as a part of a residential permit parking package, the annual fee for which shall be two dollars (\$2.). Each package shall include one (1) resident parking permit for each motor vehicle registered at the applicant's address and a total of six (6) visitor parking permits. There shall be a transfer charge of one dollar (\$1.) for those with per-

mits in one designated area who move to another designated area and apply for a permit in the new area of residence. In such cases the new permit shall expire at the same time as the former permit would have expired.

**§ 231-44. Violations and penalties.**

- A. It shall be unlawful and a violation of this Article, unless expressly provided to the contrary herein, for any person to stand or park a motor vehicle for a period exceeding the time limitation established pursuant hereto. Said violation shall be a Class IV parking violation under § 231-6 of Article I of this chapter.
- B. It shall be unlawful and a violation of this Article for a person to falsely represent himself as eligible for a parking permit or to furnish false information in an application therefor to the Department of Traffic and Parking.
- C. It shall be unlawful and a violation of the Article for a person holding a valid parking permit issued pursuant hereto to permit the use or display of such permit on a motor vehicle other than that for which the permit is issued. Such conduct shall constitute an unlawful act and a violation of this Article by both the person holding the valid parking permit and the person who so uses or displays the permit on a motor vehicle other than that for which it is issued.
- D. It shall be a violation of this Article for a person to copy, produce or otherwise bring into existence a facsimile or counterfeit parking permit or permits without written authorization from the Department of Traffic and Parking. It shall further be unlawful and a violation of this Article for a person to knowingly use or display a facsimile or counterfeit parking permit in order to evade time limitations on parking applicable in a residential permit parking area.
- E. The violation of Subsection B, C, or D shall be an infraction punishable by a fine not to exceed ninety-nine dollars (\$99.).

which such person may have in his custody for sale or repair on any town common or public highway or sidewalk or between any street lines of the town for a longer period of time than three (3) hours in any one (1) day. This section, however, shall not be construed to include motor vehicles owned and regularly operated by any person referred to in this section. The term "regularly operated" shall be construed to mean operated at least once in every forty-eight (48) hours and for a distance exceeding one (1) mile.

#### § 203-14. Violations and penalties.

- A. Violations of §§ 203-12 and 203-13 shall be punishable by a fine not exceeding one hundred dollars (\$100.), and each motor vehicle parked in violation hereof shall be construed as a separate and distinct offense.
- B. Any person violating the provisions of § 203-9 shall be fined twenty-five dollars (\$25.). [Amended 3-13-1995]
- C. (Reserved)<sup>3</sup>
- D. Any person found to have three (3) or more violations of any of the parking restrictions imposed by Chapters 60 and 203 of the Stratford Town Code shall have their vehicle immobilized or impounded at their own risk and expense. [Added 8-8-1994]

<sup>3</sup> Editor's Note: Former Subsection C, which listed penalties for violation of § 203-11, was repealed 3-13-1995.

## ARTICLE II Parking Permits [Adopted 5-11-1987]

#### § 203-15. Permit required for parking at parks, beaches, recreational areas and municipal properties.

No vehicle shall be parked in any recreational or municipal area posted as a "permit-required area" without a current and valid Stratford motor vehicle windshield emblem affixed and readily visible on the lower portion of the left front windshield or a bumper sticker affixed and readily visible on the left side of the front bumper of said vehicle.

#### § 203-16. Permit term.

Motor vehicle parking permits shall be required from April 1 through March 31 of the following year in the areas so posted.

#### § 203-17. Issuance of permits.

- A. No person shall be issued a resident parking permit unless he/she shows a valid registration for said motor vehicle registered in the Town of Stratford or proof of residence and a valid Connecticut motor vehicle registration.
- B. Any nonresident taxpayer owning property in the Town of Stratford is entitled to one (1) parking permit upon presentation of a paid tax bill in his or her name from the Town of Stratford for the period preceding the application.
- C. Any association, corporation, firm, partnership or business which is a taxpayer of the Town of Stratford and which presents a paid tax bill or

duplicate of the same for the period immediately preceding the application is allowed one (1) permit per organization. Additional stickers shall be available for an additional fee set forth in § 203-19.

- D. Nonresident employees of the Town of Stratford, after presentation of a motor vehicle registration and proof of employment, may be issued one (1) parking permit.

#### § 203-18. Validity of stickers.

The Stratford motor vehicle parking emblem or sticker is nontransferable and only valid for a two-year period as indicated on the sticker.

#### § 203-19. Fees.

- A. The fees for all parking permits shall be determined by the Town Council.
- B. A nonresident yearly permit may be purchased by nontaxpayers or nonresidents for a fee to be determined by the Town Council.
- C. A daily motor vehicle parking permit will be issued to a resident without a yearly permit upon proof of residence or to a nonresident for a fee to be determined by the Town Council, by the attendant on duty.
- D. A nonresident, upon payment of a fee, may park a vehicle in an area posted as "restricted to residents only" as a guest of a resident.
- E. A lost Stratford motor vehicle parking emblem or sticker may be replaced at a fee to be determined by the Town Council.

#### § 203-20. Validity on other municipal property.

A resident Stratford motor vehicle windshield emblem or bumper sticker will be valid at any municipal property so designated as a "permit-required area" by the Town Council.

#### § 203-21. Misuse of permit.

Misuse of a Stratford motor vehicle parking permit may result in the confiscation of said permit, the ejection from the area and/or a fine, said fee to be determined by the Town Council.

#### § 203-22. Illegal parking.

No motor vehicle shall be parked in any area other than those so designated and posted as "parking areas." Owners of vehicles parked in violation of said regulations or after posted closing times shall be subject to such fines and tow-away charges as may, from time to time, be in force and effect in the town applicable to parking on public highways.

### ARTICLE III Railroad Station Parking [Adopted 8-8-1994]

#### § 203-23. Definitions.

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

**DAILY PARKING SPACES** — Those spaces in the railroad station parking lot marked as daily parking and reserved for use by vehicles which do not have permits.

**PARKING LOT** — Parking areas located on both the eastbound and the westbound sides of the Stratford

NO. 03-02 AN ORDINANCE REGULATING POSSESSION OF ALCOHOL  
BY PERSONS UNDER 21 YEARS OF AGE

*BE IT ORDAINED* by the Town Council of the Town of Berlin that the following Ordinance be accepted and adopted:

**Section 1 – Intent.**

The Town Council of the Town of Berlin finds that the unregulated possession of alcoholic liquor by persons under the age of twenty-one (21) is detrimental to the general welfare, health and safety of the citizens of Berlin, and especially its youth.

**Section 2 – Definitions.**

(a) Alcoholic liquor shall have the same meaning as the term is defined in the Connecticut General Statutes, §30-1(3), as it may be amended from time to time.

(b) Host shall mean to organize a gathering of two or more persons, or to allow the premises under one's control to be used with one's knowledge for a gathering of two or more persons, for personal, social or business interaction.

**Section 3 – Possession of Alcoholic Liquor Restricted.**

No person under the age of twenty-one (21) shall possess any container of alcoholic liquor, whether opened or unopened, within the Town of Berlin except when accompanied by or in the presence of his parent, guardian, or spouse who has attained the age of twenty-one (21) years. This restriction shall apply to both public and private property.

**Section 4 – Hosting an Event or Gathering Restricted.**

No person shall host an event or gathering at which alcoholic liquor is consumed by or dispensed to any person who has not attained the age of twenty-one (21) years unless such person who has not attained the age of twenty-one(21) years is accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of twenty-one (21) years. This prohibition shall apply to any event or gathering within the Town of Berlin, whether conducted on public or private property.

**Section 5 – Possession Otherwise Permitted by Law.**

Notwithstanding the above, nothing herein shall prohibit the serving or selling of alcoholic liquor by a minor if otherwise permitted by the Connecticut General Statutes.

**Section 6 – Enforcement.**

The Chief of Police or any member of the Berlin Police Department is charged with enforcing the provisions of this Ordinance.

**Section 7 – Violations and Penalties.**

(a) Any person violating Section 3 of this Ordinance shall be subject to a fine of one hundred (\$100.00) dollars for each such violation.

(b) Any person violating Section 4 of this Ordinance shall be subject to a fine of one hundred (\$100.00) dollars for the first such violation and shall be subject to a fine of five hundred (\$500.00) dollars for each such violation thereafter.

(c) All fines paid pursuant to this Ordinance shall be payable to the Treasurer of the Town of Berlin.

**Section 8 – Appeals Procedure.**

Any person fined pursuant to this Ordinance may appeal such fine to the Berlin Town Manager or his designee within thirty (30) days of the issuance of such fine, and then, if necessary, to the Superior Court.

**Section 9 – Construction.**

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include both genders.

Adopted by Town Council April 1, 2002

This Ordinance shall take effect upon its adoption.

**Sec. 10-9. Possession and transportation of alcoholic liquors by minors.**

(a) *Definitions.* "Alcoholic liquor" shall mean any spirit, wine, beer, ale or other liquor containing more than one-half of one per cent ( $\frac{1}{2}$  of 1%) by volume of alcohol which is fit for beverage consumption.

(b) *Prohibited acts.* No person who has not attained the age of twenty-one (21) years shall have in his or her possession or control within the Town of Cheshire any alcoholic liquors, whether such alcoholic liquor be opened or in a sealed container.

(c) *Penalty.* Any person violating the provisions of this section shall be subject to a fine not more than one hundred dollars (\$100.00) for each offense.  
(Ord. Enact. 6-10-86)

*Editor's note*—At the time of enactment, § 10-9 contained a subsection (d) setting out the effective date of these provisions. In order to conform to the Code's format, the editor, at his discretion, has not included said subsection (d).

**Sec. 10-10. Bazaars, raffles, and games of chance.**

(a) The provisions of Sections 7-170 to 7-186, inclusive, and Sections 186a through 186p, inclusive, of the Connecticut General Statutes, as amended, are hereby adopted.

(b) No bazaar, raffle or game of chance shall be permitted, operated or conducted in the town unless said bazaar, raffle or game of chance is promoted, operated or conducted in accordance with the provisions of Sections 7-170 through 7-186, inclusive, and Sections 7-186a through 7-186p, inclusive (respectively), of the Connecticut General Statutes.

(c) All applications to conduct any bazaar, raffle or game of chance within the town shall be filed with and processed through the police department.

(d) The chief of police shall maintain on file at the Cheshire Police Department, for distribution to the interested public, current copies of the administrative regulations of the Depart-

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TOWN OF CROMWELL

41 West Street \* Cromwell, CT 06416 \* (860)632-3410 \* Fax: (860) 634-5741

DATE: May 18, 1999  
Contact: Re Matus  
(860)632-3410, Fax: (860)635-5741

RECEIVED FOR FILING  
5/18/1999 at 10:55AM  
TOWN CLERK'S OFFICE  
CROMWELL, CONN.

*Gloria Prendergast, Clerk*  
TOWN CLERK

LEGAL NOTICE  
TOWN OF CROMWELL

PLEASE TAKE NOTICE that the Board of Selectmen of the Town of Cromwell on May 12, 1999 passed the following ordinances amending the Code of the Town of Cromwell:

1. BE IT ORDAINED, that Chapter 76, Section 76-2 of the Cromwell Code, is amended and the language "between the hours of 12:00 noon and 9 p.m. in accordance with Section 33 of an Act Amending the Liquor Control Act" be deleted such that Section 76-2 shall hereafter read as follows:

**76-2 Sale authorized; hours**

The sale of alcoholic liquor shall be allowed in the Town of Cromwell on Sundays in accordance with C.G.S. 30-91 Hours and Days of Closing.

2. BE IT ORDAINED, that Chapter 76, Section 76-5 of the Cromwell Code, is amended and the language "public" be deleted such that Section 76-5 shall hereafter read as follows:

**76-5 Exceptions**

A. Persons may possess alcoholic liquor with the intent to consume and may consume alcoholic liquor during any function, festival or celebration without violating this Article; provided, however, that the Chief of Police or his/her designee has first given written authorization to permit the service or distribution of alcoholic liquor at or in connection with such function, festival or celebration. Such authorization may permit the possession or consumption of alcoholic liquor on a continuing basis, provided that the Chief of Police or his designee is satisfied that such activity will be supervised by an agent or employee of the town.

A copy of the proposed ordinance is on file in the Town Clerk's Office.

Dated at Cromwell, Connecticut, this 18th Day of May, 1999.

*Anthony Varricchio*  
Anthony Varricchio, First Selectman  
For the Cromwell Board of Selectmen



RECEIVED FOR FILING  
3/2 2001 at 2:13 P.M.  
TOWN CLERK'S OFFICE  
CROMWELL, CONN.

*Gloria Prendergast, Asst.*  
TOWN CLERK

# Town of Cromwell

NATHANIEL WHITE BUILDING  
41 WEST STREET  
CROMWELL, CONNECTICUT 06418-0189

## LEGAL NOTICE

PLEASE TAKE NOTICE that the Board of Selectmen of the Town of Cromwell will hold a public hearing on March 14, 2001 at 6:50 p.m. in the Town Hall, Room 224/5 on an ordinance amending Chapter 76 of the Code of Cromwell, Connecticut, by regulating the possession of alcoholic beverages by minors on both public and private property.

Dated at Cromwell, Connecticut, this 2<sup>nd</sup> day of March, 2001

TOWN OF CROMWELL

*Stanley A. Terry Jr.*  
Stanley A. Terry Jr.  
First Selectman

Approved as to form:

JWB  
Town Attorney

Date: 1/22/01

Introduced: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

Board of Selectmen Action: \_\_\_\_\_

Published: \_\_\_\_\_

Effective: \_\_\_\_\_

BE IT ORDAINED, that Chapter 76, Article III of the Cromwell Code is amended and that the title of Article III shall hereafter read as follows:

Article III: Consumption in Public Areas and Motor Vehicles and Possession by Minors

And that Section 76-6 shall be changed to read:

**§ 76-6 A: Possession.**

No person under the age of 21 shall be in possession of containers of alcoholic liquors, whether open or closed, within the Town of Cromwell, except when accompanied by or in the presence of his or her parent, legal guardian or spouse, who has attained the age of 21 years.

**§ 76-6 B: Hosting Events.**

No person shall host an event which allows the consumption or dispensing alcoholic liquor to or by a minor or minors, except as provided in Section 76-6 A above. This prohibition shall apply to events on both public and private property.

**§ 76-6. Violations and Penalties, shall be renumbered as Section 76-7.**

**PURPOSE:** To regulate the possession of alcoholic beverages by minors on both public and private property.

**PREPARED BY:** John W. Bradley, Jr., Town Attorney

**PROPOSED BY:** Anthony J. Salvatore, Chief of Police

**DATE:**

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Chapter 31

**MISCELLANEOUS PERMITS,  
PENALTIES AND OFFENSES\***

**Sec. 31-1. Alcoholic beverages—Serving to, possession or consumption by minors; possession or consumption upon school property.**

(a) It shall be unlawful for any minor to possess or consume any alcoholic beverage upon or within the premises of any public park, beach, parking lot, municipal building, or other public property owned or leased by the town.

(b) It shall be unlawful for any person to serve, cause to be served, give or deliver upon within the premises described in subsection (a), any alcoholic beverage to any minor.

(c) For the purpose of this section, "minor" shall have the meaning from time to time established in the state statutes governing the sale of alcoholic beverages.

(d) It shall be unlawful for any person to possess or consume any alcoholic beverage upon or within the premises of any school or school grounds.

(e) Possession of alcoholic beverages within parks is further regulated under Chapter 33 of this Code.

(Ord. of 5-19-86)

State law references—"Minor" defined for purposes of Liquor Control Act, G.S. § 30-1(20); sales to minors, § 30-86, Gen. Stats.; inducing minors to procure, § 30-88, Gen. Stats.

**Sec. 31-2. Same—Some Sunday sales.**

Hotels, restaurants, cafes, clubs, taverns and other establishments listed in Connecticut General Statutes section 30-91(a) and (c) may sell alcoholic beverages on Sunday between 12:00 noon and 11:00 p.m., but not thereafter until 9:00 a.m. the following Monday, except when New Year's Eve shall fall on Sunday

\*Cross reference—Regulation of hawkers, peddlers, solicitors and canvassers, Ch. 36.

*Attention Tara*

ORDINANCE

ALCOHOL POSSESSION BY MINORS  
TOWN OF ELLINGTON

Sec. 1. Definitions.

"Alcoholic liquor" shall be defined in Section 30-1 of the Connecticut General Statutes.

Sec. 2. Possession.

No person under the age of 21 shall be in possession of containers of alcoholic liquors, whether open or closed, within the Town of Ellington except when accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of 21 years.

Sec. 3. Hosting Events.

No person shall host an event which allows the consumption or dispensing of alcoholic liquor to or by a minor or minors except as provided in Section 2 above. This prohibition shall apply to events on both public and private property.

Sec. 4. Penalties.

Any person violating any provision of this act shall be guilty of a violation as defined in Connecticut General Statute Section 7-148 and/or 53a-27.

This Ordinance shall be effective on  
12/12/, 2000.

Approved by Board of Selectmen on 9/18/2000 Public Hearing held 10/16/2000  
Approved by Town Meeting on 11/13/2000  
Advertised in Journal Inquirer on 11/21/2000  
Effective Date: 12/12/2000

§ 76-1

ALCOHOLIC BEVERAGES

§ 76-2

Chapter 76

ALCOHOLIC BEVERAGES

ARTICLE I

Possession by Underage Persons

§ 76-1. Purpose.

§ 76-2. Definitions.

§ 76-3. Possession restricted.

§ 76-4. Hosting events.

§ 76-5. Penalties for offenses.

[HISTORY: Adopted by the Town Council of the Town of Farmington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Possession by Underage Persons

[Adopted 2-12-2002]

§ 76-1. Purpose.

The purpose of this article is to address the issue that the unregulated possession of alcoholic liquor by persons under the age of twenty-one is detrimental to the general welfare, health and safety of the residents of the Town of Farmington, and especially its youth.

§ 76-2. Definitions.

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

8-25-2002

**ALCOHOLIC LIQUOR** — Shall have the same meaning as the same term is defined in Title 20, Section 90-1 of the Connecticut General Statutes.

**HOST** — To organize a gathering of two or more persons or to allow the premises under one's control to be used with one's knowledge for a gathering of two or more persons for personal, social or business interaction.

**MINOR** — The same meaning as the same term is defined in Title 30, Section 90-1 of the Connecticut General Statutes.

**§ 76-3. Possession restricted.**

No minor shall possess any container of alcoholic liquors, whether opened or unopened, within the Town of Farmington, except when accompanied by or in the presence of his or her parent, guardian or spouse who has attained the age of twenty-one. This restriction shall apply to both public and private property.

**§ 76-4. Hosting events. [Amended 6-25-2002]**

No person shall host an event or gathering at which the person knows or reasonably believes that alcoholic liquor will be consumed by or dispensed to any minor unless said minor is accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of 21. This restriction shall apply to any event or gathering within the Town of Farmington, whether conducted on public or private property.

**§ 76-5. Penalties for offenses. [Amended 6-25-2002]**

- A. Any person violating any provision of this article shall be subject to a fine of \$100.

§ 76-5

## ALCOHOLIC BEVERAGES

§ 76-5

B. Exceptions: The provisions of Sections 76-3 and 76-4 of this article shall not apply to the following:

- (1) A minor who possesses alcoholic liquor on the order of a practicing physician or any person who sells, ships, delivers or gives any alcoholic liquors to a minor on the order of a practicing physician.
- (2) A person over the age of eighteen who is an employee or permit holder under Section 30-90a of the Connecticut General Statutes and who possesses alcoholic liquor in the course of such person's employment or business or in the course of a sale, shipment or delivery of alcoholic liquor made to a person over age eighteen who is an employee or permit holder under Section 30-90a of the Connecticut General Statutes and where such sale, shipment or delivery is made in the course of such person's employment or business.

8-25-2002

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# GLASTONBURY

§ 13-20      OFFENSES AND MISCELLANEOUS PROVISIONS      § 13-30

## DIVISION 2. POSSESSION OF ALCOHOL\*

### Sec. 13-20. Definitions.

"Alcoholic liquor" shall be defined in Section 30-1 of the Connecticut General Statutes.  
(Ord. of 4-27-99)

### Sec. 13-21. Possession.

No person under the age of twenty-one (21) shall be in possession of containers of alcoholic liquors, whether open or closed, within the Town of Glastonbury except when accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of twenty-one (21) years.  
(Ord. of 4-27-99)

### Sec. 13-22. Hosting events.

No person shall host an event which allows the consumption or dispensing of alcoholic liquor to or by a minor or minors except as provided in section 13-21 above. This prohibition shall apply to events on both public and private property.  
(Ord. of 4-27-99)

### Sec. 13-23. Sale or delivery of alcoholic liquor.

Except as provided in section 13-21 above, no person shall sell or deliver alcoholic liquors to any person under the age of twenty-one (21) within the Town of Glastonbury.  
(Ord. of 7-11-00)

### Sec. 13-24. Penalties.

Any person violating any provision of this act shall be subject to a fine of one hundred dollars (\$100.00), pursuant to the provisions of section 1-10 of the Glastonbury Code of Ordinance.  
(Ord. of 4-27-99; Ord. of 7-11-00)

### Secs. 13-25—13-30. Reserved.

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\*Note—See the editor's note at Art. II.

Supp. No. 18

**Sec. 4-1. Sunday sales authorized.**

It is hereby permitted to sell alcohol on Sundays between the hours of 12:00 noon and 9:00 p.m. in hotels, restaurants and clubs, with meals, pursuant to the General Statutes. (Ord. of 11-4-35(1); Ord. of 11-4-35(2); Ord. of 6-28-39)

**Sec. 4-2. Consumption on public, quasi-public property.**

(a) It shall be unlawful for any person to consume any alcoholic beverage upon or within the following described premises within the town:

- (1) Land and buildings owned by the town;
- (2) Public highways and sidewalks;
- (3) Quasipublic property, as defined herein-after.

(b) The board of selectmen may upon application authorize the consumption of alcoholic beverages on town property under such conditions as the board shall deem appropriate for the protection of the public.

(c) The term "quasipublic property" shall mean any outdoor area adjacent to a place of business, which area is open to and customarily used by the public.

(d) The owner or other person in control of any quasipublic property may authorize the consumption of alcoholic beverages upon such property. (Ord. of 12-19-77; Ord. of 1-4-88(1))

**Sec. 4-3. Possession by minor.**

(a) Any minor who possesses any alcoholic liquor on any street or highway or in any public place or place open to the public, including any club which is open to the public, shall be in violation of this chapter. The provisions of this subsection shall not apply to:

- (1) A person over age of eighteen (18) who is an employer or permit holder under section 30-90a of the General Statutes and who possesses alcoholic liquor in the course of his employment or business;

- (2) A minor who possesses alcoholic liquor on the order of a practicing physician;
- (3) A minor who possesses alcoholic liquor while accompanied by a parent, guardian or spouse who has attained the age of twenty-one (21).

(b) The term "minor" as used in this section means any person who has not attained the age of twenty-one (21).

(Ord. of 1-4-88(1))

Cross reference—Definitions and rules of construction generally, § 1-2.

**Sec. 4-4. Penalty.**

Any person who violates any provision of this chapter shall be fined in accordance with section 1-11.

(Ord. of 12-19-77; Ord. of 1-4-88(1))

PROPOSED ORDINANCE #9901-2

**TITLE: AN ORDINANCE REGARDING ALCOHOL POSSESSION BY MINORS**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWINGTON THAT:

Chapter 9, "Offenses – Miscellaneous," of the Newington Code of Ordinances is hereby amended by adding the following:

**ARTICLE I: IN GENERAL**

**§9-8. ALCOHOL POSSESSION BY MINORS**

**(a) Definitions.**

"ALCOHOLIC LIQUOR" shall have the same meaning, as the same term is defined in Title 30, Section 30-1 of the Connecticut General Statutes as amended from time to time.

"HOST" shall mean to organize a gathering of two or more persons, or to allow the premises under one's control to be used with one's knowledge for a gathering of two (2) or more persons for personal, social or business interaction.

"MINOR" shall have the same meaning as the same term is defined in Title 30, Section 30-1 of the Connecticut General Statutes, which states a "Minor" means any person under twenty-one years of age.

**(b) Possession.**

No minor shall be in possession of alcoholic liquors, whether in opened or closed containers or otherwise, within the Town of Newington except when accompanied by or in the presence of his or her parent, guardian or spouse who has attained the age of twenty-one. This restriction shall apply to both public and private property.

**(c) Hosting Events.**

No person shall host an event or gathering at which alcoholic liquor is consumed by or dispensed to any minor unless said minor is accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of twenty-one (21). This restriction shall apply to any event or gathering within the Town of Newington, whether conducted on public or private property.

**(d) Penalty.**

Any person violating any provision of this act shall be subject to a fine not to exceed ninety dollars (\$90) for each offense as provided for in §1-8 of this Code of Ordinances.

ATTORNEY REVIEW Yes

INTRODUCTION DATE July 28, 2001

PUBLICATION DATE August 2, 2001

PUBLIC HEARING August 14, 2001

ADOPTION DATE

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Proposed amendment to Chapter 12 of the Code of the City of Norwalk to add Article IV to read as follows:

**Chapter 12**  
**ALCOHOLIC BEVERAGES**

**ARTICLE IV**  
**Possession of Alcohol by Persons Under 21 Years of Age**

**§ 12-13. Purpose.**

**§ 12-14. Definitions.**

**§ 12-15. Possession of Alcoholic Liquor Restricted.**

**§ 12-16. Hosting an Event or Gathering Restricted.**

**§ 12-17. Possession Otherwise Permitted by Law.**

**§ 12-18. Enforcement.**

**§ 12-19. Violations and Penalties.**

**§ 12-13. Purpose.**

The unregulated possession of alcoholic liquor by persons under the age of twenty-one (21) is detrimental to the general welfare, health and safety of all residents in the City of Norwalk, especially its youth.

Consumption of alcohol by minors unsupervised by parental authority creates a health and safety risk not only to our children but is also a public nuisance to the general public.

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The City of Norwalk seeks to protect, preserve or promote the health, safety, welfare and quality of life of its residents by regulating the possession of alcohol by those under the age of 21.

---

**§ 12-14. Definitions.**

- (A) "Alcoholic liquor" shall have the same meaning as the term is defined in the Connecticut General Statutes, §30-1(3), as it may be amended from time to time.
- (B) "Host" shall mean to organize a gathering of two or more persons, or to allow the premises under one's control to be used with one's knowledge for a gathering of two or more persons, for personal, social or business interaction.
- (C) "Minor" shall have the same meaning as the term is defined in the Connecticut General Statutes, §30-1, as it may be amended from time to time.

**§ 12-15. Possession of Alcoholic Liquor Restricted.**

No person under the age of twenty-one (21) shall possess any container of alcoholic liquor, whether opened or unopened, within the City of Norwalk except when accompanied by or in the presence of his parent, guardian, or spouse who has attained the age of twenty-one (21) years. This restriction shall apply to both public and private property.

**§ 12-16. Hosting an Event or Gathering Restricted.**

No person shall host an event or gathering at which alcoholic liquor is consumed by or dispensed to any person who has not attained the age of twenty-one (21) years unless such person who has not attained the age of twenty-one (21) years is accompanied by or is in the presence of his or her parent, guardian, or spouse who has attained the age of twenty-one (21) years. This prohibition shall apply to any event or gathering within the City of Norwalk, whether conducted on public or private property.

**§ 12-17. Possession Otherwise permitted by Law.**

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Notwithstanding the above, nothing herein shall prohibit the serving or selling of alcoholic liquor by a minor if otherwise permitted by the Connecticut General Statutes or Constitution.

---



## Area athletes strike gold at FCIAC girls track championships

► Page B1

### WIN CASH DAILY!

Play every day! Don't miss a single game!

## SCRAMBLER

**\$25 DAILY WINNERS!**  
**\$100 WEEKLY WINNERS!**  
**\$500 GRAND PRIZE!**

March 17-June 8



# The Mirror

The Independent Voice of Our Community for 132 Years



Sports

Norwalk softball team advances to FCIAC semis will win over Staples — Page B1

Vol. 132 No. 148 ■ Wednesday, May 28, 2003

## NORWALK

# Council approves alcohol ordinance with goal of saving lives

◆ **NORWALK** — The council also modified the city's lease on the South Norwalk Library.

By **ROBERT KOCH**  
*Hour Staff Writer*

Under a new ordinance, adults who host gatherings where alcohol ends up in young

people's hands will be fined \$99 per offense.

On Tuesday night, Norwalk's Common Council unanimously passed an ordinance which it says will save lives and close a loophole in state law.

The new alcohol-possession law doesn't affect people under 21 years old if they're accompanied by a parent, guardian or spouse who has reached that

age. Exempted from that oversight are young people observing religious practices, such as communion.

The most moving support for the new law came from 20-year-old Diana Paladino. The Fairfield University junior acknowledged having tried alcohol herself, but also saw a need for tougher laws.

"I hear this a lot, 'My mom's

so cool — she bought the beer,'" Paladino said. "Adults will think twice if this ordinance is passed ... Something needs to be done. I'm on the road, and (underage drinkers) are on the road, and something needs to be done."

Council members pushed the ordinance forward to discourage underage drinking

► See **COUNCIL**, Page A6

## Council won't redistrict

By **ROBERT KOCH**  
*Hour Staff Writer*

**NORWALK** — The Common Council made clear Tuesday night that it won't redraw Norwalk's five Com-

mon Council districts. Rather, the council readopted the districts established in 1972 on the premise that they are still valid.

The decision comes days  
► See **DISTRICTS**, Page A6

# Council approves ordinance on alcohol possession

► Continued from Page A1

and avert tragedies as thousands of young people prepare to celebrate their upcoming graduations. They also cited tragedies in neighboring Westchester County, N.Y., where at least one young person died after drinking.

On Tuesday, Common Council President Matthew T. Miklave added language that wouldn't prohibit people younger than 21 from consuming alcohol during religious practices — with or without a parent or guardian nearby.

Mayor Alex A. Knopp called the law's passage a personal priority after having seen firsthand young people crippled by alcohol-related accidents.

While hospitalized a decade ago, Knopp said he saw young people with brain and spinal injuries that resulted from drinking and driving.

"If there's anything we can do to save one life ... then I think we ought to take it," Knopp said.

In other business, the Common Council authorized modifying its quarter-century lease with the South Norwalk Library in preparation for the building's \$3.3 million renovation. The modification came after tedious negotiations with the Second Taxing District.

Fueling the renovation is a \$500,000 state grant. The city and the district will each pay \$1.4 million to complete the

project.

The council rejected a move by Council Member William D. Krummel to rework the agreement. Krummel reiterated concerns raised by David Davidson, a Norwalk Board of Estimate and Taxation member, who fears taxpayers citywide will foot the operating costs of the renovated library.

But most Council members praised the agreement as a boon to library users in South Norwalk and beyond.

The Common Council also approved a \$275,015 contract with Middletown-based PinnacleOne to manage construction of the city's new \$21 million police station at South Main and Monroe streets in South

Norwalk.

PinnacleOne, chosen from 11 competing firms, will make sure the work proceeds on time and doesn't run over cost. Valus & Carpenter of Westport is the project's architect; A.P. Construction is handling the subcontracting.

Norwalk Police Chief Harry Rilling said before the council meeting that the construction is expected to begin in July and last 14 to 18 months.

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# OLR RESEARCH REPORT

January 31, 2003

2003-R-0163

## TOWN ORDINANCES CONCERNING POSSESSION OF ALCOHOL BY MINORS ON PRIVATE PROPERTY

By: Daniel Duffy, Principal Analyst  
John Rappa, Principal Analyst

You asked what authority does a municipality have to adopt ordinances making it illegal for a minor (someone under 21) to possess alcohol on private property.

The Office of Legislative Research is not authorized to render legal opinions and the report should not be considered as one.

### SUMMARY

The Liquor Control Act does not authorize towns to adopt such ordinances nor does it explicitly prohibit them from doing so. Towns might look for authority to do so under the municipal powers statutes, which give them broad authority to address nuisances and takes steps to protect public health and safety. Since a court has not decided the question, we cannot provide a definitive answer.

### LIQUOR CONTROL ACT

The Liquor Control Act regulates the sale of liquor in Connecticut. It also has several provisions concerned with preventing minors from drinking. Among them, the law prohibits (1) inducing a minor to procure liquor (CGS § 30-87), (2) misusing a driver's license to obtain liquor (CGS § 30-88a), (3) a minor from procuring liquor (CGS § 30-89), (4) minor from having liquor in a public place (CGS § 30-89), and (5) liquor

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Lawrence K. Furbish, Director  
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FAX (860) 240-8881  
<http://www.cga.state.ct.us/olr>

Connecticut General Assembly  
Office of Legislative Research

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permittee from allowing a minor to loiter in an establishment with a liquor permit (CGS § 30-90). The act does not contain any provision authorizing towns to adopt ordinances prohibiting minors from possessing alcohol on private property, nor does it explicitly prohibit towns from doing so. Opponents of such an ordinance could argue that the law implicitly prohibits them from doing so. But since no court has decided the question, we cannot provide you with a definitive answer.

## **MUNICIPAL POWERS**

About a dozen towns have adopted ordinances prohibiting adults from hosting a party in which minors are served alcohol and their parent, guardian, or spouse over age 21 is not present. We surveyed two of them (Farmington and Glastonbury) and a third that is considering such a ban (Essex). They could not cite any statute that explicitly authorizes them to do this.

There may be implied authority in the statutes giving towns powers to address nuisances and protect public health. The Connecticut Supreme Court has ruled that a municipality's powers are those that are (1) expressly granted or (2) by implication, necessary to exercise those powers (*Hennessy v. City of Bridgeport*, (1990) 231 Conn. 656). Further, it has ruled that an ordinance is not in conflict with state statute if it only enlarges on it (*Aaron v. Conservation Commission*, (1981) 183 Conn. 532). Finally, it has ruled that an ordinance that is not in conflict with a statute is not preempted by it (*Modern Cigarette, Inc. v. Orange* (2001) 256 Conn. 105).

Towns can define, prohibit, and abate all nuisances and their causes and all things that are detrimental to health, morals, safety, convenience, and welfare of their residents. In doing so, they can charge the expense of abating a nuisance to the owner of the property where it exists (CGS § 7-148(c) (7) (E)).

Besides addressing nuisances, towns can take steps to protect public health and safety. They specifically can:

- Regulate or prohibit business activities that could harm the public health, that foster fraud and cheating, or that endanger or annoy nearby residents or property owners (CGS § 7-148(H) (ii)) and
- Provide for residents' health and do all things necessary to or desirable to secure and promote the public health (CGS § 7-148 (H) (xi)).

Chapter 47

ALCOHOLIC BEVERAGES

ARTICLE I

Consumption and Possession by Minors

§ 47-1. Definitions.

§ 47-2. Restrictions.

§ 47-3. Violations and penalties.

ARTICLE II

Consumption and Possession Prohibited on Public Ways

§ 47-4. Prohibited acts.

§ 47-5. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Stratford: Art. I, 2-11-1985; Art. II, 7-10-1989. Amendments noted where applicable.]

ARTICLE I

Consumption and Possession by Minors [Adopted 2-11-85]

§ 47-1. Definitions.

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

ALCOHOL — The product of distillation of any fermented liquid, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol which is considered nonpotable.

ALCOHOL LIQUOR — Includes the four (4) varieties of liquor (alcohol,

beer, spirits and wine) and every liquid or solid, patented or not, containing alcohol beverage spirits. Any liquid or solid containing more than one (1) of the four (4) varieties so defined is considered as belonging to that variety which has the higher percentage of alcohol, according to the following order: alcohol, spirits, wine and beer. This shall not apply to any liquid or solid containing less than one-half of one percent (1/2 of 1%) of alcohol by volume.

BEER — Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinking water.

CONSUME — To eat or to drink.

MINOR. — Any person under the age of twenty (20).

SPIRITS — Any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including brandy, rum, whiskey and gin.

WINE — Any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar, including fortified "wines," such as port, sherry and champagne.

§ 47-2. Restrictions.

No minor shall possess or consume any alcohol or alcoholic beverage in the Town of Stratford unless in the presence and with the permission of the minor's parent or guardian or upon the order of a practicing physician.

**§ 47-3. Violations and penalties.**

Fine for violation of this Article shall not exceed one hundred dollars (\$100.).

**ARTICLE II**  
**Consumption and Possession Prohibited**  
**on Public Ways**  
**[Adopted 7-10-1989]**

**§ 47-4. Prohibited acts.**

- A. The drinking of any alcoholic liquor, as defined under § 47-1 of this chapter, or the possession of any open container which contains alcoholic liquor by a person who is deemed to be disorderly is prohibited on any street, roadway, boulevard, alley, parking lot or sidewalk within the Town of Stratford.
- B. Any person who is engaged in loud or boisterous conduct which is an annoyance to others or conduct which unreasonably interferes with the peace and enjoyment of others is deemed to be disorderly for the purpose of this section.

**§ 47-5. Violations and penalties.**

Any person who is deemed to be disorderly and in violation of this provision shall be subject to a noncustodial penalty consisting of a fine of one hundred dollars (\$100.) for each violation.

CODE OF THE TOWN OF ORANGE, CONNECTICUT, v6 Updated 12-5-2002  
PART II GENERAL LEGISLATION  
Chapter 172, ALCOHOLIC BEVERAGES  
ARTICLE III, Possession by Minors [Adopted by the Board of Selectmen 10-9-2002]

§ 172-3. Findings.

A. The possession and consumption of alcoholic liquor by minors is a matter of a growing local, regional and national concern.

B. Consumption of alcohol by minors unsupervised by parental authority creates a health and safety risk not only to our children but also to the general public.

C. The Town of Orange seeks to protect, preserve or promote the health, safety, welfare and quality of life of its residents by regulating the possession of alcohol by those under the age of 21.

§ 172-4. Definitions.

As used in this article, the following terms shall have the meaning indicated:

ALCOHOLIC LIQUOR -- Shall have the same meaning as the same term is defined in Title 30, Section 30-1, of the Connecticut General Statutes, as amended from time to time.

HOST -- To organize a gathering of two or more persons, or to allow the premises under one's control to be used with one's knowledge, for a gathering of two or more persons for personal, social or business interaction.

MINOR -- Shall have the same meaning as said term is defined in Title 30, Section 30-1, of the Connecticut General Statutes, as amended from time to time.

PERSON -- Any individual, firm, partnership, association, syndicate, company, trust, corporation, limited-liability company, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

§ 172-5. Possession restricted.

No minor shall be in possession of alcoholic liquors, whether in opened or closed containers or otherwise, within the Town of Orange except: when accompanied by or in the presence of his or her parent, guardian or spouse who has attained the age of 21; a person over age 18 who is an employee of a permit holder under Section 30-90a of the Connecticut General Statutes, or a permit holder under the Liquor Control Act and who possesses alcoholic liquor in the course of his employment or business; or a minor who

possesses alcoholic liquor on the order of a practicing physician. This restriction shall apply to both public and private property.

§ 172-6. Sale or delivery of alcoholic liquor.

No person shall sell alcoholic liquor to a minor or deliver alcoholic liquor to a minor except: sale, shipment or delivery made to a person over age 18 who is an employee of a permit holder under Section 30-90a of the Connecticut General Statutes, or a permit holder under the Liquor Control Act of the State of Connecticut where such sale or delivery is made in the course of such person's employment or business; a sale or delivery made in good faith to a minor who practices any deceit in the procurement of an identity card, or exhibits an identity card belonging to any other person, or who uses or exhibits an identity card that has been altered or tampered with in any way; or delivery made to a minor by a parent, guardian or spouse of the minor who is 21 years of age, and provided such minor possesses such alcoholic liquor while accompanied by such parent, guardian or spouse.

§ 172-7. Hosting events.

No person shall host an event or gathering at which the host knowingly allows alcoholic liquor to be consumed by or dispensed to any minor unless said minor is accompanied by or in the presence of his or her parent, guardian, or spouse who has attained the age of 21. This restriction shall apply to any event or gathering within the Town of Orange, whether conducted on public or private property.

§ 172-8. Penalties for offenses.

Any person who violates any provision of this article shall be subject to arrest and prosecution by the proper authorities and shall be subject to a fine not to exceed \$100 for each offense. Each violation of this article shall constitute a separate offense.

§ 172-9. Effective date.

This ordinance shall become effective on the 21st day after its publication in accordance with Section 3.4 of the Town Charter.

Towns could argue that these specific grants of authority given them implied authority to adopt the ordinance in question. We cannot give a definitive answer because no court has decided the question.

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September 2001  
(Revised June 2003)

## NOISE REGULATIONS

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#### A. GENERAL INFORMATION

1. "Activist Questions Viability of Noise Abatement Flight Tracks," Jack Saporito, *Noise Regulation Report*, February 2003.
2. "Enforcement of Noise Regulations," Kevin McCarthy, *Office of Legislative Research Report No. 2001-R-0476*, May 2001.
3. "Noise Busters," Richard and Joyce Wolkomir, *Smithsonian*, March 2001.
4. "Battle of the Boombox," Sue Schultz, *Governing*, October 1999.
5. "Model Noise Ordinance," prepared by the New Jersey Department of Environmental Protection.
6. "Guidelines for an Urban Noise Ordinance," Federico Miyara, Acoustics and Electroacoustics Laboratory, Argentina National University, October 1997.

#### B. STATE LAW

1. *Connecticut General Statutes* Chapter 442, "Noise Pollution Control." Note that § 22a-73, "Municipal Noise Regulation Programs; Ordinances Subject to Commissioner's Approval," states, in subsection (c), that

No ordinance shall be effective until such ordinance has been approved by the commissioner. No ordinance shall be approved unless it is in conformity with any state noise control plan, including ambient noise standards, adopted pursuant to section 22a-69 or any standards or regulations adopted by the administrator of the United States Environmental Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-574) or any amendment thereto. Notwithstanding the provisions of this subsection, any municipality may adopt more stringent noise standards than those adopted by the commissioner, provided such standards are approved by the commissioner.

Joe Foutz of DEP's Air Pollution Control Division is currently responsible for reviewing noise ordinances. He can be contacted at 860/424-3088.

2. Department of Environmental Protection Agency Regulations, "Control of Noise."

**B. CONNECTICUT ORDINANCES APPROVED BY DEP**

1. Greenwich Code §§ 6B-1 through 6B-10, "Noise" (with amendments of March 28, 1994 attached).
2. Manchester Code §§ 12-33 through 12-40, "Noise."
3. Newington Code §§ 6-30 through 6-38, "Noise."
4. Old Saybrook Ordinance No. 56, "The Town of Old Saybrook Noise Control Ordinance."
5. Stamford Code §§ 164-1 through 164-13, "Noise."
6. West Hartford Code §§ 123-1 to 123-28, "Noise."
7. Windsor Code §§ 9-30 through 9-39, "Noise Control."

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*This Information Kit is provided as a service to CCM members only.*



*Noise Regulation Report*, Feb 2003 v30 i2 p14(1)

**Activist questions viability of noise abatement flight tracks. (Aviation).** (Jack Saporito of Alliance of Residents Concerning O'Hare)

**Full Text:** COPYRIGHT 2003 Business Publishers, Inc.

Noise abatement flight tracks and redirection schemes, such as ocean routing, are not viable long-term solutions, according to Jack Saporito, executive director of the Alliance of Residents Concerning O'Hare and former president of US-Citizens Aviation Watch.

"Redirection schemes sound reasonable at first: send the noise to an area where it affects the least amount of people, but this does nothing to mitigate the other more serious public health problems caused by the hazardous and toxic emissions," Saporito told NRR. "For many communities, redirection schemes have led to environmental justice issues and legal challenges."

Such noise abatement schemes concentrate noise and pollution over the same people in the same communities, lower safety, use extra fuel, and add time, said Saporito. "The major problem is that everyone thinks that their situation is unique. That thinking isolates them and harms all of us because they tend not to want to be part of a large national movement that could actually accomplish something. Instead of looking for temporary solutions, activist groups must look at the long-term."

'The Real Issue'

Saporito views the issue in the context of the aviation industry's expected growth. As infrastructure expands to meet projected demand, he expects flight tracks will change to accommodate a greater number of flights, regardless of previous noise abatement agreements. "The main purpose [of flight management systems] is to increase the number of flights and reduce fuel costs."

Increasing capacity at certain major airports will force smaller ones in the system to expand, according to Saporito. As more general aviation facilities begin to accommodate regional jet operations, he expects impacts to increase significantly. "The real issue is that expanding airports and aviation eliminates the need for better alternatives, such as high-speed rail."

Contact: Jack Saporito, (847) 506-0670.

Standard Acronyms in Noise Regulation Report

dB--decibel  
 dB(A)--A-weighted decibel  
 DNL--averaged day-night noise level, in decibels  
 DOT--Department of Transportation  
 EIS--Environmental Impact Statement  
 EPA--Environmental Protection Agency  
 EPNdB--Effective Perceived Noise, in decibels  
 FAA--Federal Aviation Administration  
 ICAO--International Civil Aviation Organization

INM--Integrated Noise Model  
LAeq,T--average energy equivalent level over time, A-weighted,  
in decibels  
LAmix--maximum A-weighted level, in decibels  
NASA--National Aeronautics and Space Administration  
SEL--Single Event noise Level, in decibels

Article A97999855



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# OLR RESEARCH REPORT

May 14, 2001

2001-R-0476

## ENFORCEMENT OF NOISE REGULATIONS

By: Kevin E. McCarthy, Principal Analyst

You asked for a description of the Department of Environmental Protection's (DEP) noise regulations and who enforces them. You asked whether local police can enforce these regulations or whether the municipality would have to adopt a parallel ordinance to permit local enforcement.

### NOISE REGULATIONS

The law allows DEP to implement a comprehensive noise control program, including regulations covering stationary noise sources (CGS § 22a-69). The regulations (Conn. Agencies Regs. § 22a-69-1 *et seq.*, enclosed) set maximum allowable continuous noise levels that vary by land use classes. In class A areas, which include residential uses, and class B areas, which include most non-manufacturing businesses, the maximum allowable noise level at the edge of the property is 45 decibels at night (10 p.m. to 7 a.m.) and 55 decibels during the day. In class C areas, which include manufacturing, warehousing, and certain other businesses, the maximum levels are 51 and 61 decibels during the night and day, respectively. The regulations also govern impulse noises (high intensity noises that usually last one second or less). The limit for this type of noise is 80 decibels in class A areas and 100 decibels elsewhere.

The regulations provide for a wide variety of exceptions and exclusions from these limits, including vehicle noise, construction noise, and noise created by state- or locally-sanctioned sporting or recreational activity. OLR memo [97-R-0882](#) provides additional information on the regulations.

Although CGS § 22a-75 allows DEP to impose civil penalties for violations of the regulations, currently there is no means of enforcing the regulations. According to DEP's legislative liaison Tom Tyler, local officials cannot enforce them and DEP has no staff to do so. (Budget cuts in 1991 eliminated DEP's noise control unit.) A municipality can adopt its own noise control ordinance, subject to DEP approval, under CGS § 22a-75. DEP staff will help municipalities develop such ordinances, which can be enforced by local police. DEP will also lend out noise measuring devices to municipalities, according to Tyler.

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*Smithsonian*, March 2001 p88

**NOISE Busters.** (noise control efforts and research by Noise Pollution Clearinghouse) *RICHARD WOLKOMIR; JOYCE WOLKOMIR.*

**Full Text:** COPYRIGHT 2001 Smithsonian Institution

## TO DISSECT THE DIN THAT DAILY ASSAULTS OUR EARS, RESEARCHERS FROM THE NOISE POLLUTION CLEARINGHOUSE ARE TAKING TO THE STREETS

"Secret laboratory of dr. decibel," reads the hand-lettered sign taped to Les Blomberg's office door at the Noise Pollution Clearinghouse, in Montpelier, Vermont. It was inspired by a Boston friend's telephone call, suggesting the organization create its own comic book superhero. College and high school interns put up the sign. Blomberg, the nonprofit organization's director, was inside his office at the time, oblivious to the tittering outside because he was fine-tuning sound levels on a CD recording he had made--ultra-large dump trucks, construction-site air compressors, jackhammers, that sort of thing. Blomberg's CDs go to noise-beset citizens so they can show officials their precise daily dose of acoustical irritant.

Combating noise is not the usual cartoon-hero derring-do. But in our society noise often is a protected monster. Regulations may be weak. Or noisemakers argue quieting down would be too costly. Sufferers desperately searching the Internet stumble upon the clearinghouse's site, [www.nonoise.org](http://www.nonoise.org). They call or write or e-mail--"I am writing to you at 2:30 a.m. because I was awakened by leaf blowers and I am so angry..." "I am dealing with a large lumber company which installed a new drying kiln a few months ago, and operates it 24 hours a day, 7 days a week. I live in a very rural area..." "Recently the level of airplane traffic over our home has increased to an intolerable level. I have become depressed..." "Now, the interstate has a constant roar that comes toward the school. We can't teach outside. The children seem to have trouble with attention. They also seem to be agitated all the time..." "Over the past four months our home has been assaulted by the throbbing bass of our downstairs neighbor's stereo. Asking, pleading, and mediation have not worked..."

The clearinghouse responds with data and noise-fighting information, such as how to approach officials, or how to organize a neighborhood. To the beleaguered, it seems as if a buff dude in blue tights flew in, red cape billowing. A typical reaction: "Just to know that someone has taken the time to do research such as this allows me to feel not so alone." So think of Les Blomberg as the brainy, physics-savvy, but vincible, protector of the noise oppressed. Think of him as that limited-budget battler of rogue sound waves, Dr. Decibel!

Right now our superhero is standing at the corner of Lexington Avenue and 42nd Street, in Manhattan, aiming what looks like a TV remote control toward the Chrysler Building, more or less. It is smoggy and humid this afternoon, and wilted New Yorkers hurry by oblivious to Blomberg, although the sound meter he holds looks like, maybe, a detonator--hey, this is New York. And Blomberg, who is 39, his remaining dark-brown hair pulled back in a ponytail, wearing a pine-green shirt, khaki trousers and hiking boots, looks unthreatening. In fact, his trimmed beard and mustache frame an engaging grin that expresses the good-natured exuberance normally associated with, say, a Labrador retriever. He adjusts a knob as a corrections department bus with prisoners inside whooshes by, then peers appraisingly at a dial.

"OK, that was 78 decibels," he announces. Noise, most people find, becomes really annoying, he says, at about 55 to 65 decibels. Every 10-decibel increase represents a doubling of the loudness. So this Manhattan corner's loudness is four times the annoying level, a real pain in the tympanum.

Blomberg is counting decibels today in the city that is arguably our national noise-pollution capital. This corner's 78 decibels, for instance, makes it louder than most alarm clocks. But now a moving van's driver hits the brakes. Blomberg checks his meter: "That's over 90 decibels." It is like putting your ear next to an exceptionally loud vacuum cleaner. To be heard above the corner's engine whine and hissing air brakes and bicycle-tire hum and siren whoops, Blomberg finds he is compelled to raise his voice.

"We advise people every day, but usually from afar, so it's incredibly valuable to visit these people and experience their problems," he yells, somehow maintaining his benevolent grin. "Let's get on the subway downtown--I have to check on a new kind of noise pop<sub>123</sub> that we are calling Internet Buzz."

downtown--I have to check on a new kind of noise pollution that we are calling Internet Buzz."

As the 7th Avenue Express rattles southward through its tunnel, Blomberg, hanging onto a metal strap, switches on his sound meter with his free hand. "It's 80 decibels, just riding along in here," he says. A passing train registers 85 decibels: sustained exposure at that level, he says, can induce hearing loss.

Blomberg can cite lots of unsettling noise data. According to the U.S. census, for instance, Americans' number one neighborhood complaint--above crime, traffic and poor public services--is noise. Every day more than 138 million Americans experience noise levels the U.S. Environmental Protection Agency (EPA) rates as annoying and disruptive. Among city dwelling Americans, 87 percent are exposed to noise so loud it has the potential to degrade hearing capacity over time. But you will not necessarily find peace in the suburbs or countryside either, not with the onslaught of leaf blowers, snow blowers, lawn mowers, chain saws, snowmobiles, powerboats and all-terrain vehicles. Because of airplane and helicopter overflights, the natural quiet is now preserved in only 7 percent of Arizona's Grand Canyon National Park and nowhere in Hawaii's Volcanoes National Park.

Meanwhile, researchers have demonstrated that noise can raise your blood pressure and change your blood chemistry. For instance, adrenaline levels can rise, indicating the imposition of stress. Noise is also the leading cause of hearing loss: in the United States, exposure to excessive noise has made some 10 million of us at least a little deaf. "Noise is unwanted sound," Blomberg points out. "And 'noise' comes from the Latin word for 'nausea.'"

Most sources of annoying noise are increasing. Blomberg cites recent U.S. Department of Transportation statistics. For instance, according to certain calculations, in 1997 personal automobile traffic was 360 percent of 1960 levels, and large truck traffic was 430 percent. Airliner travel in 1998 was 600 percent of 1960 levels, and air cargo was up a whopping 2,460 percent. Meanwhile, Blomberg says, we have new noise sources: "In 1960 there were no boom boxes, no boom cars, no leaf blowers, no jet skis, no car alarms and hardly any snowmobiles."

Vanished noise sources? "I can only think of the doorman's whistle," says Blomberg. America's revulsion with its own increasing racket, he says, led to his organization's founding in 1996, funded by such contributors as the Rockefeller Family Fund.

Blomberg exits the subway in lower Manhattan in his guise as Dr. Decibel, armed with a high-tech sound meter. "But I have to be Miss Manners too," he maintains. That is because he sees two underlying noise-pollution issues: "Sovereignty--who owns the air? And civility--how do we treat our neighbors?"

Internet Buzz straddles both issues. Blomberg strides along Hudson Street to a salmon-colored building. Last night he camped in an apartment facing this building to measure how much of its noise assaults neighbors. He also plotted strategy with neighborhood residents and their attorney, because this building emits a constant buzz.

"See, on the first and fourth floors, every window has been replaced by vents, all making noise," Blomberg says, aiming his sound meter. Inside the building, telecommunications multinationals and dot.coms have installed computers that control their operations. Each computer room requires a big cooling unit, which is blowing its exhaust--and its buzz--out the window. "It's 70 decibels here on the sidewalk, and that's how loud it is outside the apartments across the street, all day, all night," observes Blomberg. A normal home reading is about 25 decibels.

City ordinances are unclear. Do proscribed noise levels apply to individual cooling units? Or do they apply to the building's collective noise? Also, the banned decibel levels vary according to the sound's frequency. "People say, give me one number and tell me if it's a violation or not, but regulations often have variable numbers and different scales, and the complexity hinders enforcement," Blomberg notes. "Yet, if you had just one decibel level, you might have a buzz below that number, legal, but still unbearable."

Blomberg and his \$10,000 noise meters are helping Hudson Street dwellers decide whom to file complaints against: Firms leasing space inside the building? Or the building's owners?

Next stop: the 7th Avenue and 14th Street apartment of author Tom Bernardin (The Ellis Island Immigrant Cookbook), founder of Friends Against Noisy New York (FANNY). Yesterday Blomberg affixed sound meters to the facade of Bernardin's building to record 24 hours of New York noise. Now he peers at the digital readouts as Bernardin looks on. "The background here is 73.3 d<sub>B</sub>,<sup>124</sup>" Blomberg says. That is about the level of a

as Bernardin looks on. "The background here is 73.3 decibels," Blomberg says. That is about the level of a ringing telephone. Blomberg's meter has stored 24 hours of data in its built-in computer, both background noise and loud spikes. "Here's a spike of 104 decibels at 2:30 a.m., probably a siren or car alarm," Blomberg points out. "Here's one off my screen, louder than 110 decibels!"

Bernardin, who buys earplugs by the boxful, will present Blomberg's data to city officials. He wants to convince them to begin noise-cutting steps. For instance, the city could specify quieter buses. Blomberg notes that in Europe, trucks and buses can be only half as loud as vehicles conforming to U.S. regulations. Next on the agenda, he adds, should be noise limits for air conditioners. "If the background din dropped, police cruisers and fire trucks and ambulances wouldn't need such loud sirens," he says.

Bernardin, a former teacher who was a National Park Service guide at Ellis Island, where he relished the silence, gazes sadly out his windows at the Greenwich Village traffic roaring by. "This apartment has wraparound sound," he laments. In a guidebook, he finds a reference to an early 1900s socialite who founded the Society for the Suppression of Unnecessary Noise. "That was almost a century ago," he muses. "And the unnecessary noise is still unsuppressed."

Walking to a meeting, Blomberg and Bernardin spot a blue-suited executive clapping his hands over his ears. "Even in a wealthy neighborhood, we're creating acoustical slums," Blomberg says. Bernardin points out drivers operating remote car-door openers, making their cars toot. But here is a hitherto undiscovered noise source: a trailer truck offering curbside document shredding, accomplished via a churning and a thumping. "That's over 90 decibels," Blomberg announces. "It's louder than a..." But the churning drowns him out.

They arrive at the restaurant designated for the meeting Blomberg calls a New York Anti-Noise Summit. Economist Charles Komanoff, who coauthored a Noise Pollution Clearinghouse study on jet ski noise, reports he recently asked an audience: Noise pollution, or air pollution, from cars--if you could get rid of only one, which would it be? "A majority said noise," he says. "In my analyses, the costs from automobile air pollution are higher, but people are more bothered by noise from cars."

Also at the meeting is noise-consultant Arline Bronzaft, professor emerita of psychology at City University of New York and an adviser to the city's League of the Hard of Hearing. She authored a groundbreaking study on noise's impact on children's learning.

Bronzaft, appointed by the mayor's office to a committee on transit complaints, decided to test a public school next to the elevated train tracks at 212th Street and Broadway. "A train went by for 30 seconds every 4.5 minutes; the noise level in classrooms on that side of the building reached 89 decibels," Bronzaft recalls. By the sixth grade, students in these noisy classrooms, demographically identical to students on the school's opposite--quiet--side, lagged a year in reading ability. Bronzaft's report prompted the installation of noise-hushing rubber pads on tracks by the school and acoustical ceilings inside. Result: noise inside the affected classrooms was reduced by 6 to 8 decibels. "When we did the study again, to my great surprise and happiness, the children were all reading at the same level," reports Bronzaft. (Today noise levels at P.S. 98 again present problems: the trains, older by more than 20 years, have grown creakier, and noisier, over time.)

Two hot issues are on this meeting's agenda--Internet Buzz and proposed new federal airport noise policy. The discussion becomes--is it fair to say?--noisy.

A few hours later, en route to Grand Central Station and his train home, Les Blomberg stops for a soda. In mid-quaff, he says: "Make noise unto others as you would have others make noise unto you!"

Even if the Noise Pollution Clearinghouse's three full-time staff members, and five part-time workers, and assorted interns, and all the noise-troubled people who call for help, actually wanted to move to a deserted area, they would be out of luck. Specialists who trek to remote sites to record birdcalls and other natural sounds report that not even the North Pole or Antarctica or the Amazon is now free of unnatural noise, such as the roar of airliners or the buzz of chain saws.

Les Blomberg, born in 1961, grew up in the suburbs of St. Paul, Minnesota, where his parents owned grocery stores. In high school, he recalls, he took "boom box speakers outside to entertain myself. I wasn't overly polite," he confesses. "I was a teenage boy, which shows there is hope, that people can learn."

He completed a degree in mathematics at the University of Minnesota and went on, graduating in 1993 from the University of Colorado with a master's degree in environmental ethics. In 1994 he and his partner, Brenda Hausauer, took on a joint assignment for the State of Vermont, writing a state energy plan. They were living in a downtown apartment in Vermont's tiny capital when Blomberg became a noise activist.

On many a morning at 4:00, down Blomberg's narrow lane, the town's solitary street sweeper roared. Blomberg campaigned to convince officials that a city of 8,000 did not need wee-hours downtown mechanized street sweeping. Marshaling volunteers, he proved brooms outperformed the machine. Finally--the clincher--he offered to record the downtown sweeper's noise and, at the appropriate hour, precisely reproduce it outside the officials' suburban homes.

News of Blomberg's work reached Harriet Barlow, director of the Blue Mountain Center, an artists' retreat in New York's Adirondack Mountains. She disliked noise. With a \$50,000 grant, she started the Noise Pollution Clearinghouse. And she decided that Blomberg, trained in mathematics, physics and environmental philosophy, was just the fellow to head the new organization.

Dawn on Nantucket Island. Les Blomberg stands on a lawn, aiming his sound meter toward the Atlantic. He stands among gray saltbox cottages, some dating to the 1600s, buried in blue hydrangeas and yellow sunflowers, pink roses growing over their roofs. Nantucket is 16 miles long and about 6 miles wide, bigger than Manhattan. But its population is only 9,000, expanding to 60,000 in the summer. Noise? There is the ocean's rhythmic whoosh. Song sparrows. Goldfinches. Mourning doves. "OK," Blomberg says. "Here comes the first one."

At 6:03 a.m. an airplane flies over. "That's 58.4 decibels," Blomberg reports. At 6:07 a.m. another plane flies over, and another at 6:11 and again at 6:12, and at 6:16, 6:17, 6:18...

Later, Blomberg drives to the epidemic's source, the island's little airport, with his host, Wade Greene, formerly a New York Times Magazine editor, now an environmental consultant to philanthropies. Greene also operates Wade Cottages, a vacation compound he created from his grandfather's summer home. He believes that airplane noise is going to hurt Nantucket tourism. Island stays are expensive. Vacationers value quiet. So do those who can afford a summer place here, where houses average \$750,000 or more.

"Mainly we're dealing with two-engine Cessna 402 shuttle planes that fly to Hyannis, but there are private planes, too, and corporate jets," Greene is explaining. He points out a parked pickup's bumper sticker: "It Used To Be Nicer In Nantucket." Right now 26 airplanes are taxiing or waiting. Their noise is, literally, deafening. "You can get to this island only by ferry or by plane, and air traffic here is doubling every five years," says Greene. "This little airport is now the second busiest in all of New England, and sometimes the island of Nantucket has more flights coming and going than Boston's Logan Airport."

Blomberg is here to study Nantucket's noise dilemma. Greene contends many pilots ignore an agreement to fly one mile offshore. Blomberg shrugs. He calculates one mile is not enough: the planes should fly five to ten miles out.

Usually people affected by airliner noise have little political clout, Blomberg observes. "But here you can actually talk with aviation officials, and here the solution is simple--push the airplanes out to sea." He maintains: "If you can't do it on Nantucket, no place can do it."

Blomberg has also investigated the plight of the noise-beset residents of Loudon, New Hampshire. Today he sets up his equipment on a tripod in an immaculately kept gray ranch house's macadam driveway. "That's 78 decibels," he announces. Tom Early, the house's owner, a retired airline pilot, gray haired and gray mustached, looks on glumly. From his driveway you can see only his precisely trimmed lawn and white birches and one other home. But the roar from the New Hampshire International Speedway, a stock-car racetrack, seems to blot out everything. "That just hit 82 decibels," Les Blomberg says, eyeing his instruments. He notes that a typical city noise restriction for daytime is about 60 decibels, more than four times quieter. "At night they'll have rock bands," Tom Early says, shaking his head. "Louder than hell. And they have fireworks. And they fire off cannons."

Mufflers might be a solution. But Blomberg believes the real issue is that noise can increase the secretion of adrenaline in humans, perhaps because our distant an.p. 1 2 6 associated loud sounds, like a lion's roar or a baby's

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adrenaline in humans, perhaps because our distant ancestors associated loud sounds, like a lion's roar or a baby's scream, with danger. The greater the sound, the greater the adrenaline rush. Blomberg theorizes that racetracks prefer to be as loud as possible because it excites the fans. "That's why exercise classes crank up the decibels, and rock bands, and action movies," he observes. "In effect, noise becomes a drug they're pumping out and into you."

Later, Blomberg visits Daimon Meeh, 14, who shows him a letter he sent to New Hampshire's governor, along with a CD recording he made just outside his farmhouse of the racetrack's roar. "I don't remember a time when I didn't have to listen to the noise of New Hampshire International Speedway (NHIS) in Loudon," Daimon wrote, noting the track's growth: "As the noise of the racetrack grew increasingly louder, people in my town got more and more annoyed." He analyzed for the governor the noise's steady increase over the years and the economic effects. Despite his efforts, a solution has not yet been achieved.

Letters to the governor seem to be in the air. Stopping back at Tom Early's house, Blomberg finds the retired airline pilot irritated. "I'm just sending a letter off to the governor, and I told her I vote too," Early says. "Last night we were in here with the windows closed, trying to watch My Fair Lady on TV, and sometimes we couldn't hear it because the noise from the track was so loud."

When the Noise Pollution Clearinghouse's communications director, attorney Vicky Parra Tebbetts, checks the e-mail, mainly she finds messages like this: "Finally a thread of hope! Thank you so much for your help!" Or a New Jersey mayor seeks assistance deciding about 120-decibel alarms the volunteer fire company has set up in residential neighborhoods. From Japan comes a request for help--U.S. fighters flying low over Hiroshima suburbs. A musician writes from Hawaii: "It's the worst of situations--here in paradise! Five days a week we pay 2 gardeners to use an artillery of weed-wackers, lawn mowers and blowers, powered saws etc. to drive us nuts." From California, the Hollywood Heights Association seeks help dealing with news helicopters hovering overhead during movie premieres. And there is this: "We have been battling a neighborhood noise bully who has about 250 roosters on his 2 acre lot." As mottoes go, the watchword adopted by the clearinghouse seems benign: "Good Neighbors Keep Their Noise To Themselves."

Richard and Joyce Wolkomir write from the peace and quiet of Vermont. Richard Howard is based in Winchester, Massachusetts.

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# Battle of the Boombox

**D**rive by City Hall on a Friday night in Fort Lupton, Colorado, and you'll find teenagers listening to loud music, just as you would in almost any small town in America. But it won't be what you think. The noise doesn't come from cars outside on the square. It comes from inside the city council chambers. The teenagers are there against their will. The music has been chosen expressly for the purpose of annoying them. It is tapes of Barney, Yanni and Wayne Newton. Listening to this for an hour at a stretch is the price the kids must pay for having violated the town noise ordinance.

Fort Lupton calls this "music immersion." It may seem like cruel and unusual punishment, but it reflects the lengths that local officials in one community are willing to go to to stop what seems to them an epidemic of unwanted noise from boomboxes and car stereos.

The program in Fort Lupton was initiated after police received repeated com-

plaints from businesses and residents about music coming from the street that was so loud it was literally shaking the buildings. The town also has a youth curfew on the books, but according to Police Chief Patrick Cote, there were still problems with cars cruising down the main thoroughfares on weekend nights, blasting music loud

from the comfort of their front porches. "Part of the description of real estate is the peaceful enjoyment of the property," says Miller. "We can't give residents that with people parading in front of their property blaring music."

Boombox noise varies in volume with the tastes of the boombox operator, but there's little doubt that in many instances, it can approach the normal threshold for most people's discomfort—somewhere around 80 "A-

weighted decibels," or dBA. A lawn mower in operation in front of your house is likely to be about 90 dBA; a semi-truck 10 feet away is about 100, and the noise of a rocket lifting off is 180. The threshold for feeling actual physical pain has been calculated at around 125 dBA;

not many boomboxes produce that much noise, but it can sometimes seem like they do in Elkhart or Fort Lupton on a Saturday night.

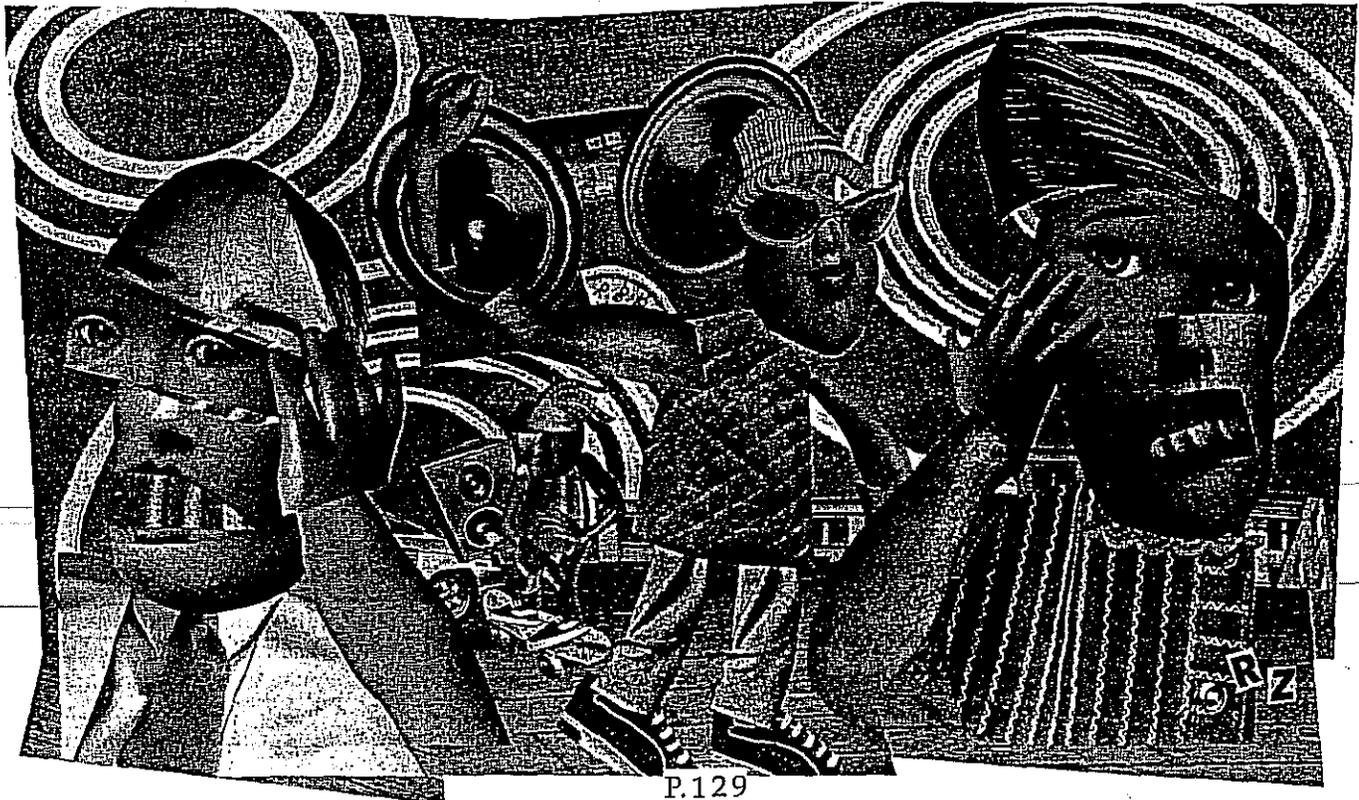
These towns are essentially on their

**Towns will try just about any tactic to keep noise levels down. Some work, some don't.**

enough to annoy much of the community.

Fort Lupton is just one of many towns where the local government is struggling against what has seemed like an ever-increasing noise problem. In Elkhart, Indiana, where a noise-control ordinance backed by modest fines has had little effect so far, Councilman David Miller is lobbying for a switch to more drastic measures. One of his ideas is to arm local residents with hand-held police radios, and allow them to call in violators

BY SUE SCHULTZ



# Noise Levels

own when it comes to dealing with decibel pollution. There has been a Federal Noise Control Act on the books since the early 1970s, and the law established an Office of Noise Abatement and Control, under the Environmental Protection Administration, with a network of 10 regional offices scattered across the country to assist local communities in the implementation and enforcement of noise regulations. But Congress has not provided funding for the program for more than 15 years, and in those years, the infrastructure for noise control nationwide has more or less collapsed.

A small number of states have adopted statewide laws, setting acceptable noise levels and local enforcement guidelines, but the majority have not. In states lacking such laws, communities that feel they have a problem are left to experiment with solving it as best they can—usually without a very clear sense of what's constitutional and what's effective. "Noise ordinances are in chaos," says Les Blomberg, executive director of the Noise Pollution Clearinghouse, a national anti-noise organization. "The authority exists, but no one is doing anything to enforce it. It's a perfect world for the noise polluter."

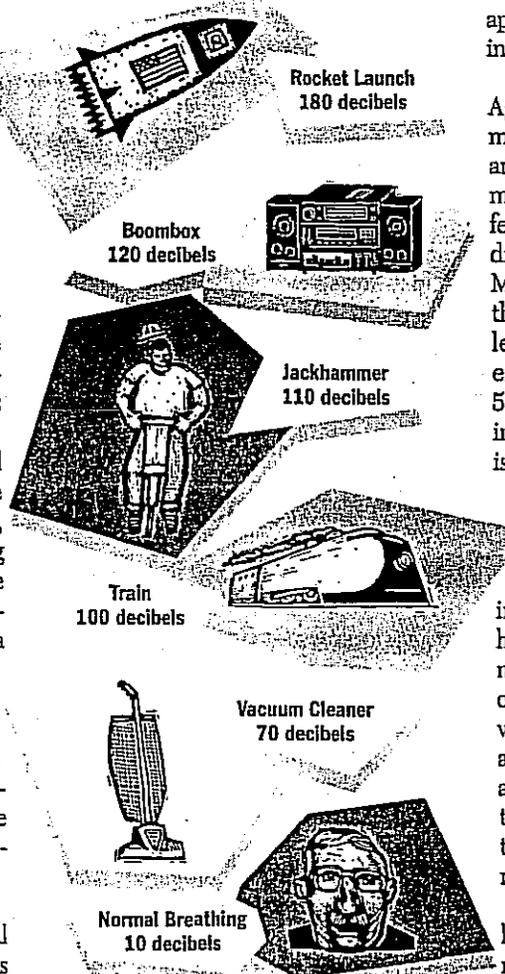
**E**ssentially, there are two kinds of local noise-control laws. Each one carries its own set of enforcement problems.

A nuisance code is a subjective ordinance granting law enforcement officers broad leeway to determine that the noise level coming from a car or a portable boombox is too loud for the peaceable comfort of the community. Fort Lupton's is such a law. "If residents can hear it and it's annoying them, then it's too loud," says Police Chief Cote.

Nuisance codes aren't very difficult to write or understand, but frequently they are so general as to invite legal challenge, using terms like "unreasonable" and "loud and raucous" to define the limit of a tolerable level of noise. Courts have ruled in repeated instances that they are too vague to provide for consistent enforcement.

In 1997, for example, a Baton Rouge preacher sued the city for violating his constitutional rights by invoking its nuisance noise law to prevent him from using a bullhorn on public streets. U.S. District Judge Frank Polozola overturned seven sections of the law, calling them too broad to be constitutional.

In some cases, to avoid the vagueness



Sources: National Institute on Deafness and Other Communication Disorders and National Institute for Occupational Safety and Health

problem, a nuisance law will specify that the offending noise must be loud enough to be heard within a certain number of feet. But it isn't easy to train a police officer to make a judgment about the distance, and so frequently little enforcement is even attempted. In Naperville, Illinois, where the noise nuisance law includes distance restrictions of 50 feet for car stereos and boomboxes, only a dozen violations have been written up in the past year. "Noise is a tough area of the law to legislate," says Naperville police Captain Paul Shafer. "By what standard is noise too loud?"

There is another way to do it. Instead of a nuisance law, a community can write a performance-based code that sets exact decibel levels of tolerable noise, and measure them by the use of meters. A performance-based approach generally takes care of the vagueness problem. But it also requires the government to struggle with the potentially divisive issue of defining

appropriate decibel levels for commercial, industrial and residential areas.

The U.S. Environmental Protection Agency has determined a "normal" community noise level is around 55 dBA. But any performance-based statute has to be more selective than this, establishing different noise levels for different places and different times of the day. For example, Martin County, Florida, which uses one of these ordinances, has decided that noise levels in residential areas should not exceed 60 dBA from 7 a.m. to 9 p.m., or 55 dBA between 9 p.m. and 7 a.m. For industrial sections of the county, the limit is 70 during daytime hours and 65 at night.

Even if the local government can agree on performance-based standards, the meters used to measure them can cost up to \$5,000 each, and that doesn't include the training of police officers in how to use them. Many smaller governments, even those with serious noise concerns, simply conclude that the cost is not worth it. The accuracy of the meters is also a matter of dispute—even when they are aimed at the noise source being measured, they sometimes pick up background noise that distorts the overall reading and permits the violation to be contested in court.

Some jurisdictions, wary of the problems of either a nuisance code or a performance code, are trying a combination of both. St. Joseph County, Indiana, which had fought for years over enactment of a noise ordinance but never enacted one, largely because of agricultural opposition, finally passed a law this year that uses both decibel meters and human discretion. Six meters will be employed to measure industrial noise, while all other "loud, raucous, and unreasonable" noise is to be judged by law enforcement personnel. "The combination of police judgment and decibel meters will make the ordinance effective," insists Michael Eby, a county council member.

In the absence of fixed standards and enforcement mechanisms promoted under state or federal law, there may never be any foolproof way for an individual community to implement a noise-control policy to broad community satisfaction. But the experiments are bound to continue. Fort Lupton plans to stick with its "music immersion" plan, even if the strategy sounds a little bizarre to outsiders (and insulting to some big-name musical performers). "The noise complaints are down," Police Chief Cote points out, "and we have had no repeat offenders." **E**

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# MODEL NOISE ORDINANCE

Procedures for Approval by the Department:

(A) If a governing body of a municipality adopts this model ordinance without change, the ordinance shall be deemed to be approved by the Department. Changes in formatting, numbering, or any other changes of this type shall not be considered changes requiring review and approval by the Department. Within 30 days after a municipality adopts this ordinance, the municipality shall submit to the Department, and the CEHA agency governing its region if one exists, a certification signed by the Township Clerk, Borough Manager or Administrator. The certification shall state:

I certify that {insert name of municipality} has adopted the Model Noise Control Ordinance without change (s). I further certify that if this statement is willfully false, I am subject to a penalty.

This ordinance shall be deemed approved upon submission by a municipality, and receipt by the Department, of the fully executed certification and duly adopted noise ordinance. In addition, in the event that a regional or county health agency is identified as the authorized enforcement agency for the purpose of enforcing this ordinance when adopted by a municipality, written consent of the regional or a county health agency must be obtained, affixed to the ordinance and made a part thereof.

Noise ordinances shall be submitted to:

NJDEP / Compliance & Enforcement  
Office of Local Environmental Management  
PO Box 422  
401 East State Street  
Trenton, NJ 08625

(B) If a governing body of a municipality wishes to change any provision(s) of this model ordinance or wishes to develop a noise ordinance that is not based on the model, the entire noise control ordinance including the proposed change(s) shall be submitted to the Department for review and approval, prior to adoption. The Department will review noise ordinances to determine consistency with the statewide scheme for noise control and whether the ordinance is more stringent than the State's noise code, in accordance with the Noise Control Act.

If the Department approves the change(s), the municipality shall submit a copy of the duly adopted ordinance to the CEHA agency governing its region, if one exists.

If the Department disapproves the change(s), the ordinance shall be returned to the municipality and shall be considered disapproved.

(C) The Department reserves the right to review, at any time, a noise control ordinance adopted by a municipality.

## MODEL NOISE ORDINANCE

### I. Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary to deliver essential public services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

"Noise control officer" means an employee of: (1) a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities; or (2) a municipality with a Department approved noise control ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the imaginary line including its vertical extension that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

"Weekends" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

**II. Applicability**

(A) This model noise ordinance applies to sound from the following property categories:

- 1. Industrial facilities;
- 2. Commercial facilities;
- 3. Public service facilities;
- 4. Community service facilities;
- 5. Residential properties;
- 6. Multi-use properties;
- 7. Public and private right-of-ways;
- 8. Public spaces; and
- 9. Multi-dwelling unit buildings.

(B) This model noise ordinance applies to sound received at the following property categories:

- 1. Commercial facilities;
- 2. Public service facilities;
- 3. Community service facilities;
- 4. Residential properties;
- 5. Multi-use properties; and
- 6. Multi-dwelling unit buildings.

(C) Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.3, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

**III. Declaration of Findings and Policy**

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of {insert name of municipality} to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within {insert name of municipality}.

**IV. Noise Control Officers**

(A) The provisions of this ordinance shall be enforced by noise control officers. A person shall be qualified to be a noise control officer if the person meets the criteria set forth in the definition above and completes, at a frequency specified by the Department in N.J.A.C. 7:29-2.11, a noise certification and re-certification course which are offered by the Department of Environmental Sciences of Cook College, Rutgers, the State University of New Jersey or any other noise certification or re-certification course which is offered by an accredited university and approved by the Department.

(B) Sound measurements made by a noise control officer shall conform to the procedures set forth at N.J.A.C.

7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in sections V.(B) and V.(C) of this regulation and with the definition of "real property line" as contained herein.

(C) Noise control officers shall have the power to:

1. Coordinate the noise control activities of all departments in {insert name of municipality} and cooperate with all other public bodies and agencies to the extent practicable;
2. Review the actions of {insert name of municipality} and advise of the effect, if any, of such actions on noise control;
3. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this ordinance; and
4. Investigate and pursue possible violations of this ordinance for sound levels which equal or exceed the sound levels set forth in Tables I and II, when measured at a receiving property located within the designated jurisdiction of the noise control officer, in accordance with Section VII. below.
5. Cooperate with noise control officers of adjacent municipalities in enforcing one another's municipal noise ordinances.

#### V. Maximum Permissible Sound Levels

(A) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in II.(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I and II when measured at or within the real property line of any of the receiving properties listed in Tables I and II, except as specified in (B). below.

(B) When measuring total sound or residual sound within a multi-use property, or within a residential unit when the property line between it and the source property is a common wall, all exterior doors and windows shall be closed and the measurements shall be taken in the center of the room most affected by the noise. Residual sound shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound or residual sound, all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

(C) Indoor measurements shall only be taken if the sound source is on or within the same property as the receiving property, as in the case of a multi-use property (e.g., sound generated within a commercial unit of a multi-use property building and received within a residential unit of the same building) or multi-dwelling unit building. In addition, indoor measurements shall be taken if the property line between the receiving property and the source property is a common wall, such as in a multi-dwelling unit building. The allowable sound level standards for indoors are as shown in Tables I and II.

(D) Impulsive Sound {Note: either one of the following must be adopted.}

1. Impulsive sound shall not equal or exceed 80 decibels at all times.

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OR

2. Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as impulsive sound and shall meet the requirements as shown in

Table I.

**TABLE I**  
**MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS**

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in II.(A) above in such a manner as to create a sound level that equals or exceeds the sound levels listed below.

(A) Outdoors

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7am-10pm	10 pm-7am	24 hours
Maximum A-Weighted sound level standard, dB	65	50	65

(B) Indoors

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility*, or non-residential portion of a multi-use property
TIME	7am -10 pm	10pm-7am	24 Hours
Maximum A-Weighted sound level standard, dB	55	40	55

\*In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.

**TABLE II**  
**MAXIMUM PERMISSIBLE OCTAVE BAND SOUND PRESSURE LEVELS IN DECIBELS**

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in II.(A) above in such a manner as to create a sound pressure level that equals or exceeds the sound levels listed below in one or more octave bands.

2. When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

Receiving Property Category	Residential property, or residential portion of a multi-use property	Residential property, or residential portion of a multi-use property	Commercial facility, public service facility, non-residential	Commercial facility*, or non-residential portion of a multi-use
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	OUTDOORS		INDOORS		portion of a multi-use property, or community service facility	property
					OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7am-10 pm	10pm-7 am	7am-10 pm	10pm-7am	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

\*In those instances when a commercial facility shares a common wall/ceiling/floor with another commercial facility that is producing the sound.

**VI. Restricted Uses and Activities**

- (A) 1. Except as provided in (B) below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.4.
- 2. Construction and demolition activities are exempt from the sound level limits set forth in Tables I and II, except as provided for in (B). below.

(B) [Note: This section is optional; any numbered paragraph may be adopted in its entirety.]  
 Notwithstanding the provisions of Tables I and II, the following standards shall apply to the activities or sources of sound set forth below:

1. Non-commercial or non-industrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I and II. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment;

2. Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I and II. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Tables I and II between the hours of 10 p.m. and 7 a.m. All

motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment;

3. Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I and II. All motorized equipment used in construction and demolition activity shall be operated with a muffler. At all other times, the limits set forth in Tables I and II do not apply to construction and demolition activities;

4. Motorized snowblowers, snow throwers, and lawn equipment with attached snow plows shall be operated at all times with a muffler;

5. An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for impulsive sound after it has been activated;

6. Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at a residential property line between the hours of 10:00 p.m. and 8:00 a.m.;

7. Personal vehicular music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.;

8. Self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator;

9. Sound levels exceeding the limits set forth in Table I, {the following phrase is optional: "and Table II"} shall be prohibited between residential units within the same multi-dwelling unit building. Measurements shall be taken indoors as per Section V. (B) and V.(C).

**VII. Enforcement**

(A) Violation of any provision of this ordinance shall be cause for an enforcement document to be issued to the violator by the noise control officer according to procedures set forth at N.J.A.C. 7:29-1.6. The recipient of an enforcement document shall be entitled to a hearing in municipal court having jurisdiction to contest such action.

(B) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

(C) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance or from other law.

**VIII. Severability and Repealer**

(A) If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

(B) All ordinances or parts of ordinances which are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

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## GUIDELINES FOR AN URBAN NOISE ORDINANCE

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### 1. Introduction

Noise pollution in large cities is an ever-growing problem, due to several factors: the increase in demographic density, the increase in the number of per capita devices, appliances and vehicles capable of generating loud noise, the fact that society is getting used to higher noise levels, and the widespread ignorance regarding the consequences of noise as well as its remedies.

Most city regulations are quite ineffective since they start by making non-realistic goals for desired maximum noise levels without first taking action on the social, economic and technological causes of noise. It is, thus, virtually impossible to enforce those regulations without doing more harm than good. This, in turn, leads to a public perception of impunity from the laws, which is judicially undesirable.

In this paper a critical review of different aspects of noise ordinances is done, pointing out several contradictions and showing why they offer only partial solutions to the problem. Then a series of guidelines is proposed in order to prepare draft urban noise ordinances, along with their rationale. Since each city has its own characteristics which influence the way their regulations are written, no efforts were made in order to give an actual detailed ordinance draft.

### 2. Classifying Noise Ordinances

Noise ordinances may be classified according to several criteria:

a) According to their subject: environmental, building and entitling ordinances. Environmental ones usually deal with restrictions upon acceptable indoor and outdoor noise levels in different areas or zoning districts. Building ordinances state requisites as to the acceptable noise and vibration insulation (horizontal and vertical) between dwellings, and sometimes they also address the reverberation times of rooms intended for specific uses (i.e., classrooms). Entitling ordinances regulate the acoustical conditions of buildings, halls, shops and vehicles intended for specific commercial or public activities.

b) According to their nature: preventive, punitive and declarative ordinances. Preventive ordinances prescribe actions to be taken in order to create favorable conditions towards the reduction of environmental noise, such as education, research projects and monitoring. Punitive ones attempt to discourage noisy activities by the application of different types of punishment (fines, closures). Declarative ordinances state purposes, policies, and/or supports.

c) According to the noise descriptor used to set maximum allowable levels:

peak frequency, equivalent level, statistical parameters.

d) According to the criteria applied to loosen the acceptable maximum levels:

application of corrections (according to zones, day or night, season, type of noise), exemptions, exceptions and variances.

It should be noted that many ordinances cover more than one category for each criterion.

### 3. Fixed and mobile noise sources

Environmental ordinances usually consider two separate noise source categories: fixed and mobile. Fixed sources are any fittings, appliances or pieces of equipment permanently located at a definite site for their industrial, commercial or private use. Mobile sources are all kinds of vehicles.

This classification originates in the need to delimit clearly each party's responsibility in a dispute caused by noise. It is quite simple to check whether a specific fixed source is causing disturbance or not, but it is not so easy in the case of a single vehicle, because the responsibility is in this case distributed over all the vehicles circulating by a given location.

In the case of fixed noise sources, ordinances provide limits to be checked at the receiver's location (usually inside a bedroom). The owner or operator of the noise source is, thus, responsible for adjusting the noise emission (or the insulation) as required to comply with those limits. In the case of vehicles, limits are set at the source instead, depending on the vehicle's weight and power. In other words, the emission of a fixed source is only restricted by way of its effect on a neighbouring receiver, whereas a vehicle's emission should comply with specific limits depending solely on the source.

Interestingly, acceptable noise levels caused by fixed sources are often much lower than those resulting in practice from traffic, even if each of the individual vehicles which form it is within its respective limits. This contradiction arises because vehicular noise bounds are the result of a series of technological and economic compromises rather than desirable or safe community noise levels.

Besides, while the noise generated by a single transient vehicle would hardly constitute a severe nuisance, the noise coming from many simultaneous and successive vehicles certainly will.

### 4. Noise descriptors

There are three different kinds of noise descriptors currently in use in noise ordinances. Early ordinances (city of Cordoba, Argentina) and those inspired by them are based on the concept of measuring the noise peaks (i.e., the relative maxima of the sound levels) in a given time interval. The "frequent peak level" is the A-weighted sound level which is exceeded by 7 to 60 peaks in an hour. Similarly, the "occasional peak level" is the A-weighted sound level exceeded by 1 to 6 peaks in an hour. These descriptors have the advantage of being readily measured by means of a simple sound level meter, and they also take into account the subjective effect of individual noisy events and their rate of occurrence. However, they provide neither equivalent levels, nor other statistical parameters.

More recent ordinances (such as Buenos Aires') take advantage of integrating sound level meters, nowadays readily available, which are capable of measuring the average level over time, i.e. the equivalent sound level. This descriptor has proved to be fairly well correlated with long-time exposure effects of environmental noise (see for instance Berglund, B., Lindvall, T., 1995).

Finally, some ordinances (Los Altos, California, USA) are based (explicitly or not) on the statistical parameters  $L_n$  (i.e., the sound level which is exceeded an n% of time). While these parameters take into account the statistical spread of noise levels, they provide no details as regards to individual noisy events.

### 5. Zoning districts

Noise ordinances often divide urban areas into different zoning districts, each with a different noise limit. These districts are usually defined as hospital, residential, commercial and industrial areas. The drawback of this approach is that it may be difficult to find geographically homogeneous districts. The mixed nature of many, if not most urban sectors, makes urban planning from a noise standpoint very difficult. It may also be very difficult to enforce the allowable noise levels, especially at the most critical areas.

### 6. Distributed responsibility

A unique feature of vehicular noise is that noise responsibility is distributed amongst all the vehicles which are

circulating simultaneously and successively. Let  $Leq_0$  be the equivalent level of a single vehicle passing once by a given urban location at a speed  $v_0$ . Then the equivalent level corresponding to  $k$  vehicles at a mean speed  $v$  may be approximated by

$$Leq = Leq_0 + 20 \log v/v_0 + 10 \log k$$

For  $v_0 = 50$  km/h and averaging over a one-hour time, we have

$$Leq_0 = L_{max} - 35 \text{ dB}$$

where  $L_{max}$  is the dynamic noise level measured by standardized procedures (for instance, IRAM-CETIA 9C standard), i.e., at a distance of 7.5 m from the vehicle's side, at full acceleration and an initial speed of 50 m/s.

The preceding formulas show that if we wish to keep  $Leq$  under a certain limit which can be reasonably considered acceptable in a given area, then it will be necessary to reduce the individual equivalent noise level, the speed, the number of vehicles, or all three. Individual vehicle's noise emission is usually regulated by national laws on traffic control (for instance the Traffic and Road Safety Act, Argentina, 1996), and for each type of vehicle a compromise is made between the available technology and cost. Urban ordinances often echo these values (or make reference to them) in their sections devoted to mobile sources. These values are usually too high to make unrestricted circulation acceptable, let alone the fact that not even the individual limits are adequately enforced. Restrictions on the amount of vehicles circulating along a street are thus mandatory if noise is to be reduced. This can be accomplished by rerouting public transport in order to avoid excessive concentration, and by limiting private vehicle. These measures would not only contribute to noise reduction but to atmospheric pollution reduction as well. Speed should also be limited to about 30 km/h.

As an example, consider a central street (commercial zone) with a limit of 60 dBA  $Leq$ , and a maximum speed of 30 km/h. If some type of vehicle has a dynamically measured noise of 80 dBA, then the preceding formulas yield a maximum flow of 88 such vehicles in an hour. In practice, a greater value could be acceptable since not all the vehicles would be in full acceleration, so perhaps the individual noise level may be confidently reduced by as much as 10 dBA. In any event, it should be noted that other types of vehicles might be circulating along that street, such as those belonging to the public transport system. Actual vehicular flow should be updated periodically.

## 7. Performance halls, ballrooms, parties

Premises intended for dance, parties or concerts may cause three sorts of problems: a) an exceedingly high sound level inside, with consequences for patrons and personnel ranging from simple discomfort to auditory risk, b) acoustical leakage towards neighboring areas, due to insufficient insulation, and c) riots on leaving, caused by behavior alterations after the exposure to very loud noise, as in the case of discotheques and night clubs. The first action to be taken is to enforce rigorously the applicable labor health and safety regulations (such as No. 19,587/72 Labor Hygiene and Safety Act, Argentina), since the personnel is exposed to high noise levels during the whole working shift. More strict criteria should be adopted, however, according to the characteristics of the specific groups attending those places (including their susceptibility and vulnerability), and the type of activity considered. For instance, whereas in a discotheque patrons consider it acceptable and even desirable to have very loud music at the dance floor, at the cinema the sound level should be considerably lower in order to avoid the interference caused by loud sounds on the perception of images. At party rooms, the sound level should be kept low enough to allow comfortable speech. In the case of children parties, the sound level should be much lower, not only because of the greater vulnerability of children's auditory organs, but also because of the increased effect on the speech intelligibility, and, most importantly, as a preventive resource, discouraging from the very childhood the desirability of loud noise (and even the addiction to it). The same can be said, of course, as regards to school and kindergarten.

## 8. Recommended sound levels

The World Health Organization (WHO), through a careful review of a large number of reports, has published a series of recommended maximum sound levels applicable to various situations. Some of the WHO criteria are listed in Table 1 (Berglund, B and Lindvall, T, 1995). These figures should be taken into account when preparing a noise ordinance draft.

Table 1. Noise levels recommended by the World Health Organization

Descriptor	Limit	Situation or effect
LAeq, 24	70 dBA	Negligible risk of hearing impairment
LAeq, 8	75 dBA	Negligible risk of hearing impairment
LAeq	30 dBA	Excellent speech intelligibility
LAeq	55 dBA	Fairly good speech intelligibility
LAeq	30 dBA	No sleep disturbance (inside bedroom)
LAm <sub>ax</sub>	45 dBA	No sleep disturbance (peaks inside bedroom)
LAeq	45 dBA	No sleep disturbance (outside bedroom)
LAeq,4	90 dBA	Discotheques and other ballrooms
LAeq	45 dBA	Residential areas, outdoors, nighttime
LA	80 dBA	Toys (at the position of a child's ear)
LC,peak	130 dBC	Toys (at the position of a child's ear)
LAeq	35 dBA	Hospital room
LAm <sub>ax</sub>	45 dBA	Hospital room (peaks)
LAeq	55 dBA	Residential areas, outdoors, daytime

## 9. Preventative aspect

From the analysis of many national and foreign noise ordinances and regulations (see for instance those from Cordoba, Rosario, Buenos Aires and Los Altos) we can conclude that the preventative aspect, i.e., a series of measures and strategies in order to anticipate occurrences rather than cope with them, is almost completely absent.

Prevention creates the necessary conditions for society to adhere to regulations regarding any subject, in an adequate and voluntary manner.

The three mainstays for any preventative action are: education, control and rapid response to social demands, and research on better methods and procedures to deal with problematic situations.

Education works on the society, making it aware of the noise problem, its causes, its consequences, and its solutions. It helps to develop hygienic customs and attitudes regarding noise, both in an individual and social fashion (i.e., what individuals can do in order to protect themselves and to protect the acoustical environment). Finally, it stimulates people to undertake a proactive attitude to demand better living standards, both of which constitute important steps towards progress.

Control helps to locate problematic situations and to take the necessary actions in order to solve them. Environmental noise monitoring and prospects through predictive models are two valuable tools for control and assessment of different kinds of urban actions. In order to be effective, control should only be undertaken by skilled technicians supplied with high quality acoustical measurement equipment.

Research should be done at universities (or other prestigious academic centers) through general or specific agreements, and the necessary funding should be included in the municipal budget. An example is the development of models describing local problems in order to look for optimum solutions at minimal cost.

## 10. Transition criteria

~~From an ideal point of view it could be argued that the limit levels included in many current ordinances are adequate. Indeed, they are often taken or adapted (with minor changes) from international standards which in their turn are based on available scientific knowledge. However, those levels are very difficult to enforce because the difference between the current levels and the desirable ones is too large, requiring in most cases not only a major technical improvement but also a change of mind in the society.~~

The most effective way to achieve, in the medium term, the praiseworthy objective of reducing substantially the environmental noise, is to ask for a gradual decrease of the acceptable levels. For instance, a reduction at a rate of 1 dB each year would not be an impossible task, yet it would render after 10 years an impressive reduction of 10 dB in noise pollution.

## 11. Penalties

Even if one can reasonably expect that as a consequence of prevention many of the prescribed actions will be voluntarily accepted and taken on by the society, there will be others which will have to be specifically required and enforced, so it is likely that there will be offenders. The classical punishment is to fine offenders, but there is usually no mention of the destination of the fines. It should be stated clearly that those funds are to be applied to reinforce preventative action through formal and informal education, control and research. Alternative penalties such as the obligation to take courses on environmental topics, particularly related to noise, and to help in community duties such as noise monitoring, should be included.

## 12. Proposals for a noise ordinance

The following is a list of guidelines and suggestions which may prove helpful when working on a noise ordinance draft.

- 1) A new sort of noise source should be introduced, to be considered as a separate category from fixed and mobile sources: the traffic noise as a collective phenomenon. This category should be addressed according to its own characteristics. This means that it should be recognized that in this case the responsibility is distributed, hence it is not punishable. The effect of regulation should be then to achieve a better traffic and transport planning, and to adopt decreasing but affordable limits of individual noise emission for each kind of vehicle on a yearly basis.
- 2) A measuring procedure should be introduced in order to assess the noise emission of a vehicle while in a normal street, without the need for a special and hence difficult to find place.
- 3) A gradual plan of urban noise reduction to be applied over a period of several years should be explicitly adopted. The successive steps should be small enough as to be feasible.
- 4) The introduction of some tax reductions or subsidies in order to encourage companies to invest in noise control improvements should be seriously considered.
- 5) Municipal inspection, control and approval of manufacturing processes should be introduced as a legal requisite for any model of vehicle intended for public transport, and noise control techniques should be carefully scrutinized in order to insure their effectiveness and sustainability.
- 6) A permanent educational campaign on noise, its causes, effects and solutions, involving school and mass media (formal and informal education) should be explicitly provided for. Although the details of such a campaign might be left to the local authority, important issues such as its objectives, the allocated funds, and the office(s) or department (s) in charge of implementing it should be contained in the ordinance.
- 7) Since vehicles are among the main sources of urban noise, knowledge as regards to noise should be an important requirement in order to receive a driving license.
- 8) Three types of penalties should be considered: a) The obligation on the part of the offender to take a short course on urban noise. If the offence is repeated, an active participation as a member of the task force in charge of the dissemination of noise-related information would be offered as an alternative to more severe punishment. b) Fines. It is of the utmost importance that the destination of this revenue be clearly stated. An important percentage should be devoted to fund noise-related research and preventative activities, for example to provide the enforcement office with state of the art measurement equipment. c) The obligation to deposit money in a special account until the technical problem causing the noise has been fixed. Accrued interests would have the same destination as fines.
- 9) Piped music at public places should be kept at a low enough level so that sensitive or hearing-impaired

individuals do not feel uncomfortable. Its use as a means to mask environmental noise or to increase privacy at restaurants (by masking other people's speech) should be strongly discouraged.

10) Owners and/or managers of recreational places such as discotheques or cinemas should be required to keep the sound level of the audio at or below the accepted limit, by inserting into the signal path an electronic controller capable of adjusting automatically the system's gain. Warning messages such as "exposure to exceedingly loud sounds may cause hearing damage" should be placed in areas with sound levels near the limit. Sufficient acoustical insulation is another important requirement in order to insure minimal (and hence negligible) noise leakage towards neighboring areas or dwellings.

11) Automatic noise monitoring systems should be installed at discotheques and other places where very loud music is played. This system should contain a noise data logger which could be periodically checked in order to detect infringements. This device should be capable of detecting attempts to tamper with its operation; for instance by unplugging it or covering the microphone.

12) Enforcement officers should be highly trained technicians and should take updating courses on a periodical basis in order to get in touch with the state of the art as regards to urban noise control. Their income should be in proportion to their responsibility.

13) Environmental noise monitors should be placed in streets in order to establish a permanent record of information, useful to assess the state of noise pollution.

14) The sale of toys capable of emitting very loud sounds (see Table 1) should be forbidden because of the risk to children's hearing. Toys emitting acceptably loud sounds should anyway be sold with an accompanying label warning against loud sounds (for instance: "This toy is capable of producing loud sounds which might produce irreversible hearing damage to susceptible children"). Similar warnings with recommendations on its proper use should accompany every device, appliance, tool or audio system capable of producing dangerous sound levels.

15) Public transport in hospital areas should be kept at the minimum necessary to an adequate service, and it should be routed in a way causing the least disturbance to the most critical areas.

16) Limits should be imposed also on vibrations, since they propagate easily along large distances causing noise emission, but also because when large enough, (such as those generated by high power audio equipment or some industrial machines) could damage buildings.

17) No new airports should be allowed to operate inside urban areas, and flights from and to existing ones should be rerouted so that their effect as regards to noise be minimized as far as possible.

18) Finally, a Noise Control Committee or Office, or Department should be created in order to coordinate all the efforts towards urban noise reduction, including research, enforcement, education, consulting, etc., which would work in conjunction with other public and private organizations such as universities, other cities, etc.

Rosario, Argentina, October 1997

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## CHAPTER 442

### NOISE POLLUTION CONTROL

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**Sec. 22a-67. State policy regarding noise.** (a) The legislature finds and declares that: (1) Excessive noise is a serious hazard to the health, welfare and quality of life of the citizens of the state of Connecticut; (2) exposure to certain levels of noise can result in physiological, psychological and economic damage; (3) a substantial body of science and technology exists by which excessive noise may be substantially abated; (4) the primary responsibility for control of noise rests with the state and the political subdivisions thereof; (5) each person has a right to an environment free from noise that may jeopardize his health, safety or welfare.

(b) The policy of the state is to promote an environment free from noise that jeopardizes the health and welfare of the citizens of the state of Connecticut. To that end, the purpose of this chapter is to establish a means for effective coordination of research and activities in noise control, to authorize the establishment of state noise emission standards and the enforcement of such standards, and to provide information to the public respecting noise pollution.

(P.A. 74-328, S. 1, 12.)

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**Sec. 22a-68. Definitions.** As used in this chapter,

(a) "Commissioner" means the Commissioner of Environmental Protection or his designated agent as defined in subsection (b) of section 22a-2.

(b) "Department" means the Department of Environmental Protection.

(c) "Local government" means any metropolitan district, town, consolidated town and borough, city, borough, village or any subdivision thereof.

(d) "Person" means "person" as defined in subsection (c) of section 22a-2.

(e) "Noise" means the intensity, frequency, duration and character of sounds from a source or number of sources. Noise includes vibrations of subaudible or superaudible frequency.

(f) "Ambient noise" or "environmental noise" shall mean the noise from all stationary sources.

(g) "Stationary noise source" means any building, structure, facility or installation which emits or may emit noise, beyond the property line on which such source is located, except any on-site recreational or

sporting activity which is sanctioned by the state or local government or farming equipment or farming activity. A recreational or sporting activity shall be deemed sanctioned by a local government if (1) the activity has received all approvals or permits required by the local zoning authority, (2) a resolution sanctioning the activity has been adopted by the legislative body of the local government, or (3) the activity is owned or operated by the local government.

(P.A. 74-328, S. 2, 12; P.A. 89-277, S. 3, 4.)

History: P.A. 89-277 redefined "stationary noise source" to specify the circumstances when a recreational or sporting activity shall be deemed to be sanctioned by a local government.

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**Sec. 22a-69. State-wide program of noise regulation.** (a) The commissioner may develop, adopt, maintain and enforce a comprehensive state-wide program of noise regulation which may include, but need not be limited to the following: (1) Controls on environmental noise through the regulation and restriction of the use and operation of any stationary noise source; (2) ambient noise standards for stationary noise sources which in the commissioner's judgment are major sources of noise when measured from beyond the property line of such source and such standards shall be feasible and requisite to protect the public health, safety and welfare; such standards may include, but need not be limited to, adoption by reference of standards or regulations adopted by the administrator of the United States Environmental Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-574) or any amendment thereto; (3) consultation with state and local governmental agencies when such agencies adopt and enforce codes, standards and regulations dealing with noise insulation and abatement for any occupancy or class of occupancy; (4) controls on airport and aircraft noise to the extent not preempted by federal law; nor shall the state preempt power of local governments, in their capacity as proprietors of airports or under police powers.

(b) (1) Any regulation promulgated pursuant to this chapter shall be adopted pursuant to chapter 54 and shall be one which, in the judgment of the commissioner, is requisite to protect the public health, safety and welfare, taking into account the magnitude and conditions of use or operation of the stationary noise source involved, alone or in combination with other such sources, the degree of noise reduction achievable through the application of the best available and practical technology, taking into consideration technology which may be available at the time the regulation becomes effective.

(2) Regulations promulgated pursuant to the authority of this chapter may be applicable throughout the state or to such parts or regions thereof specifically designated in such regulations.

(3) The commissioner shall adopt regulations providing for the granting of individual variances from the provisions of this chapter, whenever it is found, upon presentation by the petitioner of adequate proof, that compliance with any provision of this chapter, any regulation promulgated under it or an order of the commissioner would impose an arbitrary or unreasonable hardship.

(P.A. 74-328, S. 4, 12; June Sp. Sess. P.A. 91-10, S. 13, 20.)

History: June Sp. Sess. P.A. 91-10 amended Subsec. (a) to make the commissioner's powers and duties under this section discretionary.

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**Sec. 22a-70. Duties and powers of the commissioner.** In order to carry out the purposes of this chapter, the commissioner may:

- Exercise all powers granted to him under section 22a-6;
- Provide technical assistance to other state agencies and to political subdivisions of this state;
- Conduct programs of public education regarding the causes and effects of noise and means for its

abatement and control and encourage the participation of professional, scientific, conservation and other public interest groups in related public information efforts;

(d) Cooperate with all federal, interstate, state and local governments relating to the control, prevention and abatement of noise;

(e) Receive and disburse all appropriate funds pertaining to the state's noise control program from private and public sources;

(f) Appoint such advisory groups and committees as may be necessary to assist in carrying out the state noise control program;

(g) Investigate complaints, institute and conduct surveys and testing programs, conduct general ambient noise sampling programs, make observations of conditions which may or do cause or affect noise pollution and make tests or other determinations of noise sources and assess the degree of abatement required.

(P.A. 74-328, S. 5, 12.)

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**Sec. 22a-71. Commissioner's report to Governor and General Assembly.** The commissioner shall report to the Governor and the General Assembly not later than February 15, 1975, his recommendations for further executive and legislative action. Such recommendations shall include:

(a) The feasibility of adopting a program of state certification of products determined to be low noise emission products, including products certified by the administrator of the United States Environmental Protection Agency pursuant to Section 15 of the Noise Control Act of 1972 (P.L. 92-574) or any amendment thereto;

(b) The feasibility of adopting a program establishing labeling requirements which prohibit the sale or offer to sell or the lease or offer to lease of any product, machine or equipment, or class thereof, without notice to the prospective purchaser, lessee or user of the noise levels and characteristics emitted by such product, machine, vehicle or equipment, or its effectiveness in reducing noise, as the case may be. Labeling requirements may be in conformity with federal labeling requirements where applicable;

(c) Other recommendations for executive and legislative action needed to carry out a state-wide program of noise abatement.

(P.A. 74-328, S. 6, 12.)

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**Sec. 22a-72. Cooperation of state agencies, review of regulations.** (a) State agencies shall, to the fullest extent consistent with their authorities under state law administered by them, carry out the programs within their control in such a manner as to further the policy stated in section 22a-67.

(b) State agencies shall cooperate with the commissioner in a state program of noise regulation developed and maintained under this chapter.

(c) Each department, agency or instrumentality of the executive, legislative and judicial branches of the government of this state, (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result in the emission of noise, shall comply with federal and state requirements respecting control and abatement of environmental noise.

(d) Each state agency shall consult with the commissioner in prescribing standards or regulations respecting noise. If at any time the commissioner has reason to believe that a standard or regulation or any proposed standard or regulation, of any agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection.

Such agency shall complete the requested review and report to the commissioner within such time as the commissioner specifies, but such time specified may not be less than forty- five days from the date the request was made.

(P.A. 74-328, S. 3, 12.)

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**Sec. 22a-73. Municipal noise regulation programs; ordinances subject to commissioner's approval.**

(a) To carry out and effectuate the purposes and policies of this chapter it is the public policy of the state to encourage municipal participation by means of regulation of activities causing noise pollution within the territorial limits of the various municipalities. To that end, any municipality may develop and establish a comprehensive program of noise regulation. Such program may include a study of the noise problems resulting from uses and activities within its jurisdiction and its development and adoption of a noise control ordinance.

(b) Any municipality may adopt, amend and enforce a noise control ordinance which may include the following: (1) Noise levels which will not be exceeded in specified zones or other designated areas; (2) designation of a noise control officer and the designation of an existing board or commission, or the establishment of a new board or commission to direct such program; (3) implementation procedures of such program and the relation of such program to other plans within the jurisdiction of the municipality; (4) procedures for assuring compliance with state and federal noise regulations; (5) noise level restrictions applicable to construction activities, including limitation on on- site hours of operation.

(c) No ordinance shall be effective until such ordinance has been approved by the commissioner. No ordinance shall be approved unless it is in conformity with any state noise control plan, including ambient noise standards, adopted pursuant to section 22a- 69 or any standards or regulations adopted by the administrator of the United States Environmental Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92- 574) or any amendment thereto. Notwithstanding the provisions of this subsection, any municipality may adopt more stringent noise standards than those adopted by the commissioner, provided such standards are approved by the commissioner.

(P.A. 74-328, S. 7, 12.)

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**Sec. 22a-74. Prohibited acts.** It shall be unlawful for any person to:

(a) Violate or fail to comply with this chapter or any regulation adopted pursuant thereto, or the terms or conditions of any permit, variance or order issued pursuant to this chapter or pursuant to any regulation adopted hereunder.

(b) Hinder or interfere with by force or otherwise, the performance by the commissioner or by any duly authorized agent or employee of the department or their assistants, of any duty of said commissioner or such agent or employee under the provisions of this chapter.

(c) On any property or premises owned or leased by such person, allow the creation, continuance or maintenance of any noise, or allow the installation, use or operation of any stationary noise source, ~~which violates or fails to comply with this chapter, or any regulation adopted pursuant to this chapter,~~ or the terms or conditions of any permit, variance or order issued pursuant to this chapter or pursuant to any regulation adopted hereunder.

(d) ~~Intentionally remove or render inoperable,~~ other than for purposes of normal maintenance, repair or replacement, any device or element of design installed into any stationary noise source to achieve compliance with the provisions of this chapter, or to use or operate after such device or element of design has been removed or rendered inoperable with knowledge of such removal or of such rendering

inoperable of such device or element of design.

(P.A. 74-328, S. 8, 12.)

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**Sec. 22a-74a. Exemption of firing and shooting ranges from criminal and civil liability for noise and noise pollution.** (a) Any owner, operator or user of a firing or shooting range operating on October 1, 1998, shall be exempt from criminal prosecution with respect to noise or noise pollution violations and immune from civil liability with respect to noise or noise pollution resulting from shooting activity on such range provided the range was, at the time of its construction or operational approval by the municipality in which it is located, in compliance with the provisions of this chapter and regulations adopted hereunder.

(b) No standards in a noise control ordinance adopted by any municipality for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to any firing or shooting range exempted from liability under this section if such standards are inconsistent with the provisions of this chapter or the regulations adopted hereunder.

(c) This section shall not limit the ability of a municipality to evaluate and regulate any increase in noise attributable to a physical expansion of an existing firing or shooting range.

(P.A. 98-129, S. 16.)

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**Sec. 22a-75. Civil penalties.** The commissioner may set schedules and assess civil penalties for any violation of this chapter pursuant to sections 22a-6a and 22a-6b. Notice, hearing and appeal procedures shall be made pursuant to subsections (c) to (h), inclusive, of section 22a-6b.

(P.A. 74-328, S. 9, 12; P.A. 93-428, S. 36, 39.)

History: P.A. 93-428 made technical changes to correct internal references, effective July 1, 1993.

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**Sec. 22a-76. Provisions and remedies not exclusive of others.** The provisions and remedies under this chapter are not exclusive and shall be in addition to any other provisions and remedies provided for in any section of the general statutes or which are available under common law.

(P.A. 74-328, S. 10, 12.)

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(4) Commercial and/or residential property parcels of one-fourth (¼) acres or less may only be serviced by one (1) gasoline-powered leaf blower at any given time.

(5) Premises located in the Town of Greenwich may only be serviced by one (1) gasoline-powered leaf blower, at any given time, from Memorial Day through Labor Day, inclusive.

(Bd. of Health, 2/8/1984; 3/28/1994; 5/15/1996.)

#### **Sec. 6B-7. Exclusions.**

These regulations shall not apply to:

(a) Sound generated by natural phenomena, including but not limited to wind, storms, insects, amphibious creatures, birds and water flowing in its natural course.

(b) The unamplified sounding of the human voice.

(c) The unamplified sound made by any wild or domestic animal.

(d) Sound created by bells, carillons or chimes associated with specific religious observances.

(e) Sound created by safety and protective devices.

(f) Farming equipment or farming activity.

(g) Backup alarms required by the Occupational Safety and Health Administration or other state or federal safety regulations.

(Bd. of Health, 2/8/1984.)

#### **Sec. 6B-8. Special exemption.**

The following shall be exempt from the provisions of this chapter.

(a) Sounds created by emergency activities, as authorized by the proper authorities, or emergency vehicles, sounds giving warning of emergencies or sounds customarily signaling particular times of the day. Sounds created by the utilization of fire horns shall not come within this exemption unless a variance has first been obtained pursuant to Section 6B-9 of this chapter.

(b) Sound created by parades, carnivals and other special public social events or celebrations after having attained a valid permit from the town.

(c) Noise generated by construction activities between the hours of 7:00 a.m. and 6:00 p.m. weekdays and between 9:00 a.m. and 5:00 p.m. Saturdays.

(d) Noise created by domestic power tools between the hours of 8:00 a.m. and 9:00 p.m. except for gasoline-powered leaf blowers between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, and between 9:00 a.m. and 3:00 p.m., Saturday, Sunday and holidays.

(e) Noise generated by snow-removal equipment or by gasoline-powered leaf blowers for storm condition clean-up operations. All other applications for exemptions must be approved in writing by the Director.

(Bd. of Health, 2/8/1984; 3/28/1994.)

sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 6B-5.

(f) Recreational motorized vehicles operating off public rights-of-way.

(1) Except as permitted under Section 6B-8(a)(2), no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Section 6B-5(c).

(2) This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats or aircraft.

(Bd. of Health, 2/8/1984.)

### **Sec. 6B-6. Prohibited noise activities.**

In addition to the foregoing, the following acts and the causing thereof are declared to be in violation of this chapter:

(a) Construction.

(1) No person shall operate or permit the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 6:00 p.m. and 7:00 a.m. the following day on weekdays and before 9:00 a.m. and after 5:00 p.m. on Saturdays or at any time on Sundays or holidays such that the sound therefrom exceeds the limits set forth in Section 6B-5.

(2) Section 6B-6(a) does not apply to the use of domestic power tools subject to Section 6B-6(e).

(b) Refuse. No person shall operate a refuse-collection vehicle between the hours of 9:00 p.m. and 5:00 a.m. unless otherwise approved by the Director of Health.

(c) Motorboats. All motorboats operated on any waterway within the jurisdiction of the Town of Greenwich shall be subject to the noise level standards set forth in Section 15-129 of the Connecticut General Statutes.

(d) Exhaust discharge. No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air-compressor equipment, unless such discharge is through a muffler as defined by Section 6B-2(j) of this chapter or through an apparatus providing equal noise reduction.

(e) Domestic power tools/equipment.

(1) No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or other tool between the hours of 9:00 p.m. and 8:00 a.m. the following day such that the sound therefrom exceeds the limits set forth in Section 6B-5.

(2) Section 6B-6(e) does not apply to the use of snow-removal equipment.

(3) No person shall operate or permit the operation of any gasoline-powered leaf blower between 6:00 p.m. and 8:00 a.m., Monday through Friday, and between 3:00 p.m. and 9:00 a.m. Saturday, Sunday and holidays.

measurements are due to the sound being investigated. The sound levels of extraneous sound sources shall be recorded.

(7) The intentional moving or rendering inaccurate or inoperative or any sound-monitoring instrument or device positioned or used by or for the Director, provided that such device or the immediate area is clearly labeled to warn of the potential illegality, shall be a violation of this chapter.  
(Bd. of Health, 2/8/1984.)

**Sec. 6B-5. Allowable noise levels.**

(a) General prohibition. No person shall, except as provided in Section 6B-6, cause, allow or permit the creation, continuance or maintenance of any noise beyond the property lines of his/her premises in excess of the noise levels established in these regulations.

(b) Impulse noise. No person shall, except as provided in Section 6B-6, cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during the nighttime to any residential noise zone. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure at any time to any business or residential zone.

(c) Noise level standards.

(1) No person in a residential zone shall emit noise, except impulses, beyond the property lines of his/her premises exceeding the levels stated herein:

Emitter's Zone	Receptor's Zone		
	Business	Residential/Day	Residential/Night
Residential	55 dBA	55 dBA	45 dBA

(2) No person in a business zone shall emit noise, except impulses, beyond the property lines of his/her premises exceeding the levels stated herein:

Emitter's Zone	Receptor's Zone		
	Business	Residential/Day	Residential/Night
Business	62 dBA	55 dBA	45 dBA

(3) Nonconforming uses shall comply with the limits applicable to the district within which the nonconforming use is located.

(d) High background noise levels. In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this section does not decrease the permissible noise levels of other sections of this chapter.

(e) Motor vehicle noise. All motor vehicles operates within the limits of the Town of Greenwich shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut State Statutes. No

(d) *Impulse noise* is noise of short duration (generally less than one (1) second), especially of high intensity, abrupt onset and rapid decay and often rapidly changing spectral composition.

(e) *Peak sound pressure level* is the absolute maximum value of the instantaneous sound pressure level occurring in a specified period of time.

(f) *Sound* is a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to an auditory response when impinging on the ear.

(g) *Sound level meter* is an instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks for the measurement of sound levels. The "sound level meter" shall conform to ANSI Specifications for Sound Level Meters, S1.4-1971.

(h) *Sound pressure level (SPL)* is twenty (20) times the logarithm to the base 10 of the ratio of the sound pressure in question to the standard reference pressure of 0.00002 N/M<sup>2</sup>. It is expressed in decibel units.

(Bd. of Health, 2/8/1984.)

#### **Sec. 6B-4. Measurements and instruments.**

(a) For the purpose of determining noise levels as set forth in this chapter, the following shall be applicable:

(1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.

(2) Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this chapter.

(b) The general steps listed below shall be followed when preparing to take sound level measurements:

(1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.

(2) The sound level meter shall be calibrated before and after each set of measurements.

(3) When measurements are taken out of doors, a windscreen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions.

(4) The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.

(5) Measurements shall be taken at a point that is located about one (1) foot beyond the property line of the emitter's premises within the receptor's premises. The emitter's premises include his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

(6) While measurements are being recorded, a continual visual and aural surveillance of extraneous sound sources shall be made to ensure that the

(h) *Legal holiday* shall include all legal holidays designated by the Town of Greenwich.

(i) *Motorboat* is defined as any vessel not more than sixty-five (65) feet in length and propelled by machinery, whether or not such machinery is the principal source of propulsion.

(j) *Motorcycle* is defined as per Section 14-1(25) of the Connecticut General Statutes.

(k) *Motor vehicle* is defined as per Section 14-1(26) of the Connecticut General Statutes.

(l) *Muffler* is a device for abating sounds such as escaping gasses.

(m) *Nighttime* is 10:01 p.m. to 6:59 a.m. local time.

(n) *Person* is any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

(o) *Premises* is any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter's "premises" includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

(p) *Property line* is that real or imaginary line along the ground surface and its vertical extension which:

(1) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; and

(2) Separates real property from the public right-of-way.

(q) *Public right-of-way* is any street, avenue, boulevard, highway, alley, sidewalk, park, waterway, railroad or similar place which is owned, maintained or controlled by a government entity over which the public in general has a right of passage.

(r) *Residential Zone* shall include RA-4, RA-2, RA-1, R-20, R-12, R-7, R-6, R-MF, RC, PHD-E, PHD-N, RPHD-TH, RPHD-SU and R-PR Zones as so designated in the current Zoning Regulations and Zoning Map of the Town of Greenwich.

(s) *Weekday* is any day Monday through Friday which is not a legal holiday. (Bd. of Health, 2/8/1984; 3/28/1994.)

### Sec. 6B-3. Acoustic terminology and definitions.

All acoustical terminology used in these Regulations shall be in conformance with the American National Standards Institute (ANSI) Acoustical Terminology, contained in publication S1.1, as it now exists and as it may be hereafter modified. The definitions below shall apply if the particular term is not defined in the aforesaid ANSI publication.

(a) *Ambient or background noise* is noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable.

(b) *Decibel (dB)* is a unit of measurement of the sound level.

(c) *Excessive noise* is any sound, the intensity of which exceeds the standards set forth in Section 6B-5 of this chapter.

CHAPTER 6B. NOISE ORDINANCE.

- § 6B-1. Declaration of policy.
- § 6B-2. Definitions.
- § 6B-3. Acoustic terminology and definitions.
- § 6B-4. Measurements and instruments.
- § 6B-5. Allowable noise levels.
- § 6B-6. Prohibited noise activities.
- § 6B-7. Exclusions.
- § 6B-8. Special exemption.
- § 6B-9. Variance.
- § 6B-10. Penalties.

Sec. 6B-1. Declaration of policy.

Inadequately controlled noise presents a growing danger to the public health and welfare of persons within the Town of Greenwich. The policy of the Board of Health is to promote an environment free from noise that jeopardizes the health and welfare of persons within the Town of Greenwich.  
(Bd. of Health, 2/8/1984.)

Sec. 6B-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

- (a) *Board of Health* is that Board authorized by Section 25 of Number 444 of the Special Acts of 1939, as amended.
- (b) *Business Zone* shall include BEX-50, WB, LB, LBR, CGB, CGBR, GR, GBO and P Zones as so designated in the current Zoning Regulations and Zoning Map of the Town of Greenwich.
- (c) *Construction* is any and all physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing or equipping of building or other structures, public or private highways, roads, premises, parks, utility lines or other property, and shall include but not be limited to land clearing, grading, excavating, filling and paving.
- (d) *Daytime* is 7:00 a.m. to 10:00 p.m. local time.
- (e) *Director* is the Director of Health as defined in the Special Acts of the Town of Greenwich or his/her authorized representative.
- (f) *Emergency* is any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.
- (g) *Fire Horn* is a sound-producing device activated by compressed air or electronics, located at a fire station, to alert fire-fighting personnel.
- (g.1) *Gasoline-powered leaf blower* is defined as a home or commercial tool, powered by a gasoline engine, that is used primarily for, but not limited to, accumulating leaves, grass clippings, cleaning gutters and other related tasks.

**Sec. 22a-69-7.2. Transference**

No person who owns, operates or maintains a stationary noise source shall transfer a variance from one site to another site.

(Effective June 15, 1978)

**Sec. 22a-69-7.3. Responsibility to comply with applicable regulations**

Approval of a variance shall not relieve any person of the responsibility to comply with any other applicable Regulations or other provisions of federal, state or local laws, ordinances or regulations.

(Effective June 15, 1978)

**Sec. 22a-69-7.4. Violations and enforcement**

(a) No person shall violate or cause the violation of any of these Regulations.

(b) Each day on which a violation occurs or continues after the time for correction of the violation given in the order has elapsed or after thirty (30) days from the date of service of the order, whichever is later, shall be considered a separate violation of these Regulations.

(c) Qualified personnel of the Office of Noise Control shall, with or without complaints, conduct investigations and ascertain whether these Regulations have been complied with. Whenever such personnel determines that any of these Regulations have been violated or there has been a failure to comply therewith, they shall make and serve upon the person(s) responsible for the violation a written order specifying the nature of the violation or failure and affording a reasonable time for its correction or remedy. Prior to the issuance of such order, such personnel shall make a reasonable effort in light of the circumstances to correct a violation or achieve compliance by means of conference, conciliation and persuasion as required by statute. Unless the person(s) against whom an order has been served files a written answer thereto with the Commissioner within thirty (30) days after the date of service of the order and requests a hearing thereon, such order shall become final and effective in accordance with the Connecticut Administrative Procedures Act and the rules, practices, and procedures of the Department of Environmental Protection.

(Effective June 15, 1978)

(ii) The social and economic value of the activity for which the variance is sought.

(iii) The ability of the applicant to apply best practical noise control measures, as defined in these Regulations.

(e) Following receipt and review of an application for a variance, the Commissioner shall fix a date, time and location for a hearing on such application.

(f) The Commissioner shall cause the applicant to publish at his/her own expense all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record.

(g) Within sixty (60) days of the receipt of the record of the hearings on a variance application, the Commissioner shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.

(h) The Commissioner may, at his/her discretion, limit the duration of any variance granted under these Regulations. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of these Regulations. Any such application shall include a certification of compliance with any condition imposed under the previous variance.

(i) The Commissioner may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:

(i) Requirements for the best practical noise control measures to be taken by the owner or operator of the source to minimize noise during the period of the variance.

(ii) Requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Commissioner deems necessary.

(j) The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Commissioner upon application of any party if the Commissioner finds that protection of the public health so requires.

(k) In any case where a person seeking a variance contends that compliance with any provision of these Regulations is not practical or possible because of the cost involved either in installing noise control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Commissioner such financial records as the Commissioner may require.

(l) A variance may include a compliance schedule and requirements for periodic reporting of increments of achievement of compliance.

(Effective June 15, 1978)

for, the reduction of airport facility noise impacts to the extent not preempted by state or federal law or regulation.)

(Effective June 15, 1978)

**Sec. 22a-69-7. Variances and enforcement procedures**

**Sec. 22a-69-7.1. Variances**

(a) Any person who owns or operates any stationary noise source may apply to the Commissioner for a variance or a partial variance from one or more of the provisions of these Regulations. Applications for a variance shall be submitted on forms furnished by the Commissioner and shall supply such information as he/she requires, including, but not limited to:

(i) Information on the nature and location of the facility or process for which such application is made.

(ii) The reason for which the variance is required, including the economic and technical justifications.

(iii) The nature and intensity of noise that will occur during the period of the variance.

(iv) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.

(v) A specific schedule of the best practical noise control measures, if any, which might be taken to bring the source into compliance with those Regulations from which a variance is sought, or a statement of the length of time during which it is estimated that it will be necessary for the variance to continue.

(vi) Any other relevant information the Commissioner may require in order to make a determination regarding the application.

(b) Failure to supply the information required by the form furnished by the Commissioner shall be cause for rejection of the application unless the applicant supplies the needed information within thirty (30) days of the written request by the Commissioner for such information.

(c) No variance shall be approved unless the applicant presents adequate proof to the Commissioner's satisfaction that:

(i) Noise levels occurring during the period of the variance will not constitute a danger to the public health; and

(ii) Compliance with the Regulations would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefits to the public.

(d) In making a determination on granting a variance, the Commissioner shall consider:

(i) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property which is caused or threatened to be caused.

are not an acceptable method for determining such levels. Sound level sampling techniques are acceptable and will often be the most practical to employ. Such a technique using Connecticut Noise Survey Data Form #101 with accompanying instructions is acceptable.

(f) In measuring compliance with Noise Zone Standards, the following short-term noise level excursions over the noise level standards established by these Regulations shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith:

<i>Allowable levels above standards (dBA)</i>	<i>Time period of such levels (minutes/hour)</i>
3	15
6	7½
8	5

(g) Measurements taken to determine compliance with Section 3 shall be taken at about one foot beyond the boundary of the Emitter Noise Zone within the receptor's Noise Zone. The Emitter's Noise Zone includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records. The Emitter's Noise Zone also includes contiguous publicly dedicated street and highway rights-of-way, railroads rights-of-way and waters of the State.  
(Effective June 15, 1978)

#### Sec. 22a-69-5. Other provisions

##### Sec. 22a-69-5.1. Intrusion alarms

No person shall cause, suffer, allow or permit the operation of any intrusion alarm which, from time of activation of audible signal, emits noise for a period of time exceeding ten minutes when attached to any vehicle or thirty minutes when attached to any building or structure.

The repetition of activation of the audible signal of an intrusion alarm due to malfunction, lack of proper maintenance, or lack of reasonable care shall be considered excessive noise.

(Effective June 15, 1978)

##### Sec. 22a-69-6. Airport facilities

##### Sec. 22a-69-6.1. Extent of regulation

Airport facilities are subject to Section 3 to the extent not preempted by state or federal law or regulation.

(Effective June 15, 1978)

##### Sec. 22a-69-6.2. Reserved

(This subsection is reserved for possible future regulations regarding the assessment of, and long-range plans

**Sec. 22a-69-3.8. Adaptive reuse of existing buildings**

Buildings and other structures that exist as of the effective date of these Regulations which have been remodeled or converted for adaptive reuse or which may be remodeled or converted at a future date shall be provided a permanent five (5) dBA maximum noise level allowance above the Emitter Class of the new use of the building over levels otherwise herein required.

(Effective June 15, 1978)

**Sec. 22a-69-4. Measurement procedures**

Acoustic measurements to ascertain compliance with these Regulations shall be in substantial conformity with standards and Recommended Practices established by professional organizations such as ANSI and SAE.

(a) Personnel conducting sound measurements shall be trained and experienced in the current techniques and principles of sound measuring equipment and instrumentation. The Commissioner shall establish sufficiently detailed measurement procedure guidelines specifying, but not necessarily being limited to, the following: The appropriate utilization of fast or slow sound level meter dampening when making sound level measurements, the rise time specified in microseconds for measuring impulse noise, the need for a whole circuit in such measurements, and the proper weighting to be used in measuring impulse noise.

(b) Instruments shall conform to the following standards of their latest revisions:

(i) ANSI S1.4-1971, "Specifications for Sound Level Meters," Type 1 or 2.

(ii) ANSI S1.11-1966, "Specifications for Octave, One-Half Octave and One-Third Octave Band Filter Sets," Type E, Class II.

(iii) If a magnetic tape recorder or a graphic level recorder or other indicating device is used, the system shall meet the applicable requirements of SAE Recommended Practice J184, "Qualifying a Sound Data Acquisition System."

(c) Instruments shall be set up to conform to ANSI S1.13-1971, "Methods for the Measurement of Sound Pressure Levels."

(d) Instrument manufacturer's instructions for use of the instruments shall be followed, including acoustical calibration of equipment used.

(e) The determination of  $L_{90}$  to ascertain background levels requires a statistical analysis. A graphic level recording and visual interpretation of the chart recording to determine the levels is an acceptable method. Instruments designed to determine the cumulative distribution of noise levels are also acceptable used either in the field or in the laboratory to analyze a tape recording. Dynamic visual estimations from a sound level meter

Levels emitted in excess of the values listed above shall be considered excessive noise.

(b) No person in a Class B Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

Class B Emitter to	Receptor			
	G	B	A/Day	A/Night
62 dBA	62 dBA	55 dBA	45 dBA	

Levels emitted in excess of the values listed above shall be considered excessive noise.

(c) No person in a Class A Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

Class A Emitter to	Receptor			
	G	B	A/Day	A/Night
62 dBA	55 dBA	55 dBA	45 dBA	

Levels emitted in excess of the values listed above shall be considered excessive noise.

(Effective June 15, 1978)

#### Sec. 22a-69-3.6. High background noise areas

In those individual cases where the background noise levels caused by sources not subject to these Regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by 5 dBA, provided that no source subject to the provisions of Section 3 shall emit noise in excess of 80 dBA at any time, and provided that this Section does not decrease the permissible levels of the other Sections of this Regulation.

(Effective June 15, 1978)

#### Sec. 22a-69-3.7. Existing noise sources

Existing noise sources constructed between the effective date of these Regulations and January 1, 1960 shall be provided a permanent five (5) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Existing noise sources constructed prior to 1960 shall be provided a permanent ten (10) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Additionally, all existing noise sources shall be provided twenty-four (24) months in order to achieve compliance with these Regulations if a notice of violation has been, or may be, issued to the source. This time period begins with the effective date of these Regulations, not with the date of the notice of violation.

(Effective June 15, 1978)

4. Transportation, Communications and Utilities—  
Except 46 and 47

6. Services

637 Warehousing and Storage Services

66 Contract Construction Services

672 Protective Functions and Related Activities

675 Military Bases and Reservations

8. Agriculture

83 Forestry Activities and Related Services

84 Commercial Fishing Activities and Related Services

85 Mining Activities and Related Services

89 Other Resource Production and Extraction, N.E.C.\*

\*Not Elsewhere Classified

(Effective June 15, 1978)

Sec. 22a-69-3. Allowable noise levels

Sec. 22a-69-3.1. General prohibition

No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her Noise Zone so as to violate any provisions of these Regulations.

(Effective June 15, 1978)

Sec. 22a-69-3.2. Impulse noise

(a) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime to any Class A Noise Zone.

(b) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure at any time to any Noise Zone.

(Effective June 15, 1978)

Sec. 22a-69-3.3. Prominent discrete tones

Continuous noise measured beyond the boundary of the Noise Zone of the noise emitter in any other Noise Zone which possesses one or more audible discrete tones shall be considered excessive noise when a level of 5 dBA below the levels specified in Section 3 of these Regulations is exceeded.

(Effective June 15, 1978)

Sec. 22a-69-3.4. Infrasonic and ultrasonic

No person shall emit beyond his/her property infrasonic or ultrasonic sound in excess of 100 dB at any time.

(Effective June 15, 1978)

Sec. 22a-69-3.5. Noise zone standards

(a) No person in a Class C Noise Zone shall emit noise exceeding the levels stated herein and applicable to adjacent Noise Zones:

	<i>Receptor</i>			
	<i>C</i>	<i>B</i>	<i>A/Day</i>	<i>A/Night</i>
<i>Class C Emitter to</i>	70 dBA	66 dBA	61 dBA	51 dBA

- 55 Retail Trade - Automotive Dealers and Gasoline Service Stations
- 56 Retail Trade - Apparel and Accessories
- 57 Retail Trade - Furniture, Home Furnishings and Equipment
- 58 Retail Trade - Eating, Drinking and Lodging—Except 583, 584, and 585
- 59 Retail Trade - N.E.C.\*
- 6. Services
  - 61 Finance, Insurance and Real Estate Services
  - 62 Personal Services
  - 63 Business Services—Except 637
  - 64 Repair Services
  - 65 Professional Services—Except 651
  - 67 Government Services—Except 672, 674, and 675
  - 68 Educational Services
  - 69 Miscellaneous Services—Except 691
- 7. Cultural, Entertainment and Recreational
  - 71 Cultural Activities and Nature Exhibitions—Except 711, 712, and 713
  - 72 Public Assembly
  - 73 Amusements
  - 74 Recreational Activities
  - 75 Resorts and Group Camps
  - 76 Parks
  - 79 Other, N.E.C.\*
- \*Not Elsewhere Classified
  - 8. Agriculture
    - 81 Agriculture
    - 82 Agricultural Related Activities
  - 9. Undeveloped, Unused, and Reserved Lands and Water Area
    - 91 Undeveloped and Unused Land Area
    - 93 Water Areas
    - 94 Vacant Floor Area—Except 941
    - 99 Other Undeveloped Land and Water Areas, N.E.C.\*
- \*Not Elsewhere Classified  
(Effective June 15, 1978)

**Sec. 22a-69-2.5. Class C noise zone**

Lands designated Class C shall generally be industrial where protection against damage to hearing is essential, and the necessity for conversation is limited.

**Class C Land Use Category.** The land uses in this category shall include, but not be limited to, manufacturing activities, transportation facilities, warehousing, military bases, mining, and other lands intended for such uses.

The specific SLUCONN categories in Class C shall include:

- 2. Manufacturing - Secondary Raw Materials
- 3. Manufacturing - Primary Raw Materials

**Class A Land Use Category.** The land uses in this category shall include, but not be limited to, single and multiple family homes, hotels, prisons, hospitals, religious facilities, cultural activities, forest preserves, and land intended for residential or special uses requiring such protection.

The specific SLUCONN categories in Class A shall include:

1. Residential
    - 11 Household Units\*
    - 12 Group Quarters
    - 13 Mobile Home Parks and Courts
    - 19 Other Residential
  5. Trade
    - 583 Residential Hotels
    - 584 Hotels, Tourist Courts and Motels
    - 585 Transient Lodgings
  6. Services
    - 651 Medical and Other Health Services; Hospitals
    - 674 Correctional Institutions
    - 691 Religious Activities
  7. Cultural, Entertainment and Recreational
    - 711 Cultural Activities
    - 712 Nature Exhibitions
    - 713 Historic and Monument Sites
- \*Mobile homes are included if on foundations
9. Undeveloped, Unused and Reserved Lands and Water Areas
    - 92 Reserved Lands
    - 941 Vacant Floor Area—Residential  
(Effective June 15, 1978)

**Sec. 22a-69-2.4. Class B noise zone**

Lands designated Class B shall generally be commercial in nature, areas where human beings converse and such conversation is essential to the intended use of the land.

**Class B Land Use Category.** The land uses in this category shall include, but not be limited to, retail trade, personal, business and legal services, educational institutions, government services, amusements, agricultural activities, and lands intended for such commercial or institutional uses.

The specific SLUCONN categories in Class B shall include:

4. Transportation, Communication and Utilities
  - 46 Automobile Parking
  - 47 Communication
5. Trade
  - 51 Wholesale Trade
  - 52 Retail Trade - Building Materials
  - 53 Retail Trade - General Merchandise
  - 54 Retail Trade - Food

(j) Patriotic or public celebrations not extending longer than one calendar day.

(k) Noise created by aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions.

(l) Noise created by products undergoing test, where one of the primary purposes of the test is evaluation of product noise characteristics and where practical noise control measures have been taken.

(m) Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical powers, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements.

(Effective June 15, 1978)

#### Sec. 22a-69-1.9. Burden of persuasion regarding exclusions and exemptions

In any proceeding pursuant to these Regulations, the burden of persuasion shall rest with the party attempting to enforce the Regulations. Notwithstanding the foregoing, if an exclusion or exemption stated in these Regulations would limit an obligation, limit a liability, or eliminate either an obligation or a liability, the person who would benefit from the application of the exclusion or exemption shall have the burden of persuasion that the exclusion or exemption applies and that the terms of the exclusion or exemption have been met. The Department shall cooperate with and assist persons in determining the application of the provisions of these Regulations.

(Effective June 15, 1978)

#### Sec. 22a-69-2. Classification of land according to use

##### Sec. 22a-69-2.1. Basis

Noisy Zone classifications shall be based on the actual use of any parcel or tract under single ownership as detailed by the Standard Land Use Classification Manual of Connecticut (SLUCONN).

(Effective June 15, 1978)

##### Sec. 22a-69-2.2. Multiple uses

Where multiple uses exist within a given Noise Zone, the least restrictive land use category for the Emitter and Receptor shall apply regarding the noise standards specified in Section 3 of these Regulations.

(Effective June 15, 1978)

##### Sec. 22a-69-2.3. Class A noise zone

Lands designated Class A shall generally be residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land.

(i) Sound created by any mobile source of noise. Mobile sources of noise shall include, but are not limited to, such sources as aircraft, automobiles, trucks, and boats. This exclusion shall cease to apply when a mobile source of noise has maneuvered into position at the loading dock, or similar facility, has turned off its engine and ancillary equipment, and has begun the physical process of removing the contents of the vehicle.

(Effective June 15, 1978)

#### Sec. 22a-69-1.8. Exemptions

Exempted from these Regulations are:

(a) Conditions caused by natural phenomena, strike, riot, catastrophe, or other condition over which the apparent violator has no control.

(b) Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

(c) Noises created by snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.

(d) Noise that originates at airports that is directly caused by aircraft flight operations specifically preempted by the Federal Aviation Administration.

(e) Noise created by the use of property for purposes of conducting speed or endurance events involving motor vehicles shall be exempted but such exemption is effective only during the specific period(s) of time within which such use is authorized by the political subdivision or governmental entity having lawful jurisdiction to sanction such use.

(f) Noise created as a result of, or relating to, an emergency.

(g) Construction noise.

(h) Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities.

(i) Noise created by on-site recreational or sporting activity which is sanctioned by the state or local government provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.

(b) These specifications, standards and codes may be examined at the Office of Noise Control, Department of Environmental Protection, State of Connecticut.

(c) Any changes in the specifications, standards and codes incorporated in these Regulations are available at the Office listed in (b) above. All questions as to the applicability of such changes should also be referred to this Office.

(Effective June 15, 1978)

**Sec. 22a-69-1.5. Compliance with regulations no defense to nuisance claim**

Nothing in any portion of these Regulations shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with these Regulations is not a bar to a claim of nuisance by any person. A violation of any portion of these Regulations shall not be deemed to create a nuisance per se.

(Effective June 15, 1978)

**Sec. 22a-69-1.6. Severability**

If any provision of these Regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of these Regulations which can be given effect without the invalid provisions or application; and to this end, the provisions of these Regulations and the various applications thereof are declared to be severable.

(Effective June 15, 1978)

**Sec. 22a-69-1.7. Exclusions**

These Regulations shall not apply to:

(a) Sound generated by natural phenomena, including, but not limited to, wind, storms, insects, amphibious creatures, birds, and water flowing in its natural course.

(b) The unamplified sounding of the human voice.

(c) The unamplified sound made by any wild or domestic animal.

(d) Sound created by bells, carillons, or chimes associated with specific religious observances.

(e) Sound created by a public emergency sound signal attached to an authorized emergency vehicle in the immediate act of responding to an emergency, as authorized by subsection (d) of Section 14.80 and Section 14-1a of Chapter 246 of the General Statutes and all amendments thereto, or located within or attached to a building, pole or other structure for the purpose of sounding an alarm relating to fire or civil preparedness.

(f) Sound created by safety and protective devices.

(g) Farming equipment or farming activity.

(h) Back-up alarms required by OSHA or other State or Federal safety regulations.

the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

(u) sound analyzer means a device, generally used in conjunction with a sound level meter, for measuring the sound pressure level of a noise as a function of frequency in octave bands, one-third octave bands or other standard ranges. The sound analyzer shall conform to Type E, Class II, as specified in ANSI S1.11-1971 or latest revision.

(v) sound level means a frequency weighted sound pressure level, obtained by the use of metering characteristics and the weighting A, B, or C as specified in ANSI, "Specifications for Sound Level Meters," S1.4-1971 or latest revision. The unit of measurement is the decibel. The weighting employed must always be stated as dBA, dBB, or dBC.

(w) sound level meter means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter shall conform to ANSI Specifications for Sound Level Meters S1.4-1971.

(x) sound pressure level (SPL) means twenty times the logarithm to the base ten of the ratio of the sound pressure in question to the standard reference pressure of 0.00002 N/M<sup>2</sup>. It is expressed in decible units.

(y) ultrasonic sound means sound pressure variations having frequencies above the audible sound spectrum for humans, generally higher than 20,000 Hz; superaudible.

(z) vibration means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

(Effective June 15, 1978)

#### Sec. 22a-69-1.3. Coordination with other laws

(a) Nothing in these Regulations shall authorize the construction or operation of a stationary noise source in violation of the requirements of any other applicable State law or regulation.

(b) Nothing in these Regulations shall authorize the sale, use or operation of a noise source in violation of the laws and regulations of the Connecticut Department of Motor Vehicles, the Federal Aviation Administration, the U.S. Environmental Protection Agency, or any amendments thereto.

(Effective June 15, 1978)

#### Sec. 22a-69-1.4. Incorporation by reference

(a) The specifications, standards and codes of agencies of the U.S. Government and organizations which are not agencies of the U.S. Government, to the extent that they are legally incorporated by reference in these Regulations, have the same force and effect as other standards in these Regulations.

(m)  $L_{10}$  means the A-weighted sound level exceeded 10% of the time period during which measurement was made.

(n)  $L_{50}$  means the A-weighted sound level exceeded 50% of the time period during which measurement was made.

(o)  $L_{90}$  means the A-weighted sound level exceeded 90% of the time period during which measurement was made.

(p) octave band sound pressure level means the sound pressure level for the sound contained within the specified preferred octave band, stated in dB, as described in ANSI S1.6-1967: Preferred Frequencies and Band Numbers for Acoustical Measurements.

(q) peak sound pressure level means the absolute maximum value of the instantaneous sound pressure level occurring in a specified period of time.

(r) prominent discrete tone means the presence of acoustic energy concentrated in a narrow frequency range, including, but not limited to, an audible tone, which produces a one-third octave sound pressure level greater than that of either adjacent one-third octave and which exceeds the arithmetic average of the two adjacent one-third octave band levels by an amount greater than shown below opposite the center of frequency for the one-third octave band containing the concentration of acoustical energy.

<i>1/3 Octave Band Center Frequency (Hz)</i>	<i>dB</i>
100	16
125	14
160	12
200	11
250	9
315	8
400	7
500	6
630	6
800	5
1000	4
1250	4
1600	4
2000	3
2500	3
3150	3
4000	3
5000	4
6300	4
8000	5
10000	6

(s) reference pressure is 0.00002 Newtons per square meter ( $N/M^2$ ), or 20 microPascals, for the purposes of these Regulations.

(t) sound means a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of

fuses, back-up alarms required by OSHA or other state or federal safety regulations, horns, whistles or other warning devices associated with pressure buildup.

(v) site means the area bounded by the property line on or in which a source of noise exists.

(Effective June 15, 1978)

#### Sec. 22a-69-1.2. Acoustic terminology and definitions

(a) All acoustical terminology used in these Regulations shall be in conformance with the American National Standards Institute (ANSI), "Acoustical Terminology," contained in publication S1.1 as now exists and as may be hereafter modified. The definitions below shall apply if the particular term is not defined in the aforesaid ANSI publication.

(b) audible range of frequency means the frequency range 20 Hz to 20,000 Hz which is generally considered to be the normal range of human hearing.

(c) background noise means noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time ( $L_{90}$ ) in which the measurement is taken.

(d) continuous noise means ongoing noise, the intensity of which remains at a measurable level (which may vary) without interruption over an indefinite period or a specified period of time.

(e) decibel (dB) means a unit of measurement of the sound level.

(f) excessive noise means emitter Noise Zone levels from stationary noise sources exceeding the Standards set forth in Section 3 of these Regulations beyond the boundary of adjacent Noise Zones.

(g) existing noise source means any noise source(s) within a given Noise Zone, the construction of which commenced prior to the effective date of these Regulations.

(h) fluctuating noise means a continuous noise whose level varies with time by more than 5 dB.

(i) frequency means the number of vibrations or alterations of sound pressure per second and is expressed in Hertz.

(j) hertz (Hz) means a unit of measurement of frequency formerly stated as, and numerically equal to, cycles per second.

(k) impulse noise means noise of short duration (generally less than one second), especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition.

(l) infrasonic sound means sound pressure variations having frequencies below the audible range for humans, generally below 20 Hz; subaudible.

(j) emergency means any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

(k) intrusion alarm means a device with an audible signal which, when activated, indicates intrusion by an unauthorized person. Such alarm may be attached to, or within, any building, structure, property or vehicle.

(l) ISO means the International Organization for Standardization, or its successor body.

(m) lawn care and maintenance equipment means all engine or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner, and including, but not limited to, lawn mowers, riding tractors, snow-blowers, and including equipment intended for infrequent service work in inhabited areas, typically requiring skilled operators, including, but not limited to, chain saws, log chippers or paving rollers.

(n) nighttime means 10:00 p.m. to 7:00 a.m. local time.

(o) noise zone means an individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way and waters of the State.

(p) office of noise control means the office within the Department of Environmental Protection designated by the Commissioner to develop, administer and enforce the provisions of Chapter 442 of the Connecticut General Statutes.

(q) OSHA means the Occupational Safety and Health Act and any amendments thereto or successor regulations administered by the U.S. and Connecticut Departments of Labor, or successor bodies.

(r) person means any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the State or other legal entity of any kind.

(s) public emergency sound signal means an audible electronic or mechanical siren or signal device attached to an authorized emergency vehicle or within or attached to a building for the purpose of sounding an alarm relating to fire or civil preparedness. Such signal may also be attached to a pole or other structure.

(t) SAE means the Society of Automotive Engineers, Inc., or its successor body.

(u) safety and protective devices means devices that are designed to be used, and are actually used, for the prevention of the exposure of any person or property to imminent danger, including, but not limited to, unregulated safety relief valves, circuit breakers, protective

## Control of Noise

### Sec. 22a-69-1. Definitions

#### Sec. 22a-69-1.1. General

(a) adaptive reuse means remodeling and conversion of an obsolete or unused building or other structure for alternate uses. For example, older industrial buildings, warehouses, offices, hotels, garages, etc., could be improved and converted for reuse in terms of industrial processes, commercial activities, educational purposes, residential use as apartments, or other purposes.

(b) aircraft means any engine-powered device that is used or intended to be used for flight in the air and capable of carrying humans. Aircraft shall include civil, military, general aviation and VTOL/STOL aircraft.

(i) aircraft, STOL means any aircraft designed for, and capable of, short take-off and landing operations.

(ii) aircraft, VTOL means any aircraft designed for, and capable of, vertical take-off and landing operations such as, but not limited to, helicopters.

(c) airport means an area of land or water that is used, or intended to be used, for the landing and takeoff of aircraft and is licensed by the State of Connecticut Bureau of Aeronautics for such use. "Airport" shall include all buildings and facilities if any. "Airport" shall include any facility used, or intended for use, as a landing and take-off area for VTOL/STOL aircraft, including, but not limited to, heliports.

(d) ANSI means the American National Standards Institute or its successor body.

(e) best practical noise control measures means noise control devices, technology and procedures which are determined by the Commissioner to be the best practical, taking into consideration the age of the equipment and facilities involved, the process employed, capital expenditures, maintenance cost, technical feasibility, and the engineering aspects of the applicable noise control techniques in relation to the control achieved and the non-noise control environmental impact.

(f) commissioner means the Commissioner of the Department of Environmental Protection or his/her designated representative.

(g) construction means any, and all, physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling and paving.

(h) daytime means 7:00 a.m. to 10:00 p.m. local time.

(i) director means the Director of the Office of Noise Control in the Department of Environmental Protection.

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**Sec. 6B-9. Variance.**

The Board of Health may, on written application and after review, grant a variance from any provision or provisions of this chapter which are more stringent than the Connecticut Department of Environmental Protection's regulations for the control of noise, where such variance is justified by overriding interests affecting the public safety, health and welfare. The variance may be granted subject to appropriate conditions, which may include a time schedule for compliance. The Board of Health shall hold a public hearing on all variance applications submitted to it. Said hearing shall be held within thirty (30) days from the receipt of the variance application by the Board of Health. Notice of the time and place of such hearing shall be given by mail to the applicant at least ten (10) business days before the date of the hearing. Notice of the time, place and application or applications to be discussed shall also be posted in the office of the Town Clerk at least ten (10) business days before the date of the hearing. The Board of Health shall render a written decision setting forth the reasons for the grant or denial of the variance within ten (1) business days after said hearing. Where the decision is to grant a variance, the Board of Health shall set forth those conditions or circumstances which it finds justify the grant of the variance.

(Bd. of Health, 2/18/1984.)

**Sec. 6B-10. Penalties.**

(a) Unless otherwise provided, any person who violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00) for each violation.

(b) It shall be the responsibility of the offender to abate the violation as ordered by the Director. Each day's violation shall be deemed a separate offense.

(Bd. of Health, 2/8/1984.)

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Section 11. Variance and Contracts.

## 11.1 Variances.

Any person living or doing business in Old Saybrook may apply to the Board of Selectmen for a variance from one or more of the provisions of the Ordinance, which are more stringent than the Connecticut Department of Environmental regulations for the control of noise, provided that the applicant supplies all of the following information to the Board of Selectmen at least twenty (20) days prior to the start of said activity.

- 1) The location and nature of activity.
  - 2) The time period and hours of operation of said activity.
  - 3) The nature and intensity of the noise that will be generated, and,
  - 4) Any other information required by the Board of Selectmen.
- b) No variance from these regulations shall be issued unless it has been demonstrated that:
- 1) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
  - 2) The noise levels generated by the proposed activity will not constitute a danger to the public health, and
  - 3) Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- c) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- d) ~~Failure to rule on the application in the designated time shall constitute approval of the variance.~~

Section 9. Inspections.

- 9.1 For the purpose of determining compliance with the provisions of this Ordinance, the Board of Selectmen or their designated representative are hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing or noise measurement of any activity, device, facility, or process where inspection is sought, the Board of Selectmen or their designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.
- 9.2 It shall be unlawful for any person to refuse to allow or permit the Board of Selectmen or their designated representative free access to any premises when the Board of Selectmen or their designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.
- 9.3 It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.
- 9.4 No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this Ordinance.

Section 10. Penalties.

- 10.1 Any person in violation of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed twenty-five (\$25) dollars. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred (\$400) dollars per day.

Section 6. Prohibited Noise Activities. The following activities are prohibited:

- 6.1 VEHICLE HORNS: No person shall at any time sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.
- 6.2 TRUCK IDLING: No person shall operate an engine or any standing motor vehicle with a weight in excess of 10,000 pounds Manufacturer's Gross Vehicle Weight (GVW) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises or on a Town road next to a residential premises.
- 6.3 EXHAUST DISCHARGE: No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge be through a muffler as defined by Section 3.16 of this Ordinance or through an apparatus providing equal noise reduction.

Section 7. Motor Vehicle Noise.

- 7.1 All motor vehicles operated within the limits of the Town of Old Saybrook shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Section 14-80a of the Connecticut State Statutes.
- 7.2 No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 5.2.

Section 8. Recreational Vehicle Noise.

- 8.1 No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this Ordinance when the noise so generated exceeds the noise level standards set forth in Section 5.2.

- d) Warning devices required by OSHA or other State or Federal safety regulations.
- e) Farming equipment or farming activity.

#### 5.5 EXEMPTIONS

The following shall be exempt from these regulations subject to special conditions as spelled out;

- a) Noise generated by any construction equipment which is operated during Day-Time Hours, provided that the operation of construction equipment during Night-Time Hours shall not exceed the maximum noise levels as specified in Section 5.2.
- b) Noise created as a result of, or relating to an emergency.
- c) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated during Day-Time Hours.
- d) Noise from snow removal equipment.
- e) Noise from demolition work conducted during Day-Time Hours, provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation.
- f) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration.
- g) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the Town, including, but not limited to, parades, sporting events, concerts, and firework displays.
- h) Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the ~~blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities.~~
- i) Noise created by refuse and solid waste collection, provided that the activity is conducted during Day-Time Hours.

Receptor's Zone

<u>Emitter's Zone</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential/Day</u>	<u>Residential/Night</u>
Residential	62 dBA	55 dBA	55 dBA	45 dBA

b) No person in a Commercial Zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent Residential, Commercial or Industrial Zones:

Receptor's Zone

<u>Emitter's Zone</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential/Day</u>	<u>Residential/Night</u>
Commercial	62 dBA	62 dBA	55 dBA	45 dBA

c) No person in an Industrial Zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent Residential, Commercial or Industrial Zones:

Receptor's Zone

<u>Emitter's Zone</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential/Day</u>	<u>Residential/Night</u>
Industrial	70 dBA	66 dBA	61 dBA	51 dBA

5.3 HIGH BACKGROUND NOISE LEVELS AND IMPULSE NOISE

a) In those individual cases where the background noise levels caused by sources not subject to these Regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by 5 dBA, provided that no source subject to the provisions of this ordinance shall emit noise in excess of 80 dBA at any time, and provided that this Section does not decrease the permissible levels of other Sections of this Ordinance.

b) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during the nighttime to any Residential Noise Zone.

c) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time to any Zone.

5.4 EXCLUSIONS

These levels shall not apply to noise emitted by or related to:

a) Natural phenomena.

b) Any bell or chime from any building clock, school, or church.

~~c) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situated provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful.~~

- a) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
  - b) The sound level meter shall be calibrated before and after each set of measurements.
  - c) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions.
  - d) The sound level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.
  - e) Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.
- 4.4 The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled Connecticut Noise Survey Data Form #101.

Section 5. Noise Levels.

- 5.1 It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in these regulations.
- 5.2 NOISE LEVEL STANDARDS
- a) No person in a Residential Zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent Residential, Commercial or Industrial Zones:

- 3.24 RECREATIONAL VEHICLE: Shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.
- 3.25 RESIDENTIAL ZONE: Shall mean those residential districts set forth in Article II of the zoning regulations of the Town of Old Saybrook and all uses associated therewith either permitted as a right or as a special use.
- 3.26 SOUND: Shall mean a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.
- 3.27 SOUND LEVEL METER: Shall mean an instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters Sl. 4--1971 (Type S2A).
- 3.28 SOUND PRESSURE LEVEL: Shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/meter<sup>2</sup>), and is expressed in decibels (dB).
- Section 4. NOISE LEVEL MEASUREMENT PROCEDURES: For the purpose of determining noise levels as set forth in this ordinance, the following guidelines shall be applicable.
- 4.1 All persons conducting sound measurements shall be trained in the current techniques and principles of sound measuring equipment and instrumentation.
- 4.2 Instruments used to determine sound level measurements shall conform to the sound level meters as defined by this Ordinance.
- 4.3 The general steps listed below shall be followed when preparing to take sound level measurements.

- 3.15 MOTOR VEHICLE: Shall be defined as per Section 14-1 (26) of the Connecticut General Statutes.
- 3.16 MUFFLER: Shall mean a device for abating sounds such as escaping gases.
- 3.17 NIGHT-TIME HOURS: Shall mean the hours between 10:00 p.m. and 7:00 a.m., Sunday evening through Saturday morning, except that night shall mean the hours between 10:00 p.m. Saturday and 9:00 a.m. Sunday.
- 3.18 NOISE: Shall mean any sound, the intensity of which exceeds the standards set forth in Section 5.2 of this Ordinance.
- 3.19 NOISE LEVEL: Shall mean the sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- 3.20 PERSON: Shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the State or other legal entity of any kind.
- 3.21 PREMISES: Shall mean any building, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned or controlled by a person. The emitter's premises includes contiguous publically dedicated street and highway rights-of-way, all road rights-of-way and waters of the State.
- 3.22 PROPERTY LINE: Shall mean that real or imaginary line along the ground surface and its vertical extension which a) separates real property owned or controlled by any person for contiguous real property owned or controlled by another person, and b) separates real property from the public right-of-way.
- 3.23 PUBLIC RIGHT-OF-WAY: Shall mean any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

- 3.5 CONSTRUCTION EQUIPMENT: Shall mean any equipment or device operated by fuel or electric power used in construction or demolition work.
- 3.6 DAY-TIME HOURS: Shall mean the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sundays.
- 3.7 DECIBEL: Shall mean a logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.
- 3.8 DEMOLITION: Shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
- 3.9 DOMESTIC POWER EQUIPMENT: Shall mean, but not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.
- 3.10 EMERGENCY: Shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 3.11 EMERGENCY VEHICLE: Shall mean any motor vehicle authorized by the Town of Old Saybrook to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency.
- 3.12 EMERGENCY WORK: Shall mean work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.
- 3.13 IMPULSE NOISE: Shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.
- 3.14 INDUSTRIAL ZONE: Shall mean Industrial Districts as defined in Article IV of the zoning regulations of the Town of Old Saybrook, and all uses associated therewith either permitted as a right or as a special use.

Old Saybrook

ORDINANCE NO. 56

AN ORDINANCE PROVIDING FOR THE REDUCTION AND ELIMINATION OF NOISE BY ESTABLISHING MAXIMUM NOISE LEVELS UPON AND BETWEEN PREMISES, PROHIBITING CERTAIN NOISE ACTIVITIES, AND PROVIDING FOR INSPECTION, OFFENSES AND PENALTIES IN THE TOWN OF OLD SAYBROOK, CONNECTICUT.

Section 1. Short Title: "The Town of Old Saybrook Noise Control Ordinance."

Section 2. Purpose: It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This Ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life for the citizens of Old Saybrook through the reduction, control, and prevention of noise.

Section 3. Definitions: The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- 3.1 AMBIENT NOISE OR BACKGROUND NOISE: Shall mean noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable. In statistical terms, it is the level which is exceeded 90% of the time (L90) in which the measurement is taken.
- 3.2 BOARD OF SELECTMEN: Shall mean the Board of Selectmen of the Town of Old Saybrook or a duly authorized officer subject to their orders.
- 3.3 COMMERCIAL ZONE: Shall mean all of those districts set forth in Article III of the zoning regulations of the Town of Old Saybrook and all uses associated therewith either permitted as a right or as a special use.
- 3.4 CONSTRUCTION: Shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities, or similar property.

(e) *Recreational vehicle noise.* No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article when the noise so generated exceeds the noise level standards in this section. (Ord. of 2-23-82)

#### Sec. 6-36. Penalties.

Any person in violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed fifty dollars (\$50.00). In lieu of arrest and issuance of a summons, a police officer may serve upon a violator an infraction notice which shall be known as a noise ticket. Payment of the fine prescribed by such noise ticket within the time limit specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited.

Each day a violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred dollars (\$400.00) per day. (Ord. of 2-23-82)

#### Sec. 6-37. Variance.

(a) Any person residing or doing business in Newington may apply to the town manager for a variance from one or more of the provisions of this article which are more stringent than the Connecticut Department of Environmental Protection's regulations for the control of noise, provided that the applicant supplies all of the following information to the town manager at least twenty (20) days prior to the start of said activity:

- (1) The location and nature of activity.
- (2) The time period and hours of operation of said activity.
- (3) The nature and intensity of the noise that will be generated.
- (4) Any other information required by the town manager.

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(b) No variance from these regulations shall be issued unless it has been demonstrated that:

- (1) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
- (2) The noise levels generated by the proposed activity will not constitute a danger to the public health.
- (3) Compliance with this article constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

(d) Failure to rule on the application in the designated time shall constitute approval of the variance. (Ord. of 2-23-82)

#### Sec. 6-38. Severability.

All provisions of the zoning regulations of the town, which are more stringent than those set forth herein, shall remain in force. If, for any reason, any work, clause, paragraph or section of this article shall be held to make the same unconstitutional or superceded by any state law or regulation, this article shall not thereby be invalidated and the remainder of the article shall continue in effect. (Ord. of 2-23-82)

Secs. 6-39—6-49. Reserved.

### ARTICLE IV. HAZARDOUS MATERIALS

#### Sec. 6-50. Definitions.

As used in this article, the following words and terms shall have the meanings hereinafter set out:

*Business* shall mean an enterprise including, but not limited to, a factory, mill operation, laboratory, warehouse, refinery, machine shop, medical facility, or any facility that may use or store

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<i>Zone in which emitter is located</i>	<i>Zone in which Receptor is located</i>		<i>Resi- dential day-time</i>	<i>Resi- dential night-time</i>
	<i>Industrial (dBA)</i>	<i>Business (dBA)</i>	<i>hours (dBA)</i>	<i>hours (dBA)</i>
Industrial	70	66	61	51
Business	62	62	55	45
Residential	62	55	55	45

(c) *Background noise and impulse noise.*

- (1) In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to this article shall emit noise in excess of eighty (80) dBA at any time, and provided that this subsection shall not be interpreted as decreasing the noise level standards of this section.
- (2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during night-time hours.
- (3) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure level at any time.

(d) *Motor vehicle noise.*

- (1) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels as set forth in the regulations of the State of Connecticut Department of Motor Vehicles, Section 14-80a-1a(a-1) entitled "Maximum Permissible Noise Levels For Vehicles."
- (2) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this section.

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- (g) Noise created by public facility maintenance during day-time hours. (Ord. of 2-23-82)

**Sec. 6-34. Noise level measurement procedures.**

For the purpose of determining noise levels as set forth in this article, the following guidelines shall be applicable:

- (a) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.
- (b) Instruments used to determine sound level measurements shall be sound level meters as defined by this article.
- (c) The following steps shall be taken when preparing to take sound level measurements:
  - (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
  - (2) Measurements to determine compliance with section 6-35 shall be taken at a point that is located more or less one foot beyond the boundary of the emitter's premises and within the receptor's premises. (Ord. of 2-23-82)

**Sec. 6-35. Noise levels.**

(a) *Noise levels.* It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this article.

(b) *Noise level standards.*

- (1) No person shall emit noise exceeding the levels stated herein.

**Sec. 6-32. Exclusions.**

This article shall not apply to noise emitted by or related to:

- (a) Natural phenomena.
- (b) The unamplified sound made by any wild animal.
- (c) A bell or chime from any building clock, school or church.
- (d) A public emergency sound signal.
- (e) Farming equipment or farming activity.
- (f) An emergency.
- (g) Snow removal. (Ord. of 2-23-82)

**Sec. 6-33. Exemptions.**

The following shall be exempt from this article subject to the special conditions noted:

- (a) Noise created by the operation of property maintenance equipment during day-time hours.
- (b) Noise generated by any construction equipment operated during day-time hours.
- (c) Noise created by any recreational activities which are sanctioned by the town, including, but not limited to, parades, sporting events, concerts and firework displays.
- (d) Noise created by blasting provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from state or local authorities.
- (e) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.
- (f) Noise created by a fire or intrusion alarm which, from time of activation of the audible signal, emits noise for a period of time not exceeding ten (10) minutes when such alarm is attached to a vehicle or thirty (30) minutes when attached to any building or structure.

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political or administrative subdivision of the state or other legal entity of any kind.

*Premises* shall mean any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

*Property maintenance equipment* shall mean all engine or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers.

*Public emergency sound signal* shall mean a device either stationary or mobile, producing audible signal associated with a set of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action.

*Public facility maintenance* shall mean all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

*Recreational vehicle* shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.

*Residential zone* shall mean those areas so designated under Article II, Section 1, 3, 5, 7, 9, and 19 of the zoning regulations of the town.

*Sound* shall mean a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

*Sound level meter* shall mean an instrument used to measure sound levels. A sound level meter shall conform, as a minimum, to the American National Standards Institute's operational specifications for sound level meters S1.4-1971 (Type S2A).

*Sound pressure level* shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^{-6}$  Newtons  $1m^2$ ) and is expressed in decibels (dB).

*Town manager* shall mean the duly appointed town manager of the town or his designee. (Ord. of 2-23-82)

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*Intrusion alarm* shall mean a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

*Industrial zone* shall mean those areas so designated under Article II, Sections 15, 17, and 22 of the zoning regulations of the town.

*Motor vehicle* shall mean a vehicle as defined in subdivisions (25) and (26) of Section 14-1, Connecticut General Statutes, Revision of 1958, as amended.

*Nighttime hours* shall mean the hours between 10:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

*Noise level* shall mean a frequency weighted sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dBA.

*Person* shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or

## ARTICLE III. NOISE

**Sec. 6-30. Declaration of policy.**

Excessive noise must be controlled by the town to protect, preserve and promote the public health, safety and welfare. The town council recognizes the fact that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety or welfare. (Ord. of 2-23-82)

**Sec. 6-31. Definitions.**

[As used in this article, the following words and terms shall have the meanings hereinafter set out:]

*Background noise* shall mean noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded ninety (90) per cent of the time ( $L_{90}$ ) in which the measurement is taken.

*Business zone* shall mean those areas so designated under Article II, Sections 10, 12, 14, 20, and 23 of the zoning regulations of the town.

*Construction* shall mean the assembly, erection, substantial repair, alteration, demolition or site-preparation for or of public or private rights-of-way, buildings or other structures, utilities or property.

*Day-time hours* shall mean the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 10:00 p.m. on Sunday.

*Decibel* shall mean a unit of measurement of the sound level, the symbol for which is dB.

*Emergency* shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Excessive noise* shall mean any sound, the intensity of which exceeds the standards set forth in section 6-35 of this article.

*Impulse noise* shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

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Each day a violation continues after the time for correction of the violation has been given in a written order, or after the issuance of a summons or infraction notice, shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed four hundred dollars (\$400.00) per day.

- (1) Any person residing or doing business in the Town of Manchester may apply to the general manager for a variance from one or more of the provisions of this article which are more stringent than the Connecticut Department of Environmental Protection's regulations for the control of noise, provided that the applicant supplies all of the following information to the general manager at least twenty (20) days prior to the start of said activity.
  - a. The location and nature of activity;
  - b. The time period and hours of operation of said activity;
  - c. The nature and intensity of the noise that will be generated; and
  - d. Any other information required by the general manager.
- (2) No variance from these regulations shall be issued unless it has been demonstrated that:
  - a. The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations;
  - b. The noise levels generated by the proposed activity will not constitute a danger to the public health; and
  - c. Compliance with this article constitutes an unreasonable hardship on the applicant.
- (3) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- (4) Failure to rule on the application in the designated time shall constitute approval of the variance. (Ord. of 4-2-85)

### Sec. 12-40. Severability.

All provisions of the zoning regulations of the Town of Manchester which are more stringent than those set forth herein, shall remain in force. If, for any reason, any word, clause, paragraph, or section of this article shall be held to make the same unconstitutional or superseded by any state law or regulation, this article shall not thereby be invalidated and the remainder of the article shall continue in effect. (Ord. of 4-2-85)

- (3) The following steps shall be taken when preparing to take sound level measurements:
  - a. The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
  - b. Measurements to determine compliance with section 12-38 shall be taken at a point that is located more or less one foot beyond the boundary of the emitter's premises and within the receptor's premises. (Ord. of 4-2-85)

**Sec. 12-38. Noise levels.**

(a) *Noise levels.* It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this article.

(b) *Noise level standards.*

- (1) No person shall emit noise exceeding the levels stated herein.

	Zone in which EMITTER is located		Zone in which RECEPTOR is located	
	Industrial	Business	Resi- dential Day-time hours	Resi- dential Night-time hours
Industrial	70dBA	66dBA	61dBA	51dBA
Business	62dBA	62dBA	55dBA	45dBA
Residential	62dBA	55dBA	55dBA	45dBA

(c) *Background noise and impulse noise.*

- (1) In those individual cases where the background noise levels caused by sources not subject to this article exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by 5 dBA, provided that no source subject to this article shall emit noise in

excess of 80 dBA at any time, and provided that this section shall not be interpreted as decreasing the noise level standards of subsection (b) of this section.

- (2) No person shall cause or allow the emission of impulse noise in excess of 80 dB peak sound pressure level during night-time hours.
- (3) No person shall cause or allow the emission of impulse noise in excess of 100 dB peak sound pressure level at any time.

(d) *Motor vehicle noise.*

- (1) All motor vehicles operated within the limits of the Town of Manchester shall be subject to the noise standards and decibel levels as set forth in the regulations of the state department of motor vehicles, section 14-80a-1a(a-1) entitled "Maximum Permissible Noise Levels For Vehicles."
- (2) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in subsection 12-38(b) of this section.

(e) *Recreational vehicle noise.*

- (1) No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a nonregistered recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article when the noise so generated exceeds the noise level standards in subsection 12-38(b). (Ord. of 4-2-85)

**Sec. 12-39. Penalties.**

Any person in violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed fifty dollars (\$50.00). In lieu of arrest and issuance of a summons, a police officer may serve upon a violation an infraction notice which shall be known as a noise ticket. Payment of the fine prescribed by such noise ticket within the time limit specified thereon shall constitute a plea of nolo contendere and shall save the violator harmless from prosecution for the offense cited.

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of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action.

*Public facility maintenance* shall mean all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly-owned property.

*Recreational vehicle* shall mean any internal combustion engine powered nonregistered vehicle which is being used for recreational purposes.

*Residential zone* shall mean those areas so designated under Article 11, sections 1, 2, 3, 4, 5, 6 and 18 of the zoning regulations of the Town of Manchester.

*Sound* shall mean a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

*Sound level meter* shall mean an instrument used to measure sound levels. A sound level meter shall conform, as a minimum, to the American National Standards Institute's Operational Specifications for Sound Level Meters S1.4-1971 (Type S2A).

*Sound pressure level* shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/m<sup>2</sup>) and is expressed in decibels (dB). (Ord. of 4-2-85)

#### Sec. 12-35. Exclusions.

This article shall not apply to noise emitted by or related to:

- (1) Natural phenomena.
- (2) The unamplified sound made by any wild animal.
- (3) A bell or chime from any building clock, school or church.
- (4) A public emergency sound signal.
- (5) Farming equipment or farming activity.
- (6) An emergency.

- (7) Snow removal. (Ord. of 4-2-85)

#### Sec. 12-36. Exemptions.

The following shall be exempt from this article subject to the special conditions noted:

- (1) Noise created by the operation of property maintenance equipment during day-time hours.
- (2) Noise generated by any construction equipment operated during day-time hours.
- (3) Noise created by any recreational activities which are sanctioned by the town including but not limited to parades, sporting events, concerts, and firework displays.
- (4) Noise created by blasting provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from state or local authorities.
- (5) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.
- (6) Noise created by fire or intrusion alarm which, from time of activation of the audible signal, emits noise for a period of time not exceeding ten (10) minutes when such alarm is attached to a vehicle or thirty (30) minutes when attached to any building or structure.
- (7) Noise created by public facility maintenance during day-time hours. (Ord. of 4-2-85)

#### Sec. 12-37. Noise level measurement procedures.

For the purpose of determining noise levels as set forth in this article, the following guidelines shall be applicable:

- (1) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.
- (2) Instruments used to determine sound level measurements shall be sound level meters as defined by this article.

## ARTICLE IV. NOISE

## Sec. 12-33. Declaration of policy.

Excessive noise must be controlled by the town to protect, preserve, and promote the public health, safety and welfare. The board of directors recognizes the fact that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, safety, or welfare. (Ord. of 4-2-85)

## Sec. 12-34. Definitions.

[For the purpose of this article, the following terms shall have the meanings given herein, unless the context clearly indicates otherwise:]

*Background noise* shall mean noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable.

*Business zone* shall mean those areas so designated under Article II, sections 8, 9, 10, 11, 12, 13, 14, 15, and 17 of the zoning regulations of the Town of Manchester.

*Construction* shall mean the assembly, erection, substantial repair, alteration, demolition, or site preparation for or of public or private rights-of-way, buildings or other structures, utilities or property.

*Day-time hours* shall mean the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 10:00 p.m. on Sunday.

*Decibel* shall mean a unit of measurement of the sound level, the symbol for which is dB.

*Emergency* shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Excessive noise* shall mean any sound, the intensity of which exceeds the standards set forth in section 12-38 of this article.

*General manager* shall mean the duly appointed general manager of the Town of Manchester, or his designee.

*Impulsive noise* shall mean sound of short duration, usually less than a second, with an abrupt onset and rapid decay.

*Industrial zone* shall mean those areas so designated under Article II, section 16 of the zoning regulations of the Town of Manchester.

*Intrusion alarm* shall mean a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

*Motor vehicle* shall mean a vehicle as defined in subsection (26) of section 14-1, Connecticut General Statutes, Revision of 1958, as amended.

*Night-time hours* shall mean the hours between 10:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and between 10:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

*Noise level* shall mean a frequency weighted sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dBA.

*Person* shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state or other legal entity of any kind.

*Premises* shall mean any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

*Property maintenance equipment* shall mean all engine- or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers.

*Public emergency sound signal* shall mean a device either stationary or mobile, producing audible signal associated with a set

ORDINANCE #56

11.2 Contracts. Any written agreement, purchase order or contract whereby the Town of Old Saybrook is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this Ordinance will be operated, constructed, conducted or manufactured without violating the provisions of this Ordinance.

Section 12.

Severability. All provisions of the zoning regulations of the Town of Old Saybrook which are more stringent than those set forth herein shall remain in force. If, for any reason, any word, clause, paragraph, or section of this Ordinance shall be held to make the same unconstitutional, this ordinance shall not hereby be invalidated and the remainder of this Ordinance shall continue in effect. Any provision herein which is in conflict with the Connecticut General Statutes or the Public Health Code of the State of Connecticut are hereby repealed, it being understood that said Statutes and Code shall take precedence over this Ordinance.

Section 13.

Effective Date. This Ordinance shall become effective fifteen (15) days after publication in a newspaper having a circulation in Old Saybrook.

*Published Aug. 8, 1981. Effective date Aug. 25, 1981*

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Chapter 164

NOISE

- § 164-1. Title.
- § 164-2. Purpose.
- § 164-3. Definitions.
- § 164-4. Noise level measurement procedures.
- § 164-5. Noise levels.
- § 164-6. Prohibited noise activities.
- § 164-7. Motor vehicle noise.
- § 164-8. Recreational vehicle noise.
- § 164-9. Inspections.
- § 164-10. Violations and penalties.
- § 164-11. Variances; appeals; administration.
- § 164-12. Effect on other regulations.
- § 164-13. Enforcement.

[HISTORY: Adopted by the Board of Representatives of the City of Stamford 4-1-85 as Ord. No. 548. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 70.  
Amusements — See Ch. 74.  
Boats — See Ch. 84.  
Dogs and other animals — See Ch. 111.

- § 164-1. Title.

This chapter shall be known as the "City of Stamford Noise Control Ordinance."

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**§ 164-2. Purpose.**

It is recognized that people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or safety or welfare or degrade the quality of life. This chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Stamford through the reduction, control and prevention of noise.

**§ 164-3. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**AMBIENT NOISE or BACKGROUND NOISE** — Noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable. In statistical terms, it is the level which is exceeded ninety percent (90%) of the time (L90) in which the measurement is taken.

**BOARD OF REPRESENTATIVES** — The Board of Representatives of the City of Stamford.

**COMMERCIAL ZONE** — All commercial districts and business districts, including CCS, CN, CL, CD, CG, CI and CNN, as defined in the zoning regulations of the City of Stamford, and all uses associated therewith permitted either as a right or as a special use. "Commercial" shall also include BD and BC design zones.

**CONSTRUCTION** — Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

**CONSTRUCTION EQUIPMENT** — Any equipment or device operated by fuel or electric power or air or hydraulic pressure, used in construction or demolition work.

**DAYTIME HOURS** — The hours between 8:00 a.m. and 8:00 p.m., Monday through Saturday, and the hours of

10:00 a.m. through 8:00 p.m., Sundays and federal and state holidays.

**DECIBEL** — A logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB. SPL (sound-pressure level) is defined as:

$$\text{SPL} = 20 \log \frac{P \text{ in dB}}{P_0}$$

Where  $P_0 = 0.0002$  microbars

**DEMOLITION** — Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**DIRECTOR OF HEALTH** — The Director of Health of the City of Stamford.

**DOMESTIC POWER EQUIPMENT** — Power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

**EMERGENCY** — Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**EMERGENCY VEHICLE** — Any motor vehicle authorized by the City of Stamford to have sound-warning devices such as sirens and bells which can lawfully be used when responding to an emergency.

**EMERGENCY WORK** — Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

**HEALTH COMMISSION** — The Health Commission of the City of Stamford.

**IMPULSE NOISE** — Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

**INDUSTRIAL ZONE** — All industrial districts as defined by the zoning regulations of the City of Stamford, including but not limited to ML, MD, MG and IPD Districts.

**MOTOR VEHICLE** — Defined as per Section 14-1 (26) of the Connecticut General Statutes.

**MUFFLER** — A device for abating sounds such as those produced by escaping gases.

**NIGHTTIME HOURS** — The hours between 8:00 p.m. and 8:00 a.m., Sunday evening through Saturday morning, except "Saturday night" shall mean the hours between 8:00 p.m. Saturday and 10:00 a.m. Sunday and federal and state holidays.

**NOISE** — Any sound, the intensity of which exceeds the standards set forth in § 164-5B of this chapter.

**NOISE LEVEL** — The sound-pressure level in decibels as measured with a sound-level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

**PERSON** — Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

**PREMISES** — Any building, structure, land or portion thereof, including all appurtenances, and includes yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter's "premises" includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

**PROPERTY LINE** — That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from the public right-of-way.

**PUBLIC RIGHT-OF-WAY** — Any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

**RECREATIONAL VEHICLE** — Any internal-combustion-engine-powered vehicle which is being used for recreational purposes.

**RESIDENTIAL ZONE** — All city-owned property used for recreational or educational purposes and all residential districts (RA2, RA1, R20, R10, R7½, R5, R2, RMF) and any commercial district when used for residential purposes, as defined in the zoning regulations of the City of Stamford, and all uses permitted therewith either as a right or as a special use.

**SOUND** — A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including but not limited to an auditory response when impinging on the ear.

**SOUND-LEVEL METER** — An instrument used to take sound-level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters, S1.4—1971 (Type S2A).

**SOUND-PRESSURE LEVEL** — Twenty (20) times the logarithm to the base 10 of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^{-6}$  newtons/meter<sup>2</sup>) and which is expressed in decibels (dB).

**§ 164-4. Noise level measurement procedures.**

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

- A. All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation.
- B. Instruments used to determine sound-level measurements shall conform to the sound-level meters as defined by this chapter.
- C. The general steps listed below shall be followed when preparing to take sound-level measurements:
  - (1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.
  - (2) The sound-level meter shall be calibrated before and after each set of measurements.
  - (3) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound-level meter as per the manufacturer's instructions.
  - (4) The sound-level meter shall be placed at an angle to the sound source as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements.
  - (5) Measurements shall be taken at a point that is located about one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises includes his/her individual unit of land or ground of contiguous parcels under the same ownership, as indicated by public land records.
- D. The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled "Connecticut Noise Survey Data Form #101."

§ 164-5. Noise levels.

- A. It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her prem-

ises in excess of the noise levels established in these regulations.

**B. Noise level standards.**

- (1) No person in a residential zone shall emit noise beyond the boundaries of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential/Day	Residential/Night
Residential	62 dBA	55 dBA	55 dBA	45 dBA

- (2) No person in a commercial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential/Day	Residential/Night
Commercial	62 dBA	62 dBA	55 dBA	45 dBA

- (3) No person in an industrial zone shall emit noise beyond the boundary of his/her premises exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

Emitter's Zone	Receptor's Zone			
	Industrial	Commercial	Residential/Day	Residential/Night
Industrial	70 dBA	66 dBA	61 dBA	51 dBA

**C. High background noise levels and impulse noise.**

- (1) In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the

noise emitted by such source exceeds the background noise levels by five (5) decibels, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) decibels at any time, and provided that this section does not decrease the permissible levels of other sections of this chapter.

- (2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) decibels peak sound-pressure level during the nighttime to any residential noise zone.
  - (3) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) decibels peak sound-pressure level at any time in any zone.
- D. Exclusions. These levels shall not apply to noise emitted by or related to:
- (1) Natural phenomena.
  - (2) Any bell or chime from any building clock, school or church.
  - (3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms not terminating within fifteen (15) minutes after being activated shall be unlawful.
  - (4) Warning devices required by Occupational Safety and Health Administration or other state or federal safety regulations.
  - (5) Farming equipment or farming activity.
- E. Exemptions and special conditions. The following shall be exempt from these regulations, subject to special conditions as may be spelled out:
- (1) Noise generated by construction activities during day-time hours, it being the express intention of this provision to prohibit the use of construction equipment and machinery before the hour of 7:00 a.m. on Monday through Friday, 8:00 a.m. Saturday and 10:00 a.m. Sunday.

- (2) Noise created as a result of or relating to an emergency.
- (3) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
- (4) Noise from snow removal equipment.
- (5) Noise from demolition activities conducted during daytime hours, it being the express intention of this provision to prohibit the use of equipment and machinery used in demolition work before the hour of 7:00 a.m. on Monday through Friday, 8:00 a.m. Saturday and 10:00 a.m. Sunday; provided that when considered emergency work, demolition shall be exempt at all times from the noise levels set in this regulation.
- (6) Noise created by any aircraft flight operations, which are specifically preempted by the Federal Aviation Administration.
- (7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, concerts and firework displays.
- (8) Noise created by blasting other than that conducted in connection with construction activities, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m., local time, at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities.
- (9) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours.
- (10) Sound created by any mobile source of noise. Mobile sources of noise shall include but are not limited to such sources as aircraft, automobiles, trucks and boats.

However, notwithstanding this subsection, motor vehicles shall be subject to the standards set forth in § 164-7 hereof.

**§ 164-6. Prohibited noise activities.**

The following activities are prohibited:

- A. Vehicle horns. No person shall at any time sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident.
- B. Truck idling. No person shall operate an engine or any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds, manufacturer's gross vehicle weight (GVW), for a period in excess of ten (10) minutes when such vehicle is parked on a residential premise or on a city street next to a residential premise.
- C. Exhaust discharge. No person shall discharge into the ambient air the blowdown of any steam vent or the exhaust of any stationary internal-combustion engine or air compressor equipment unless such discharge is through a muffler as defined by § 164-3 of this chapter or through an apparatus providing equal noise reduction.

**§ 164-7. Motor vehicle noise.**

- A. All motor vehicles operated within the limits of the City of Stamford shall be subject to the noise standards and decibel levels set forth in the regulations authorized in Sections 14-80a-1a through 14-80a-10a inclusive of the Regulations of Connecticut State Agencies.
- B. No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in § 164-5B.
- C. This section dealing with motor vehicle noise shall be enforced by the Chief of Police and/or his designated subordinates.

**§ 164-8. Recreational vehicle noise.**

No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this chapter when the noise so generated exceeds the noise level standards set forth in § 164-5B.

**§ 164-9. Inspections.**

- A. For the purpose of determining compliance with the provisions of this chapter, the Director of Health or his designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premise or refuses inspection, testing or noise measurement of any activity, device, facility or process where inspection is sought, the Director of Health and/or designated representative may seek from the appropriate court a warrant without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise. Should any inspection or measurement be required to be taken during hours of the day or night which cause the Health Department to incur expenses for overtime hours paid to any employee and such measurement or inspection indicates a violation of this chapter, the violator shall pay the City of Stamford for such expenses for overtime hours for said employee or employees in addition to any penalty provided for herein.
- B. It shall be unlawful for any person to refuse to allow or permit the Director of Health or his designated representative free access to any premises when the Director of Health or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.

- C. It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.
- D. No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this chapter.

**§ 164-10. Violations and penalties.**

Any person in violation of any of the provisions of this chapter shall be fined in an amount not to exceed ninety-nine dollars (\$99.). Each day such violation continues shall constitute a separate violation.

**§ 164-11. Variances; appeals; administration.**

**A. Variances.**

- (1) Any person living or doing business in Stamford may apply to the Director of Health for a variance from one (1) or more of the provisions of this chapter, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, provided that the applicant supplies all of the following information to the Director of Health:
  - (a) Location and nature of activity.
  - (b) The time period and hours of operation of said activity.
  - (c) The nature and intensity of the noise that will be generated.
  - (d) Any other information required by the Director of Health.
- (2) No variance from these regulations shall be issued unless it has been demonstrated that:

- (a) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
  - (b) The noise levels generated by the proposed activity will not constitute a danger to the public health.
  - (c) Compliance with the regulations constitutes an unreasonable hardship on the applicant.
- (3) The application for variance shall be reviewed and either approved or rejected within fifteen (15) days of receipt by the Director of Health. The approval or rejection shall be in writing and shall state the condition(s) of approval, if any, or the reasons for rejection.
  - (4) Failure to rule on the application within the designated time shall constitute approval of the variance.
  - (5) Any person aggrieved by the decision of the Director of Health with respect to any variance may appeal in accordance with the Charter to the Health Commission within a period of ten (10) days of the reception of the Health Director's decision.
- B. The Director of Health is herewith authorized to make regulations from time to time, not inconsistent with the State Public Health Code and/or the regulations of the State Department of Environmental Protection regarding noise, which shall, upon approval by the Board of Representatives, become effective therewith.
- C. Contracts. Any written agreement, purchase order or contract whereby the City of Stamford is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without violating the provisions of this chapter.

D. Mediation. In the event that the Director of Health receives a complaint alleging a violation of this chapter by noise emanating from a construction or demolition activity, he is expressly authorized to seek to mediate such dispute within forty-eight (48) hours, provided that he is satisfied that the complainant is aggrieved by the alleged violation, that there is reasonable grounds to believe that there is a violation of this chapter, and he determines, in view of the particular factual circumstances, that such mediation may result in a satisfactory resolution of the complaint. Nothing herein is intended to affect or in any way limit any other procedures established elsewhere in this chapter, limit any other powers granted to the Director of Health or require the Director of Health to invoke the mediation powers herein established.

**§ 164-12. Effect on other regulations.**

All provisions of the zoning regulations of the City of Stamford which are more stringent than those set forth herein shall remain in force. If, for any reason, any word, clause, paragraph or section of this chapter shall be held to make the same unconstitutional, this chapter shall not thereby be invalidated and the remainder of this chapter shall continue in effect. Any provision herein which is in conflict with the Connecticut General Statutes or the Public Health Code of the State of Connecticut is hereby repealed, it being understood that said statutes and code shall take precedence over this chapter.

**§ 164-13. Enforcement.**

Notwithstanding anything contained herein to the contrary, § 164-5E(1) and (5) shall be enforced by the Chief of Police and/or his designated subordinates and/or the Director of Health and/or his designated subordinates.



NOISE

Chapter 123

NOISE<sup>1</sup>

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<sup>1</sup> Editor's Note: Former Article III, Noises, of Ch. 14, Offenses, Miscellaneous Provisions, was repealed by an ordinance adopted 10-26-82.

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[HISTORY: Adopted by the Town Council of the Town of West Hartford 10-26-82. Amendments noted where applicable.]

## GENERAL REFERENCES

Zoning — See Ch. 177.

ARTICLE I  
General Provisions

## § 123-1. Intent.

This chapter is intended to protect, preserve and promote the public health, safety and welfare insofar as they are affected by the creation and maintenance of excessive or unnecessary noise as defined by this chapter. This chapter is further intended to provide minimum and uniform standards and safeguards governing the creation and maintenance of noise levels in the community. Interpretation of this chapter shall be made in such a manner as to afford maximum protection of the public health, safety and welfare and the peace and quiet of the Town of West Hartford and its inhabitants.

## § 123-2. Scope of provisions.

This chapter shall apply uniformly to the creation and maintenance of all noises in the Town of West Hartford except for the following uses and activities:

- A. Noises of safety signals, warning devices, emergency pressure relief valves and emergency sound signals.
- B. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- C. Noises of the workplace which are covered by OSHA regulations and standards, except that noises emitted from a place of work which affect the general public shall be governed by this chapter.
- D. Sound generated by natural phenomena, including but not limited to wind, storms, insects, birds and water flowing in its natural course, except that noises emitted from

domestic animals, birds or pets shall be governed by this chapter.

- E. Sound created by bells, carillons or chimes associated with specific religious observances.
- F. Sound created by safety and protective devices.
- G. Farming equipment or farming activity.
- H. Backup alarms required by OSHA or other state or federal safety regulations.
- I. Conditions caused by natural phenomena, strike, riot, catastrophe or other condition over which the apparent violator has no control.
- J. Noise generated by engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday; 8:00 a.m. and 9:00 p.m. on Saturday; and 9:00 a.m. and 9:00 p.m. on Sunday, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.
- K. Noises created by snow-removal equipment at any time shall be exempted, provided that such equipment shall be maintained in good repair so as to minimize noise and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- L. Noise created as a result of or relating to an emergency.
- M. Noise generated by construction activity shall be exempted between the hours of 7:00 a.m. to one (1) hour after sunset, Monday through Saturday.
- N. Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time at specified hours previously announced to the local public or provided that a permit for such blasting has been obtained from local authorities.

- O. Noise created by on-site recreational or sporting activity which is sanctioned by the state or local government, provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises therefrom.
- P. Patriotic or public celebrations not extending longer than one (1) calendar day.
- Q. Noise created by aircraft.
- R. Noise created by products undergoing test, where one of the primary purposes of the test is the evaluation of product noise characteristics and where practical noise-control measures have been taken.
- S. Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical powers, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements.

§ 123-3. General compliance.

Nothing in any portion of this chapter shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with this chapter is not a bar to a claim of nuisance by any person. A violation of any portion of this chapter shall not be deemed to create a nuisance per se.

§ 123-4. Effect on previous regulations; construal.

- A. The provisions of this chapter shall apply uniformly to all sources of noise within the Town of West Hartford, irrespective of when such noise sources were originally created. Anyone who owns or operates an existing noise source may apply to the Director of Health for a variance in accordance with § 123-26 of this chapter.

- B. The provisions of this chapter shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided in this chapter.
- C. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or regulation of the town or state, the provision which establishes the higher standard, as determined by the Town Manager, for the promotion and protection of the health, safety and welfare of the inhabitants of the town shall prevail.
- D. This chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date of this chapter, and any such violation may be governed and continue to be punishable under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

ARTICLE II  
Definitions; Word Usage

§ 123-5. Construal of terms.

- A. Unless another meaning is clearly indicated by the context, the words listed in this Article shall have the meanings indicated in this Article, and such meanings shall be used in the interpretation and enforcement of this chapter.
- B. Where terms are not defined under the provisions of this chapter and are defined in the noise regulations of the Connecticut Department of Environmental Protection, they shall have the same meanings ascribed to them in those regulations.
- C. Where terms are not defined under the provisions of this chapter or under the provisions of the Connecticut noise regulations, they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

## § 123-6. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

## A. General definitions.

**ANSI** — The American National Standards Institute or its successor body.

**BEST PRACTICAL NOISE-CONTROL MEASURES** — Noise-control devices, technology and procedures which are determined by the Director of Health to be the best practical, taking into consideration the age of the equipment and facilities involved, the process employed, capital expenditures, maintenance cost, technical feasibility and the engineering aspects of the applicable noise-control techniques in relation to the control achieved and the non-noise-control environmental impact.

**CONSTRUCTION** — Any and all physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling and paving.

**DAYTIME** — 7:00 a.m. to 10:00 p.m., local time.

**DIRECTOR OF HEALTH** — The legally designated health authority of the Town of West Hartford or his authorized representative.

**EMERGENCY** — Any occurrence involving actual or imminent danger to persons or damage to property which demands immediate action.

**EMERGENCY SOUND SIGNAL** — An audible electronic or mechanical siren or signal device attached to an authorized emergency vehicle or within or attached to a building for the purpose of sounding an alarm relating to

fire or civil preparedness. Such signal may also be attached to a pole or other structure.

**EMERGENCY WORK** — Work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities when restoring utility.

**LAWN CARE AND MAINTENANCE EQUIPMENT** — All engine- or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner, and including, but not limited to, lawn mowers, riding tractors and snowblowers, and including equipment intended for infrequent service work in inhabited areas, typically requiring skilled operators, including, but not limited to, chain saws, log chippers or paving rollers.

**MOTOR VEHICLE REGULATIONS** — The Connecticut Motor Vehicle regulations as found in Sections 14-80a-1a through 14-80a-10a, as amended from time to time.

**MOTOR VEHICLES** — Defined as per Section 14-1(26) of the Connecticut General Statutes.

**NIGHTTIME** — 10:00 p.m. to 7:00 a.m., local time.

**NOISE DISTRICT** — A unit of land that is zoned for either residential, business or industrial purposes in accordance with the Zoning Ordinance of the Town of West Hartford.

**NOISE SOURCE** — Any individual, equipment, machine or other item or thing that creates a sound.

**NOISE ZONE** — An individual unit of land or a group of contiguous parcels under the same ownership as indicated by public land records and, as relates to noise emitters, includes contiguous publicly dedicated street and highway rights-of-way, railroad rights-of-way and waters of the state.

OSHA — The Occupational Safety and Health Act and any amendments thereto or successor regulations administered by the United States and Connecticut Departments of Labor, or successor bodies.

PERSON — Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

SAFETY AND PROTECTIVE DEVICES — Devices that are designed to be used, and are actually used, for the prevention of the exposure of any person or property to imminent danger, including, but not limited to, unregulated safety-relief valves, circuit breakers, protective fuses, backup alarms required by OSHA or other state or federal safety regulations, horns, whistles or other warning devices associated with pressure buildup.

SITE — The area bounded by the property line on or in which a source of noise exists.

SOUND-AMPLIFYING EQUIPMENT — Any machine or device for the amplification of the human voice, music or any other sound. Sound-amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound-amplifying equipment," as used in this chapter, shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

VARIANCE — A difference between the standards which are required by this ordinance and that which is permitted to exist.

B. Acoustic definitions.

BACKGROUND NOISE — Noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable.

**CONTINUOUS NOISE** — Ongoing noise, the intensity of which remains at a measurable level (which may vary) without interruption over an indefinite period or a specified period of time.

**DECIBEL (db)** — A unit of measurement of the sound level.

**EXCESSIVE NOISE** — Emitter noise zone levels from noise sources exceeding the standards set forth in Article IV of this chapter beyond the boundary of adjacent noise zones.

**EXISTING NOISE SOURCE** — Any noise source(s) within a given noise district, the construction of which commenced prior to the effective date of this chapter.

**FREQUENCY** — The number of vibrations or alterations of sound pressure per second, and is expressed in hertz.

**IMPULSE NOISE** — Noise of short duration [generally less than one (1) second], especially of high intensity, abrupt onset and rapid decay, and often rapidly changing spectral composition.

**INFRASONIC SOUND** — Sound-pressure variations having frequencies below the audible range for humans, generally below twenty (20) hertz; subaudible.

**L<sub>N</sub>** — The A-weighted sound level, dB(A), exceeded N% of the time. [e.g., L<sub>90</sub> means the A-weighted sound level exceeded ninety percent (90%) of the time period during which measurement was made.]

**PEAK SOUND-PRESSURE LEVEL** — The absolute maximum value of the instantaneous sound-pressure level occurring in a specified period of time.

**SOUND** — A transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

**SOUND LEVEL** — A frequency-weighted sound-pressure level, obtained by the use of metering characteristics and the weighting A, B or C, as specified in ANSI Specifications for Sound-Level Meters, S1.4-1971 or the latest revision. The unit of measurement is the decibel. The weighting employed must always be stated as dBA, dBB or dBC.

**SOUND-LEVEL METER** — An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks for the measurement of sound levels.

**SOUND-PRESSURE LEVEL (SPL)** — Twenty (20) times the logarithm to the base ten of the ratio of the sound pressure in question to the standard reference pressure of 0.00002 N/M<sup>2</sup>. It is expressed in decibel units.

**ULTRASONIC SOUND** — Sound-pressure variations having frequencies above the audible sound spectrum for humans, generally higher than twenty thousand (20,000) hertz; superaudible.

**VIBRATION** — An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

### ARTICLE III Noise District Classification

#### § 123-7. Basis.

Noise district classifications shall be based on the actual designation of any parcel or tract as detailed by the Zoning Ordinance<sup>2</sup> for the Town of West Hartford, and amended from time to time. The current designation shall be the determining factor, and any change in zoning also represents a change in noise district.

<sup>2</sup> Editor's Note: See Ch. 177, Zoning.

## § 123-8. Districts enumerated.

- A. Residential Noise District. Lands defined as residential districts or other districts by the Zoning Ordinance<sup>3</sup> of the Town of West Hartford shall be designated as "Residential Noise Districts" and shall be subject to the noise standards prescribed by this chapter.
- B. Business Noise District. Lands defined as business districts by the Zoning Ordinance<sup>4</sup> of the Town of West Hartford shall be designated as "Business Noise Districts" and shall be subject to the noise standards prescribed by this chapter.
- C. Industrial Noise District. Lands defined as industrial districts by the Zoning Ordinance<sup>5</sup> of the Town of West Hartford shall be designated as Industrial Noise Districts and shall be subject to the noise standards prescribed by this chapter.

## § 123-9. Noise district boundaries.

- A. The boundaries of the noise districts described in § 123-8 shall be defined as provided for in § 177-5 of the Zoning Ordinance of the Town of West Hartford.
- B. Within a noise district the noise emitter's zone includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by the public land records. The emitter's noise zone also includes contiguous street and highway rights-of-way, railroad rights-of-way and waters.

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<sup>3</sup> Editor's Note: See Ch. 177, Zoning.

<sup>4</sup> Editor's Note: See Ch. 177, Zoning.

<sup>5</sup> Editor's Note: See Ch. 177, Zoning.

ARTICLE IV  
Noise Standards

§ 123-10. General prohibition.

No person shall cause or allow the emission of excessive noise beyond the boundaries of his/her noise district or zone so as to violate any provisions of this chapter.

§ 123-11. Impulse noise.

- A. No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound-pressure level during the nighttime to any Residential Noise District or Zone.
- B. No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound-pressure at any time to any noise district or zone.

§ 123-12. Infrasonic and ultrasonic sound.

No person shall emit beyond his/her noise zone infrasonic or ultrasonic sound in excess of one hundred (100) dB at any time.

§ 123-13. Specific district standards.

- A. No person in an Industrial Noise District shall emit noise exceeding the levels stated herein and applicable to adjacent noise districts and zones:

(1) Industrial emitter to:

Industrial Receptor (dBA)	Business Receptor (dBA)	Residential Receptor — Day (dBA)	Residential Receptor — Night (dBA)
70	66	61	51

- (2) Levels emitted in excess of the values listed above shall be considered excessive and unnecessary noise.
- B. No person in a Business Noise District shall emit noise exceeding the levels stated herein and applicable to adjacent noise districts and zones:

- (1) Business emitter to:

Industrial Receptor (dBA)	Business Receptor (dBA)	Residential Receptor — Day (dBA)	Residential Receptor — Night (dBA)
62	62	55	45

- (2) Levels emitted in excess of the values listed above shall be considered excessive and unnecessary noise.
- C. No person in a Residential Noise District shall emit noise exceeding the levels stated herein and applicable to adjacent noise districts and zones:

- (1) Residential emitter to:

Industrial Receptor (dBA)	Business Receptor (dBA)	Residential Receptor — Day (dBA)	Residential Receptor — Night (dBA)
62	55	55	45

- (2) Levels emitted in excess of the values listed above shall be considered excessive and unnecessary noise.

§ 123-14. Background noise.

In those individual cases where the background noise levels caused by sources not subject to this chapter exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise level by five (5) dBA, provided that no source subject to the provisions of this chapter shall emit noise in excess of eighty (80) dBA at any time and provided that this section does

not decrease the permissible levels of the other sections of Article IV.

§ 123-15. Short-term noise levels.

A. In measuring compliance with the noise standards established in this chapter, the following short-term noise level excursions over the noise level standards shall be allowed:

Allowable Levels Above Standards (dBA)	Time Period of Such Intervals (minutes/hour)
3	15
6	7½
8	5

B. Measurements within these ranges of established standards shall constitute compliance with this chapter.

§ 123-16. Motor vehicle noise.

A. All motor vehicles operated within the limits of the Town of West Hartford shall be subject to the noise standards and decibel levels as found in Title 14, Section 14-80a of the Connecticut General Statutes, as amended from time to time.

B. No power equipment and no sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels specified in Article IV of this chapter.

ARTICLE V  
Equipment and Measurements

§ 123-17. Conformance with standards.

Acoustic measurements and equipment to ascertain compliance with this chapter shall be in substantial conformity with stan-

dards and recommended practices established by professional organizations such as ANSI.

§ 123-18. Instruments.

Instruments used to determine noise levels shall be of standard design, maintained in calibration and good working order, and instrument manufacturer's instructions for use of the instruments shall be followed.

§ 123-19. Measurements.

- A. Measurements taken to determine compliance with this chapter shall be taken at any elevation and at any point beyond the boundary of the emitter noise zone or district and within the receptor's noise zone or district.
- B. When taking measurements, a windscreen for the microphone shall be used when required. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements except where such background noise interferes with the primary noise being measured.
- C. Continuous measurements shall be taken for determining compliance in accordance with § 123-15 if it is alleged that the noise is a short-term noise level excursion.

ARTICLE VI  
Administration and Enforcement

§ 123-20. Enforcement authority.

The Director of Health shall be responsible for enforcing the provisions of this chapter and carrying out the intent of this chapter as specified in § 123-1.

**§ 123-21. Promulgation of rules and regulations.**

The Director of Health is hereby authorized to make, adopt, revise and amend procedural rules and regulations as is deemed necessary to administer the purposes of this chapter and to interpret and implement the provisions of this chapter.

**§ 123-22. Inspections.**

- A. The Director of Health is authorized and directed to make inspections, conduct investigations and monitor noise levels in the Town of West Hartford for the purpose of determining compliance with the provisions of this chapter and carrying out the intent of this chapter as specified in § 123-1.
- B. Inspections, investigations or monitoring conducted, as authorized in Subsection A shall be pursuant to either:
  - (1) A systematic plan;
  - (2) A complaint that an alleged violation of the provisions of this chapter or of applicable rules or regulations pursuant thereto may exist; or
  - (3) When the Director of Health has valid reason to believe that a violation of this chapter or any rules or regulations pursuant thereto may exist.
- C. The Director of Health is authorized to make inspections and investigations and conduct monitoring whenever necessary to determine the quantity and character of noise.
- D. If any owner, occupant or other person in charge of a parcel of land fails or refuses to permit free access and entry to the premises under his control, or any part thereof, with respect to which an inspection or investigation authorized by this chapter is sought to be made, the Director of Health may, upon showing that probably cause exists for the inspection or investigation and for the issuance of an order directing compliance with the inspection or investigation requirements of this section, petition and

obtain the necessary order from a court of competent jurisdiction to conduct the inspection or investigation.

§ 123-23. Notice of violation.

- A. Whenever the Director of Health determines that any noise source fails to meet the requirements set forth in this chapter or in applicable rules and regulations issued pursuant thereto, the Director of Health, in accordance with existing legislation, shall issue a notice setting forth the alleged failures and advising the owner, occupant, operator or agent that such failures must be corrected. This notice shall:
- (1) Be in writing.
  - (2) Describe the noise source where the violations are alleged to exist or to have been committed.
  - (3) Set forth the alleged violations of this chapter or of applicable rules and regulations issued pursuant thereto.
  - (4) Specify an appropriate or acceptable method of correction.
  - (5) Specify a specific date for the correction of any violation alleged.
  - (6) Be served upon the owner, occupant, operator or agent of the noise source personally or by registered mail, return receipt requested, addressed to the owner, occupant, operator or agent. If one (1) or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the noise source described in the notice or by causing such notice to be published in a newspaper of general circulation for a period of five (5) consecutive days.
- B. At the end of the period of time allowed for the correction of any violation alleged, the Director of Health shall reinspect the noise source described in the notice.

- C. If, upon reinspection, the violations are determined by the Director of Health not to have been corrected, the Director of Health shall initiate action for the immediate correction of the alleged violations, including, but not limited to, assessing fines or enforcing abatement as specified in this chapter.

§ 123-24. Violations and penalties.

- A. Any owner, occupant, operator or agent of a noise source who has received a notice to correct a violation of this chapter and who has failed to correct such violation by the date specified in such notice shall be punished by a fine of not less than twenty dollars (\$20.) nor more than ninety dollars (\$90.). Each day and each night that such violation shall continue shall constitute a separate offense.
- B. No penalty shall be due while a reconsideration, hearing or appeal is pending in the matter.
- C. The imposition of any fine hereunder shall not prevent the enforced abatement of any unlawful condition by the town.

§ 123-25. Appeals.

- A. Any person aggrieved by a notice of the Director of Health issued in connection with any alleged violation of this chapter or of any applicable rule or regulation issued pursuant thereto or by any order requiring repair may apply to the Director of Health for an administrative hearing for reconsideration of such notice or order, provided that such application is made within five (5) days after the date the notice or order was issued. If the Director of Health holds an administrative hearing for reconsideration of a notice or order, the Director of Health shall prepare a summary of the hearing and shall state the decision reached. Such summary and statement shall become part of the public record.

- B. At such a hearing the applicant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended or withdrawn or a variance granted.
- C. Upon appeal, the Director of Health may sustain, modify or withdraw the notice or order or may grant a variance from a specific provision of this chapter. In making such determination, the Director of Health shall consider but not be limited to the criteria listed in § 123-26C and D.

§ 123-26. Variances.

- A. Any person who owns or operates any noise source may apply to the Director of Health for a permanent or temporary variance from one (1) or more of the provisions of this chapter. Applications for variances shall be submitted in writing to the Director of Health and shall supply such information as required, including, but not limited to:
  - (1) Information on the nature and location of the facility or process for which such application is made.
  - (2) The reason for which the variance is required, including the economic and technical justifications.
  - (3) The nature and intensity of noise that will occur during the period of the variance.
  - (4) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.
  - (5) A specific schedule of the best practical noise control measures, if any, which might be taken to bring the source into compliance with this chapter from which a variance is sought or a statement of the length of time during which it is estimated that it will be necessary for the variance to continue.
  - (6) Any other relevant information the Director of Health may require in order to make a determination regarding the application.

- B. Failure to supply the information required shall be cause for rejection of the application unless the applicant supplies the needed information within fourteen (14) days of a written request by the Director of Health for such information.
- C. No variance shall be approved unless the applicant presents adequate proof to the Director of Health's satisfaction that:
- (1) Noise levels occurring during the period of the variance will not constitute a danger to the public health; and
  - (2) Compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefits to the public.
- D. In making a determination on granting a variance, the Director of Health shall consider:
- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property which is caused or threatened to be caused.
  - (2) The social and economic value of the activity for which the variance is sought.
  - (3) The ability of the applicant to apply best practical noise control measures, as defined in this chapter.
  - (4) The volume of the noise.
  - (5) The intensity of the noise.
  - (6) Whether the nature of the noise is usual or unusual.
  - (7) Whether the origin of the noise is natural or unnatural.
  - (8) The volume and intensity of the background noise, if any.
  - (9) The proximity of the noise to residential sleeping facilities.
  - (10) The nature and zoning of the area within which the noise emanates.

- (11) The density of inhabitation of the area within which the noise emanates.
  - (12) The time of the day or night the noise occurs.
  - (13) The duration of the noise.
  - (14) Whether the noise is recurrent, intermittent or constant.
  - (15) Whether the noise is produced by a commercial or noncommercial activity.
- E. Following receipt and review of an application for a variance, the Director of Health shall fix a date, time and location for a hearing on such application.
- F. The Director of Health shall cause the applicant to publish, at his/her own expense, all notices of hearings and other notices required by law, including, but not limited to, notification of all abutters of record.
- G. Within thirty (30) days of the receipt of the record of the hearings on a variance application, the Director of Health shall issue his/her determination regarding such application. All such decisions shall briefly set forth the reasons for the decision.
- H. The Director of Health may, at his/her discretion, limit the duration of any variance granted under this chapter. Any person holding a variance and needing an extension of time may apply for a new variance under the provisions of this chapter. Any such application shall include a certification of compliance with any condition imposed under the previous variance.
- I. The Director of Health may attach to any variance any reasonable conditions he/she deems necessary and desirable, including, but not limited to:
- (1) Requirements for the best practical noise-control measures to be taken by the owner or operator of the source to minimize noise during the period of the variance.

- (2) Requirements for periodic reports submitted by the applicant relating to noise, to compliance with any other conditions under which the variance was granted or to any other information the Director of Health deems necessary.
- J. The filing of an application for a variance shall operate as a stay of prosecution, except that such stay may be terminated by the Director of Health upon application of any party if the Director of Health finds that protection of the public health so requires.
- K. In any case where a person seeking a variance contends that compliance with any provision of this chapter is not practical or possible because of the cost involved either in installing noise-control equipment or changing or curtailing the operation in any manner, he/she shall make available to the Director of Health such financial records as the Director of Health may require.
- L. A variance may include a compliance schedule and requirements for periodic reporting of increments of achievement of compliance.
- M. Approval of a variance shall not relieve any person of the responsibility to comply with any other provisions of federal, state or local laws, ordinances or regulations.

§ 123-27. Emergencies.

- A. Whenever, in the judgment of the Director of Health, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without a hearing or appeal, directing the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant, the Director of Health may act to correct or abate the emergency.
- B. The owner, occupant, operator or agent shall be granted a hearing before the Director of Health on the matter upon his request as soon as practicable, but such appeal shall in

no case stay the abatement or correction of such emergency.

§ 123-28. When effective.

Pursuant to Connecticut General Statutes Section 22a-73, this chapter shall not be effective until it has been approved by the Commissioner of the State Department of Environmental Protection.<sup>6</sup>

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<sup>6</sup> Editor's Note: This chapter was approved 11-17-82 by the Commissioner of the State Department of Environmental Protection.

sewage either directly or indirectly from any habitable building into any brook or watercourse. (Code 1961, § 9.03.02)

Secs. 9-24, 9-25. Reserved.

Editor's note—Ord. No. 85-3, § 1, adopted September 16, 1985, repealed §§ 9-24 and 9-25, concerning subsurface and ground drainage. Former §§ 9-24 and 9-25 were derived from Code 1961, § 9.03.03; Ord. of 12-7-64; Code 1961, §§ 9.03.04, 9.03.05; and Ord. No. 77-1, §§ 1, 2, adopted April 4, 1977.

Secs. 9-26—9-29. Reserved.

### ARTICLE III. NOISE CONTROL\*

#### Sec. 9-30. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

*Ambient noise or background noise:* Shall mean noise of a measurable intensity which exists at a point as a result of a combination of many distant sources individually indistinguishable. In statistical terms, it is the level which is exceeded ninety (90) per cent of the time (L90) in which the measurement is taken.

*Chief of police:* Shall mean the Chief of Police of the Town of Windsor or a duly authorized officer subject to his orders.

*Commercial zone:* Shall mean all business zones (B-1, B-2, B-3) and professional zone, as defined in the zoning regulations of the Town of Windsor, and all uses associated therewith, either permitted as a right or as a special use.

*Construction:* Shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities, or similar property.

\*Cross references—Buildings; construction; related activities, Ch. 3; explosives, ammunition and blasting agents, § 6-80 et seq.; alarm systems, § 12-20 et seq.; planning and zoning, Ch. 14; zoning, App. A.

*Construction equipment:* Shall mean any equipment or device operated by fuel or electric power, used in construction or demolition work.

*Day:* Shall mean the hours between 7:00 a.m. and 10:00 p.m., Monday through Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sundays.

*Decibel:* Shall mean a logarithmic unit of measure used in measuring magnitudes of sound. The symbol is dB.

*Demolition:* Shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

*Domestic power equipment:* Shall mean, but not be limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

*Emergency:* Shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

*Emergency vehicle:* Shall mean any motor vehicle authorized by the Town of Windsor to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.

*Emergency work:* Shall mean work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

*Impulse noise:* Shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

*Industrial zone:* Shall mean all industrial (I-1 and I-2), wholesale and storage, and restricted commercial zones, as defined in the zoning regulations of the Town of Windsor, and all uses associated therewith, either permitted as a right or as a special use.

*Motor vehicle:* Shall be defined as per Section 14-1 (26) of the Connecticut General Statutes.

*Muffler:* Shall mean a device for abating sounds such as escaping gases.

*Night:* Shall mean the hours between 10:00 p.m. and 7:00 a.m., Sunday evening through Saturday morning, except, that night shall mean the hours between 10:00 p.m. Saturday and 9:00 a.m. Sunday.

*Noise:* Shall mean any sound, the intensity of which exceeds the standards set forth in section 9-32 of this article.

*Noise level:* Shall mean the sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

*Person:* Shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state or other legal entity of any kind.

*Premise:* Shall mean any building, structure, land, or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards, and real properties without buildings or improvements, owned or controlled by a person. The emitter's premise includes contiguous publicly dedicated street and highway rights-of-way, all road rights-of-way and waters of the state.

*Property line:* Shall mean that real or imaginary line along the ground surface and its vertical extension which:

- (a) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; and
- (b) Separates real property from the public right-of-way.

*Public right-of-way:* Shall mean any street, avenue, boulevard, highway, sidewalk, alley, park, waterway, railroad or similar place which is owned or controlled by a governmental entity.

*Recreational vehicle:* Shall mean any internal combustion engine powered vehicle which is being used for recreational purposes.

*Residential zone:* Shall mean all residential (AA, A, R-13, R-11, R-10, and R-8), NZ (public and quasi-public), PUD (planned urban development), and agricultural zones, as defined in the zoning regulations of the Town of Windsor, and all uses associated therewith, either permitted as a right or as a special use.

*Sound:* Shall mean a transmission of energy through solid, liquid, or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

*Sound level meter:* Shall mean an instrument used to take sound level measurements and which should conform, as a minimum, to the operational specifications of the American National Standards Institute for Sound Level Meters S1.4-1971 (Type S2A).

*Sound pressure level:* Shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter ( $20 \times 10^{-6}$  Newtons/meter<sup>2</sup>), and is expressed in decibels (dB). (Ord. No. 82-4, 6-21-82)

#### Sec. 9-31. Noise level measurement procedures.

For the purpose of determining noise levels as set forth in this article, the following guidelines shall be applicable:

- (1) All personnel conducting sound measurements shall be trained in the current techniques and principles of sound-measuring equipment and instrumentation;
- (2) Instruments used to determine sound level measurements shall conform to the sound level meters, as defined by this article;
- (3) The general steps listed below shall be followed when preparing to take sound level measurements:
  - (a) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
  - (b) The sound level meter shall be calibrated before and after each set of measurements;
  - (c) When measurements are taken out-of-doors, a wind screen shall be placed over the microphone of the sound level meter, as per the manufacturer's instructions;
  - (d) The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and at least four (4) feet above the ground. It shall be so placed as not to be interfered with by individuals conducting the measurements;
  - (e) Measurements shall be taken at a point that is located about one foot beyond the boundary of the emitter's premise within the receptor's premise. The emitter's premise includes his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records;
- (4) The recommended practices for determining statistical noise levels shall be those as outlined in the document entitled Connecticut Noise Survey Data Form #101. (Ord. No. 82-4, 6-21-82)

**Sec. 9-32. Noise levels.**

- (a) It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premise in excess of the noise levels established in these regulations.

(b) Noise level standards:

- (1) No person in a residential zone shall emit noise beyond the boundaries of his/her premise exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

*Emitter's Zone:*

Residential

*Receptor's Zone:*

*Maximum Level:*

Industrial .....	62 dBA
Commercial .....	55 dBA
Residential/Day .....	55 dBA
Residential/Night .....	45 dBA

- (2) No person in a commercial zone shall emit noise beyond the boundary of his/her premise exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

*Emitter's Zone:*

Commercial

*Receptor's Zone:*

*Maximum Level:*

Industrial .....	62 dBA
Commercial .....	62 dBA
Residential/Day .....	55 dBA
Residential/Night .....	45 dBA

- (3) No person in an industrial zone shall emit noise beyond the boundary of his/her premise exceeding the levels stated herein and applicable to adjacent residential, commercial or industrial zones:

*Emitter's Zone:*

Industrial

*Receptor's Zone:*

*Maximum Level:*

Industrial .....	70 dBA
Commercial .....	66 dBA

<i>Receptor's Zone:</i>	<i>Maximum Level:</i>
Residential/Day .....	61 dBA
Residential/Night .....	51 dBA

(c) High background noise levels and impulse noise:

- (1) In those individual cases where the background noise levels caused by sources not subject to these regulations exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA, provided that no source subject to the provisions of this article shall emit noise in excess of eighty (80) dBA at any time, and provided that this section, does not decrease the permissible levels of other sections of this article.
- (2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during the nighttime to any residential noise zone.
- (3) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure level at any time to any zone.

(d) Exclusions: These levels shall not apply to noise emitted by or related to:

- (1) Natural phenomena;
- (2) Any bell or chime from any building clock, school, or church;
- (3) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms not terminating with thirty (30) minutes after being activated shall be unlawful;
- (4) Warning devices required by OSHA or other state or federal safety regulations;
- (5) Farming equipment or farming activity.

(e) Exemptions: The following shall be exempt from these regulations, subject to special conditions as spelled out:

- (1) Noise generated by any construction equipment which is operated between the hours of 7:00 a.m. and 9:00 p.m., provided that the operation of construction equipment between the hours of 9:00 p.m. and 7:00 a.m. shall not exceed the maximum noise levels as specified in section 9-32(b);
- (2) Noise created as a result of, or relating to an emergency;
- (3) Noise from domestic power equipment such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices operated between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, and between the hours of 9:00 a.m. and 9:00 p.m. on Sundays;
- (4) Noise from snow removal equipment;
- (5) Noise from demolition work conducted between the hours of 7:00 a.m. and 9:00 p.m., provided that when considered emergency work, demolition shall be exempted at all times from the noise levels set in this regulation;
- (6) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration;
- (7) Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the town, including but not limited to parades, sporting events, concerts and firework displays;
- (8) Noise created by blasting other than that conducted in connection with construction activities shall be exempted, provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m., local time, at specified hours previously announced to the local public, or provided that a permit for such blasting has been obtained from local authorities;
- (9) Noise created by aircraft, or aircraft propulsion components designed for or utilized in the development of aircraft, under test conditions;
- (10) Noise created by products undergoing tests, where one of the primary purposes of the test is evaluation of product noise characteristics and where practical noise control measures have been taken;

- (11) Noise generated by transmission facilities, distribution facilities and substations of public utilities providing electrical power, telephone, cable television or other similar services and located on property which is not owned by the public utility and which may or may not be within utility easements. (Ord. No. 82-4, 6-21-82)

**Sec. 9-33. Prohibited noise activities.**

The following activities are prohibited:

- (1) *Vehicle horns*: No person shall at any time sound any horn or other audible signal device of a motor vehicle, unless it is necessary as a warning to prevent or avoid a traffic accident;
- (2) *Truck idling*: No person shall operate an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight (GVW) for a period in excess of ten (10) minutes, when such vehicle is parked on a residential premise or on a town road next to a residential premise;
- (3) *Exhaust discharge*: No person shall discharge into the ambient air the blow-down of any steam vent of the exhaust of any stationary internal combustion engine or air compressor equipment, unless such discharge be through a muffler as defined by section 9-30 of this article or through an apparatus providing equal noise reduction. (Ord. No. 82-4, 6-21-82)

**Sec. 9-34. Motor vehicle noise.**

(a) All motor vehicles operated within the limits of the Town of Windsor shall be subject to the noise standards and decibel levels as found in Title 14, Section 14-80a-1 through 14-80a-18 of the Connecticut State Statutes.

(b) No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in section 9-32(b). (Ord. No. 82-4, 6-21-82)

**Sec. 9-35. Recreational vehicle noise.**

(a) No person shall create or cause to be created any unreasonably loud or disturbing noise due to the operation of a recreational vehicle. A noise shall be deemed to be unreasonably loud and a violation of this article under the following circumstances:

- (1) When the noise so generated exceeds the noise level standards as set forth in section 9-32; and
- (2) Recreational vehicles shall also be in violation of this article if operated within a premise within one hundred (100) feet of the property line. (Ord. No. 82-4, 6-21-82)

**Sec. 9-36. Inspections.**

(a) For the purpose of determining compliance with the provisions of this article, the chief of police or his designated representative is hereby authorized to make inspections of all noise sources and to take measurements and make tests, whenever necessary, to determine the quantity and character of noise. In the event that any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing or noise measurement of any activity, device, facility, or process where inspection is sought, the chief of police or his designated representative may seek from the appropriate court a warrant, without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring noise.

(b) It shall be unlawful for any person to refuse to allow or permit the chief of police or his designated representative free access to any premise, when the chief of police or his designated representative is acting in compliance with a warrant for inspection and order issued by the appropriate court.

(c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise sources.

(d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this article. (Ord. No. 82-4, 6-21-82)

**Sec. 9-37. Penalties.**

Any person in violation of any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not to exceed twenty-five dollars (\$25.00). Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of the fine shall be fifty dollars (\$50.00) for each day said violation continues. (Ord. No. 82-4, 6-21-82)

**Sec. 9-38. Variance.**

(a) Any person living or doing business in Windsor may apply to the chief of police for a variance from one or more of the provisions of this article, which are more stringent than the Connecticut Department of Environmental Protection regulations for the control of noise, providing that the applicant supplies all of the following information to the chief of police at least twenty (20) days prior to the start of said activity:

- (1) The location and nature of the activity;
- (2) The time period and hours of operation of said activity;
- (3) The nature and intensity of the noise that will be generated; and,
- (4) Any other information required by the chief of police.

(b) No variance from these regulations shall be issued unless it has been demonstrated that:

- (1) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations;
- (2) The noise levels generated by the proposed activity will not constitute a danger to the public health; and,
- (3) Compliance with the regulations constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed

start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

(d) Failure to rule on the application in the designated time shall constitute approval of the variance. (Ord. No. 82-4, 6-21-82)

**Sec. 9-39. Contracts.**

Any written agreement, purchase order or contract, whereby the Town of Windsor is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this article will be operated, constructed, conducted or manufactured without violating the provisions of this article. (Ord. No. 82-4, 6-21-82)

**TOWN OF MANSFIELD  
OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Emergency Smallpox Preparedness**

Dear Town Council:

Attached please find a proposed Memorandum of Understanding from the Eastern Highlands Health District (EHHD) regarding the planning and implementation of emergency smallpox countermeasures. These countermeasures would allow the town to best mitigate a cataclysmic outbreak and an opportunity to safeguard residents from such an event. The EHHD has requested that each organization involved with the smallpox planning process endorse the Memorandum of Understanding to formalize and ensure the commitment of each participating party to the preparedness effort. Staff recommends that the Town Council support the request.

If the Town Council concurs with this recommendation, the following motion is in order:

*Move, effective July 28, 2003, to authorize the Town Manager to execute the attached Memorandum of Understanding from the Eastern Highlands Health District titled "Planning and Implementation of Emergency Smallpox Countermeasures."*

Respectfully submitted,

A handwritten signature in cursive script that reads "Martin H. Berliner".

Martin H. Berliner  
Town Manager

Attach:(2)



REC'D JUN 18 2003

4 South Eagleville Road ♦ Mansfield CT 06268 ♦ Tel: (860) 429-3325 ♦ Fax: (860) 429-3388

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June 17, 2003

Marty Berliner  
Town Of Mansfield  
4 South Eagleville Road  
Mansfield CT 06268

**RE: EMERGENCY SMALLPOX PREPAREDNESS PLANNING**

Dear Marty:

Enclosed for your review and consideration is a draft Memorandum of Understanding (MOU), which, if signed by all parties, would formalize the smallpox planning process that we are currently engaged in. Granted, the smallpox planning process is already well underway; however, the Eastern Highlands Health District feels it would prudent to formally assure the commitment of the participating parties to this very important bio-terrorism preparedness effort. Towards that end, we urge you to take any actions necessary to authorize the execution of this document.

This office would be happy to meet with you or others to discuss the MOU and its language. Please contact me at 429-3325 or email [millerrl@mansfieldct.org](mailto:millerrl@mansfieldct.org).

Sincerely,

Robert L. Miller, MPH, RS  
Director of Health

Cc: Board of Directors

MEMORANDUM OF UNDERSTANDING  
REGARDING PLANNING AND IMPLEMENTATION OF  
EMERGENCY SMALLPOX COUNTERMEASURES

WHEREAS efforts to plan for and protect the civilian population of our state from bioterrorism attacks have intensified in recent months; and

WHEREAS the Connecticut Department of Public Health has developed a strategy to implement countermeasures in the event of a need to vaccinate the population in a short period of time; and

WHEREAS the towns of Bolton, Coventry, Mansfield, Tolland, Willington and the University of Connecticut, Storrs campus, have been declared by the Department of Public Health to constitute a single smallpox planning area; and

WHEREAS the towns of Bolton, Coventry, Mansfield, Tolland, and Willington are served by a joint health district known as the Eastern Highlands Health District; and

WHEREAS significant time, effort and cost are associated with planning a countermeasure program and the costs associated with implementing such a program could be very substantial; and

WHEREAS the towns of Bolton, Coventry, Mansfield, Tolland, Willington, University of Connecticut, Storrs campus and the Eastern Highlands Health District (hereinafter collectively described as "the Parties") wish to formalize their relationship in order to coordinate their planning efforts and share the cost of planning and implementing the countermeasure program in anticipation of the possibility that such a program must be implemented upon short notice

NOW THEREFORE BE IT AGREED BY THE PARTIES THAT:

1. They shall commit to the prompt development of a detailed joint plan for the implementation of an emergency countermeasure program and to identify and train all those personnel whose support and assistance will be required in implementing any such plan. Said plan shall include, at a minimum, the following elements:
  - a. The establishment of a smallpox planning team consisting of one representative from each of the Parties. Each Party will promptly designate an appropriate representative to the smallpox planning team.
  - b. The identification of specific clinic sites which will be used;
  - c. The identification and training of critical clinic staff;
  - d. The identification and training of all those other persons who will be required to staff clinics while they are in operation;
  - e. The identification of equipment, supplies and other materials necessary for the operation of the clinics and plans for the procurement and pre-positioning of said equipment, supplies and materials;
  - f. The identification and preparation of any further documentation necessary to formalize the detailed arrangements between the Parties and to provide the public with appropriate and necessary information regarding the countermeasure program;
  - g. The development of a mechanism for allocating the cost of implementing the mass clinic program between them, including the costs of equipment, supplies, security and staffing the clinics themselves; and

- h. Arrangements for the dissemination of information regarding the plan to those individuals, organizations and agencies which may be called upon to participate in the clinic program.
- 2. The efforts of the Parties to develop said detailed plan shall be coordinated and administered through the office of the Director of the Eastern Highlands Health District.

WHEREFORE the parties have executed this memorandum of understanding on the dates set forth herein.

TOWN OF BOLTON

by \_\_\_\_\_ / /  
Duly authorized

TOWN OF COVENTRY

by \_\_\_\_\_ / /  
Duly authorized

TOWN OF MANSFIELD

by \_\_\_\_\_ / /  
Duly authorized

TOWN OF TOLLAND

by \_\_\_\_\_ / /  
Duly authorized

TOWN OF WILLINGTON

by \_\_\_\_\_ / /  
Duly authorized

EASTERN HIGHLANDS HEALTH DISTRICT

by \_\_\_\_\_ / /  
Duly authorized

UNIVERSITY OF CONNECTICUT

by \_\_\_\_\_ / /  
Duly authorized

**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Financing of Proposed Modular Classrooms at Goodwin and Vinton Elementary Schools**

Dear Town Council:

The proposed addition of two modular classrooms at both Goodwin and Vinton Elementary Schools, providing facilities for the extension of all day kindergarten, would be funded by state grants and bonds. In order to apply to the state for a school construction grant, the town must appropriate at the minimum funds necessary to pay its share.

At the annual Town Meeting held on May 13, 2003, the resolution adopting the Capital Projects Budget for fiscal year 2003/04 provided that projects to be funded by bonds or notes are subject to a vote by referendum following approval by the Town Council.

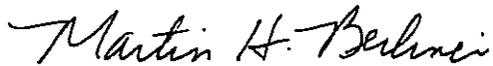
The projected cost of the classroom additions is estimated to be \$800,000, and we anticipate that 70 percent of this cost would be refunded by the state. The town's policy, for cash flow purposes, has been to authorize the issuance of bonds and notes in the full amount of the estimated project cost and then to retire the outstanding debt with state grants.

Staff recommends that the Town Council adopt the attached resolutions prepared by our bond counsel in order to appropriate funds, to issue bonds for the project, and to place the question on a ballot for a vote at the town's municipal election on November 4, 2003.

The following resolution is in order, if the Town Council concurs with this recommendation:

*Resolved, effective July 28, 2003, to adopt the attached resolutions prepared by the town's bond counsel to appropriate \$800,000 for the acquisition and installation of two modular classrooms at the Goodwin and Vinton Elementary Schools, to authorize the issuance of bonds and notes in the same amount to finance the appropriation, and to schedule a referendum on November 4, 2003 concerning the acquisition and installation of the two modular classrooms.*

Respectfully submitted,



Martin H. Berliner  
Town Manager

Attach:(2)

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**INTER**

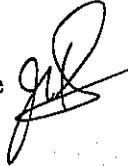
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**OFFICE**

**MEMO**

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**FINANCE DEPARTMENT, TOWN OF MANSFIELD**

**To:** Martin Berliner, Town Manager  
**From:** Jeffrey H. Smith, Director of Finance  
**Subject:** Bond Resolution  
**Date:** July 22, 2003



At the annual Town Meeting held on May 13, 2003 the resolution adopting the Capital Projects Budget for fiscal year July 1, 2003 to June 30, 2004 provided that projects to be funded by bonds or notes are subject to a vote by referendum.

The addition of two modular classrooms at both Goodwin Elementary School and Vinton Elementary School, to provide facilities for the extension of all day kindergarten, is to be funded by state grants and bonds. In order to make an application to the State for a school construction grant the Town must appropriate at the minimum funds necessary to pay for the Town's share.

The total project cost is currently estimated at \$800,000.00 of which 70% is estimated to be refundable from the State. Our policy, for cash flow purposes, has been to authorize the issuance of bonds and notes in the full amount of the estimated project cost and then to retire the outstanding debt with state grants.

Attached to this communication are the resolutions prepared by our bond counsel, which will need to be passed by the Town Council in order to place the question on the ballot. If the Council is in agreement it is respectfully requested that the resolutions be adopted.

Thank you.

**RESOLUTIONS OF THE TOWN COUNCIL OF THE TOWN OF MANSFIELD  
HELD AUGUST 25, 2003**

Item \_\_\_\_.

**RESOLUTION APPROPRIATING \$800,000 FOR ACQUISITION AND INSTALLATION OF TWO MODULAR CLASSROOMS AT EACH OF DOROTHY C. GOODWIN ELEMENTARY SCHOOL AND ANNIE E. VINTON ELEMENTARY SCHOOL TO PROVIDE FACILITIES FOR THE EXTENSION OF THE ALL-DAY KINDERGARTEN PROGRAM, AND AUTHORIZING THE ISSUE OF BONDS AND NOTES IN THE SAME AMOUNT TO FINANCE THE APPROPRIATION.**

RESOLVED,

(a) That the Town of Mansfield appropriate EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) for acquisition of four modular classrooms, and the installation of two of such classrooms at each of Dorothy C. Goodwin Elementary School and Annie E. Vinton Elementary School to provide facilities for the extension of the all-day kindergarten program, including related site improvements and other work. The appropriation may be spent for design, acquisition, installation and construction costs, equipment, furnishings, materials, architects' fees, engineering fees, legal fees, net temporary interest and other financing costs, and other expenses related to the project. The school building committee established hereunder for the project is authorized to determine the scope and particulars of the project and may reduce or modify the scope of the project; and the entire appropriation may be spent on the project as so reduced or modified.

(b) That the Town issue its bonds or notes, in an amount not to exceed EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) to finance the appropriation for the project. The amount of bonds or notes issued shall be reduced by the amount of grants received by the Town for the project. The bonds or notes shall be issued pursuant to Section 7-369 and 10-289 of the General Statutes of Connecticut, Revision of 1958, as amended, and any other enabling acts. The bonds or notes shall be general obligations of the Town secured by the irrevocable pledge of the full faith and credit of the Town.

(c) That the Town issue and renew temporary notes from time to time in anticipation of the receipt of the proceeds from the sale of the bonds or notes for the project or the receipt of grants for the project. The amount of the notes outstanding at any time shall not exceed EIGHT HUNDRED THOUSAND DOLLARS (\$800,000). The notes shall be issued pursuant to Section 7-378 of the General Statutes of Connecticut, Revision of 1958, as amended. The notes shall be general obligations of the Town and shall be secured by the irrevocable pledge of the full faith and credit of the Town. The Town shall comply with the provisions of Section 7-378a of the General Statutes with respect to any notes that do not mature within the time permitted by said Section 7-378.

(d) The Town Manager, the Director of Finance and the Treasurer, or any two of them, shall sign any bonds or notes by their manual or facsimile signatures. The law firm of Day, Berry & Howard is designated as bond counsel to approve the legality of the bonds or

notes. The Town Manager, the Director of Finance and the Treasurer, or any two of them, are authorized to determine the amount, date, interest rates, maturities, redemption provisions, form and other details of the bonds or notes; to designate one or more banks or trust companies to be certifying bank, registrar, transfer agent and paying agent for the bonds or notes to provide for the keeping of a record of the bonds or notes; to designate a financial advisor to the Town in connection with the sale of the bonds or notes; to sell the bonds or notes at public or private sale; to deliver the bonds or notes; and to perform all other acts which are necessary or appropriate to issue the bonds or notes.

(e) That the Town hereby declares its official intent under Federal Income Tax Regulation Section 1.150-2 that project costs may be paid from temporary advances of available funds and that (except to the extent reimbursed from grant moneys) the Town reasonably expects to reimburse any such advances from the proceeds of borrowings in an aggregate principal amount not in excess of the amount of borrowing authorized above for the project. The Town Manager, the Director of Finance and the Treasurer, or any two of them, are authorized to amend such declaration of official intent as they deem necessary or advisable and to bind the Town pursuant to such representations and covenants as they deem necessary or advisable in order to maintain the continued exemption from federal income taxation of interest on the bonds, notes or other obligations authorized by this resolution, if issued on a tax-exempt basis, including covenants to pay rebates of investment earnings to the United States in future years.

(f) That the Town Manager, the Director of Finance and the Treasurer, or any two of them, are authorized to make representations and enter into written agreements for the benefit of holders of the bonds, notes or other obligations authorized by this resolution to provide secondary market disclosure information, which agreements may include such terms as they deem advisable or appropriate in order to comply with applicable laws or rules pertaining to the sale or purchase of such bonds, notes or other obligations.

(g) That there is hereby established the 2003 Elementary School Modular Classrooms Committee to serve as a school building committee for the project. The membership of the Committee shall consist of the Mayor of the Town and the Chairman of the Board of Education. The Committee is vested with the following powers and duties: (i) to approve design, installation, acquisition and construction expenditures for the project; (ii) to contract with architects, engineers, contractors and others in the name and on behalf of the Town to complete the project; and (iii) to exercise such other powers as are necessary or appropriate to complete the project. Committee members shall not receive any compensation for their services. Necessary expenses of the Committee shall be included in the cost of the project. The records of the Committee shall be filed with the Town Clerk and open to public inspection during normal business hours. Upon completion of the project, the Committee shall make a complete report and accounting to the Council and the Town.

(h) That the Board of Education is authorized to apply for and accept state grants for the project. ~~The Board of Education is authorized to file applications with the State Board of Education, to execute grant agreements for the project, and to file such documents as may be required by the State Board of Education to obtain grants for the costs of financing the project. Any grant proceeds may be used to pay project costs or principal and interest on bonds, notes or temporary notes.~~

(i) That the Town Manager, the Director of Finance, the Treasurer, the 2003 Elementary School Modular Classrooms Committee and other proper officers of the Town are authorized to take all other action which is necessary or desirable to complete the project and to issue bonds, notes or other obligations and to obtain grants to finance the aforesaid appropriation.

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Item \_\_\_\_.

**RESOLUTION ESTABLISHING REFERENDUM ON ACQUISITION AND INSTALLATION OF TWO MODULAR CLASSROOMS AT EACH OF DOROTHY C. GOODWIN ELEMENTARY SCHOOL AND ANNIE E. VINTON ELEMENTARY SCHOOL TO PROVIDE FACILITIES FOR THE EXTENSION OF THE ALL-DAY KINDERGARTEN PROGRAM.**

(a) That pursuant to Sections 406 and 407 of the Town Charter, the resolution adopted by the Council under Item \_\_\_\_ of this meeting, appropriating \$800,000 for acquisition and installation of modular classrooms at Dorothy C. Goodwin Elementary School and Annie E. Vinton Elementary School and authorizing the issue of bonds and notes and temporary notes to finance the appropriation, shall be submitted to the voters at referendum to be held on Tuesday, November 4, 2003 in conjunction with the election to be held on that date, in the manner provided by said Charter and the Connecticut General Statutes, Revision of 1958, as amended, including the procedures set out in Section 9-369d(b)(2) of said Statutes, and in accordance with "Ordinance Regarding the Right of Voters Who Are Not Electors to Vote at Referenda Held in Conjunction with an Election", adopted by the Mansfield Town Council on August 25, 1997.

(b) That the aforesaid resolution shall be placed upon the paper ballots or voting machines under the following heading:

"SHALL THE TOWN OF MANSFIELD APPROPRIATE \$800,000 FOR ACQUISITION AND INSTALLATION OF TWO MODULAR CLASSROOMS AT EACH OF DOROTHY C. GOODWIN ELEMENTARY SCHOOL AND ANNIE E. VINTON ELEMENTARY SCHOOL TO PROVIDE FACILITIES FOR THE EXTENSION OF THE ALL-DAY KINDERGARTEN PROGRAM, AND AUTHORIZE BONDS AND NOTES IN THE SAME AMOUNT TO DEFRAY SAID APPROPRIATION?"

Voters approving the resolution will vote "Yes" and those opposing the resolution shall vote "No".

(c) That the Town Clerk shall publish notice of such referendum as part of the notice of the election to be held on November 4, 2003. Absentee ballots will be available from the Town Clerk's office.

~~[(d) That, in their discretion, the Town Clerk is authorized to prepare a concise explanatory text regarding the resolution and the Town Manager is authorized to prepare additional explanatory materials regarding the resolution, such text and explanatory~~

material to be subject to the approval of the Town Attorney and to be prepared and distributed in accordance with Section 9-369b of the General Statutes of Connecticut, Revision of 1958, as amended.]

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TOWN OF MANSFIELD  
OFFICE OF PLANNING AND DEVELOPMENT

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GREGORY J. PADICK, TOWN PLANNER

Memo to: Planning and Zoning Commission  
From: Gregory J. Padick, Town Planner  
Date: 7/17/03



Re: 8-24 Resolution: Proposed modular classrooms

The attached memo from the Director of Finance requests PZC approval of a Resolution regarding proposed modular classrooms at the Goodwin and Vinton School properties. This request has been made at this time due to State funding guidelines which require a PZC Resolution as part of an application submission.

The proposed classrooms are associated with future plans for an all-day kindergarten program in Mansfield. If State funding is approved, a specific site plan will be prepared and submitted to the PZC for review and approval. The need for future PZC approval has been referenced in the proposed Resolution. It also is noted that the proposed all-day kindergarten program also requires additional Town financial commitments and that the planned program is years away from potential implementation.

The subject project was included in the 2003-04 Capital Improvements Program which was approved by the PZC subject to the subsequent review of specific construction plans. The proposed Resolution is consistent with this motion and approval of the proposed Resolution is recommended.

(over)

TOWN OF MANSFIELD  
FINANCE DEPARTMENT

Jeffrey H. Smith, Director

Memo to: Planning & Zoning Commission  
From: Jeffrey H. Smith, Finance Director  
Date: July 17, 2003



Re: Specific 8-24 approval Resolution for Goodwin and Vinton Schools modular classroom

The Town is taking the necessary steps to secure funding for the above project, which was included in the approved 2003-04 Capital Improvements Budget. Based on the Town's Bond Counsel's requirements, it is respectfully requested that the PZC adopt the following Resolution:

RESOLVED that, pursuant to Section 8-24 of the General Statutes of Connecticut, that the Planning and Zoning Commission of the Town of Mansfield approves the following project, subject to subsequent Planning and Zoning Commission review and approval of a specific site development plan depicting the building locations and related site improvements and other work:

Installation of two modular classrooms at each of Dorothy C. Goodwin Elementary School and Annie E. Vinton Elementary School to provide facilities for the extension of the all-day kindergarten program, including related site improvements and other work.

**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Small Cities Grant Closeout – Housing Rehabilitation**

Dear Town Council:

The state Department of Economic and Community Development (DECD) is in the process of closing out a Small Cities Grant that was awarded to the town in 1997 to fund our housing rehabilitation program. To complete this process, the DECD has requested that the Town Council execute a resolution to close out the grant and to govern the town's use of any remaining program income.

Staff recommends that the Council adopt the DECD's requested resolution.

If the Council supports this recommendation, the following resolution is in order:

*Resolved, effective July 28, 2003, to approve the attached resolution to close out Small Cities Grant #1997-078-052-000-000025 Housing Rehabilitation.*

Respectfully submitted,

Martin H. Berliner  
Town Manager

Attach: (4)



**TOWN OF MANSFIELD**  
**Certified Resolution**

***Closeout Small Cities Grant #1997-078-052-000-000025 Housing Rehabilitation***

*Whereas, the Town of Mansfield has received funds under the Connecticut Small Cities Community Development Block Grant Program, pursuant to Title I of the Housing and Community Development Act of 1974 as amended; and*

*Whereas, the Town of Mansfield has expended those funds pursuant to Title I of the Housing and Community Development Act of 1974, the Code of Federal Regulations, and the Assistance Agreement; and*

*Whereas, those funds received by the Town of Mansfield have generated program income.*

**NOW, THEREFORE, BE IT RESOLVED BY THE MANSFIELD TOWN COUNCIL:**

- 1) That it is cognizant of the conditions for the use of Program Income as prescribed by Title 24, Part 570, Section 489(e) of the Code of Federal Regulations and the State of Connecticut's Small Cities Implementation Manual;*
- 2) That it realizes Program Income is governed by Title One of the Housing and Community Development Act of 1974;*
- 3) That it will use Program Income to fund the same activities which generated the Program Income and that the activities will carry the same public benefit and be administered in the same target area that was approved in the original application; and*
- 4) That it will use Program Income to fund the Administrative and Program costs for these activities at the same levels that were approved in the original application.*

Certified a true copy of a resolution adopted by the Town of Mansfield at a meeting of its Town Council on July 28, 2003, and which has not been rescinded or modified in any way.

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Joan E. Gerdson  
Town Clerk

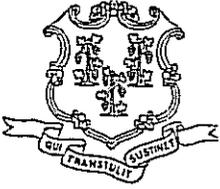
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Date

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**SEAL**

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all cc Linda  
set for Cheri

State of Connecticut  
Department of Economic  
and Community Development  
505 Hudson Street  
Hartford, CT 06106

July 1, 2003

Mr. Martin H. Berliner  
Town Manager  
Town of Mansfield  
4 South Eagleville Road  
Mansfield, CT 06268

REC'D JUL 03 2003

RE: Small Cities Grant #1997-078-052-000-000025 Housing Rehabilitation

Dear Mr. Berliner:

The purpose of this correspondence is to complete the monitoring process and close out the above noted Small Cities grant.

Enclosed are three (3) Certificates of Completion needed to close out Small Cities Grant #1999-078-052-000-000025 Housing Rehabilitation. Please sign and date the three Certificates of Completion and return them to me as soon as possible.

The Certifications of Completion are conditioned. Please note, the conditions attached to these funds are specified in the Certifications. In keeping with the Program Income conditions, I have enclosed a Program Income Resolution that the Town's governing body must pass and return to this office along with the Certificates of Completion.

I would like to take this opportunity to thank you and your staff for your cooperation and hard work during the administration of these grants. It has been a pleasure working with the Town of Mansfield to further its community development goals.

Should you need assistance or have questions, feel free to contact me at 860-465-8033,

Sincerely,

*for* Bruce Sheridan  
Housing and Community Development Agent

Enclosures



An Affirmative Action / Equal Opportunity Employer

FAX (860) 566-8600 P. 269 DD (860) 566-4180



STATE OF CONNECTICUT  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
CERTIFICATION OF COMPLETION

Name of Recipient: Mansfield

Grant Number: 1997-078-052-000-000025

Program Activities	Total Budget Costs	Total Unpaid Costs	Total Paid Costs
Private Rehab	225,000.00		\$225,000.00
Program Cost	50,000.00	0.00	\$50,000.00
Administration	25,000.00	0.00	\$25,000.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
<b>Total</b>	<b>300,000.00</b>	<b>0.00</b>	<b>\$300,000.00</b>

A. Total: Program Budget Costs (column 2)	<u>\$300,000.00</u>
*B. Add: Total Program Unpaid Costs and Unsettled Third Party Claims (column 3)	<u>\$0.00</u>
C. Equals: Total Program Paid Costs (col	<u>\$300,000.00</u>
D. Deduct: Program Income	<u></u>
E. Equals: Program Net Costs (C - D)	<u>300,000.00</u>
F. Grant Amount per Grant Agreement	<u>300,000.00</u>
G. Grant Funds Received	<u>300,000.00</u>
H. Unutilized Grant to be Cancelled or Balance of Grant Payable	<u>0.00</u>
I. Amount to be Refunded to DECD if Applicable (See Remarks)	<u>0.00</u>

\* List any unpaid costs and unsettled third party claims against the recipient's grant. Describe circumstances and amounts involved. Use additional sheets if necessary:

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**CONDITIONS**

1. The last annual audit report received by the Department of Economic and Community Development for the Town of Mansfield did not cover all of this grant's expenditures. Therefore, to the extent that any of the funds from this grant were expended after the date of the Town's most recent audit, this close-out is conditioned as follows:
  - The Department of Economic and Community Development retains the right to recover an appropriate amount after fully considering the recommendations on any disallowed costs resulting from future audits.
  - The Town is required to provide all additional audits requested by the Department of Economic and Community Development to determine if there have been any disallowed costs from any funds expended.

**PROGRAM INCOME**

The Department of Economic and Community Development, as authorized by 24 CFR 570.489(e)(3), hereby agrees to waive the recapture of this Grant's program income as the Town has passed a Resolution governing the use of this income.

The Resolution will govern the use of program income as follows:

- Program income will be applied to continue the same activity from which such income was derived and will be governed by 24 CFR 570.489(e). The activity will carry the same public benefit and be administered in the same target area that was approved in the original application.

**CERTIFICATION OF RECIPIENT**

It is hereby certified that all activities undertaken by the Recipient with funds provided under the grant agreement have, to the best of my knowledge, been carried out in accordance with the grant agreement; that the above named program was officially completed as of 7/1/03; that proper provision has been made by the Recipient for the payment of all unsettled third party claims identified above; that the State of Connecticut is under no obligation to make any further payment to the Recipient under the grant agreement unless specified above; and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date.

<hr/>	<hr/>	<hr/>
<b>Date</b>	<b>Typed Name and Title of Town Official</b>	<b>Signature of Town Official</b>

This Certification of Completion is hereby approved. Therefore, I authorize cancellation of the Grant commitment and related funds reservation and obligation, if any.

<hr/>	<hr/>	<hr/>
<b>Date</b>	<b>Typed Name and Title of DECD Official</b>	<b>Signature of DECD Official</b>

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**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Agreement between Town of Mansfield and Uniformed Professional Fire Fighters of Connecticut**

Dear Town Council:

We have begun negotiations with the Uniformed Professional Fire Fighters (UPFF) to develop a collective bargaining agreement between the town and the union. As part of that process, we have reached a preliminary agreement on some key terms of the agreement (see attached). A summary of those terms is as follows:

- 1) Duration – two years (July 1, 2003 – June 30, 2005), unless both parties agree to extend the term
- 2) Wages
  - a. Year 1 – Mansfield Volunteer Fire Company employees receive previously approved wage adjustment (see attached wage equalization plan adopted by the Town Council), and all employees receive a three-percent general increase
  - b. Year 2 - Mansfield Volunteer Fire Company employees receive previously approved wage adjustment, and all employees receive a three-percent general increase
- 3) Health insurance option – introduce Anthem Blue Cross Bluecare POS plan as a health insurance option. Due to the fact that Anthem is able to negotiate better discounts with the providers, the POS plan is more affordable for both the employer and the employee. In addition, coverage under the Bluecare POS is substantially equivalent to the coverage under the existing plan, Century Preferred PPO, which is in place for this group of employees.
- 4) Employee health insurance cost share – up until this point, this group of employees has never had a health insurance cost share. In year one, the employee would pay one percent of premium for the Bluecare POS plan and five percent for the Century Preferred PPO plan. In year two, the cost share would increase to two percent for the Bluecare POS and six percent for the Century-Preferred-PPO.

- 5) Prescription coverage – revise the prescription coverage under the Century Preferred PPO plan to a three-tier formulary in which employees would have a \$5 co-pay for generic drugs, a \$15 co-pay for brand name drugs and a \$25 co-pay for non-list prescriptions. This change would save the town approximately \$250 per employee per year.

We anticipate that first year costs for the preliminary agreement would total 5.98 percent. However, 4.38 percent of that figure is attributable to the wage equalization plan currently in effect. As with the recently settled public works contract, the town would be able to realize some savings with the above-referenced changes to employee health insurance.

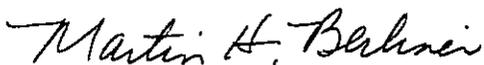
The union members have ratified the preliminary agreement, and the Town Council now has three options: 1) approve the agreement; 2) disapprove the agreement; or 3) take no action, in which case the agreement would become effective after a 30-day period.

Normally, we do not negotiate preliminary agreements as part of the collective bargaining process. Yet, we felt that it was important to do so in this case, where we have a wage equalization plan in place. Therefore, we recommend that the Council approve the preliminary agreement as presented.

If the Council supports this recommendation, the following motion is in order:

*Move, effective July 28, 2003 to authorize the Town Manager to execute the attached preliminary agreement between the Town of Mansfield and the Uniformed Professional Fire Fighters of Connecticut for the term beginning July 1, 2003 and ending June 30, 2005.*

Respectfully submitted,



Martin H. Berliner  
Town Manager

Attach:(2)

**AGREEMENT**  
**BETWEEN**  
**TOWN OF MANSFIELD**

-and-

**UNIFORMED PROFESSIONAL FIRE FIGHTERS OF CONNECTICUT**

The Town of Mansfield (the "Town") and the Uniformed Professional Fire Fighters of Connecticut (the "Union") agree to implement the following changes in conditions of employment. These items shall be part of the new collective bargaining agreement for fire fighters being negotiated by the parties.

1. The duration of the collective bargaining agreement shall be July 1, 2003 through June 30, 2005, unless the parties mutually agree to a longer duration as part of their ongoing negotiations.
2. For full-time employees, the July 1, 2003 wage adjustment previously approved by the Mansfield Town Council (if applicable) and a general wage increase of three percent (3%) shall be effective and retroactive to July 1, 2003. Full-time employees shall receive the July 1, 2004 wage adjustment previously approved by the Mansfield Town Council (if applicable) and a general wage increase of three percent (3%) effective July 1, 2004.
3. Effective October 1, 2003, each full-time employee shall be enrolled in either the Anthem Century Preferred PPO medical insurance plan or the Bluecare POS Option I plan, at the employee's option. An open enrollment to allow employees the opportunity to enroll in one of these plans shall be held in or about September 2003.  

---

Effective October 1, 2003, employees who elect the PPO plan shall pay premium cost sharing of five percent (5%) and employees who elect the POS plan shall pay one percent (1%). Effective July 1, 2004, the premium cost sharing for the PPO plan shall be six

percent (6%) and the premium cost sharing for the POS plan shall be two percent (2%).

The prescription drug plans shall be as follows:

a. Century Preferred PPO

\$3,000 annual maximum

Co-payments of \$5 for generic, \$15 for listed brand name, and \$25 for non-listed brand name

b. Bluecare POS

Unlimited annual maximum

Co-payments of \$2 for generic, \$7 for brand name, and \$0 for mail order

4. With the exception of the above, the Town shall make no changes in conditions of employment which are mandatory subjects of bargaining until the completion of negotiations for a complete collective bargaining agreement.

This Agreement is subject to ratification by the Union and, thereafter, by the Mansfield Town Council. Both parties shall recommend ratification to their principals.

TOWN OF MANSFIELD

UNIFORMED PROFESSIONAL FIRE  
FIGHTERS OF CONNECTICUT

By \_\_\_\_\_ /s  
Martin Berliner  
Town Manager

By \_\_\_\_\_ /s  
Matthew J. Flor  
Staff Representative

Date July 23, 2003 \_\_\_\_\_

Date July 23, 2003 \_\_\_\_\_

**TOWN OF MANSFIELD**  
**Wage Equalization Plan for Full-time Fire Fighters**

**Wage Equalization**

Premise: After 5 years, all F/T personnel in the Mansfield Volunteer Fire Company and the Eagleville Fire Department will be making the same hourly rate.

Logic: Divide the difference as of July 1, 2000 by 5 and increase the lesser salaries by this number each year until year 5.

Assumption: all F/T personnel will receive the identical pay increases every year. (Note: 3% is on top of the prior year's rate & the adjustment)

FYE Ending June 30, Mansfield personnel	Base 1-Jul-00		Year 1 1-Jan-01			Year 2 1-Jul-01			Year 3 1-Jul-02			Year 4 1-Jul-03			Year 5 1-Jul-04
	Rate	Adj	Rate	Adj	3.2%	Rate	Adj	3.2%	Rate	Adj	3%	Rate	Adj	3%	Rate
Drake	\$18.53	\$0.40	\$18.93	\$0.40	\$0.62	\$19.94	\$0.40	\$0.65	\$20.99	\$0.40	\$0.64	\$22.02	\$0.41	\$0.67	\$23.10
Lofman	\$15.22	\$1.08	\$16.30	\$1.08	\$0.56	\$17.93	\$1.08	\$0.61	\$19.62	\$1.08	\$0.62	\$21.32	\$1.10	\$0.67	\$23.09
York	\$15.41	\$1.04	\$16.45	\$1.04	\$0.56	\$18.05	\$1.04	\$0.61	\$19.70	\$1.04	\$0.62	\$21.36	\$1.06	\$0.67	\$23.10
Hawthorne R.	\$14.13	\$1.30	\$15.43	\$1.30	\$0.54	\$17.27	\$1.30	\$0.59	\$19.17	\$1.30	\$0.61	\$21.09	\$1.33	\$0.67	\$23.09
Franklin	\$13.00	\$1.54	\$14.54	\$1.54	\$0.51	\$16.59	\$1.54	\$0.58	\$18.70	\$1.54	\$0.61	\$20.85	\$1.57	\$0.67	\$23.09
Balogh	\$13.00	\$1.54	\$14.54	\$1.54	\$0.51	\$16.59	\$1.54	\$0.58	\$18.70	\$1.54	\$0.61	\$20.85	\$1.57	\$0.67	\$23.09
Lavitt	\$12.20	\$1.70	\$13.90	\$1.70	\$0.50	\$16.10	\$1.70	\$0.57	\$18.37	\$1.70	\$0.60	\$20.68	\$1.74	\$0.67	\$23.09
Hawthorne B	\$11.15	\$1.92	\$13.07	\$1.92	\$0.48	\$15.46	\$1.92	\$0.56	\$17.94	\$1.92	\$0.60	\$20.45	\$1.96	\$0.67	\$23.09
Eagleville F/T Rate	\$20.45	\$0.00	\$20.45	\$0.00	\$0.65	\$21.10	\$0.00	\$0.68	\$21.78	\$0.00	\$0.65	\$22.43	\$0.00	\$0.67	\$23.11

**Cost to Implement  
PER YEAR**

Years 1 and 2 assume 1040 hours/year/employee (40 hours x 26 weeks). Years 3-5 assume 2080 hours/year/employee (40 hours x 52 weeks)

Drake		\$411.71	\$928.50	\$932.72	\$848.13	\$867.81
Lofman		\$1,121.48	\$2,382.55	\$2,389.34	\$2,310.26	\$2,363.87
York		\$1,080.74	\$2,299.08	\$2,305.73	\$2,226.33	\$2,277.99
Hawthorne R.		\$1,355.22	\$2,861.37	\$2,869.02	\$2,791.75	\$2,856.53
Franklin		\$1,597.53	\$3,357.76	\$3,366.29	\$3,290.90	\$3,367.27
Balogh		\$1,597.53	\$3,357.76	\$3,366.29	\$3,290.90	\$3,367.27
Lavitt		\$1,769.07	\$3,709.19	\$3,718.35	\$3,644.29	\$3,728.86
Hawthorne B		\$1,994.23	\$4,170.45	\$4,180.42	\$4,108.11	\$4,203.44
	Wages only	\$10,927.51	\$23,066.66	\$23,128.17	\$22,510.66	\$23,033.06
	FICA/Medicare (7.65%)	\$835.95	\$1,764.60	\$1,769.30	\$1,722.07	\$1,762.03
		\$11,763.46	\$24,831.26	\$24,897.47	\$24,232.73	\$24,795.09

Total Cost to equalize pay rates over the five-year period  
**\$110,520.01**

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**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**



Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 28, 2003

Town Council  
Town of Mansfield

**Re: Wildlife Habitat Incentives Program (WHIP) for Mt. Hope Park, Eagleville Preserve, Fifty-foot Cliff Preserve and Old Spring Hill Field**

Dear Town Council:

The Wildlife Habitat Incentives Program is a voluntary program for landowners who want to develop and improve wildlife habitat on their land. The town's Parks and Recreation Department has submitted a preliminary proposal to participate in this program at the following properties: Mt. Hope Park, Eagleville Preserve, Fifty-foot Cliff Preserve and Old Spring Hill Field.

The Natural Resources Conservation Service (NRCS) utilizes WHIP to provide technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant are generally valid for a five to ten-year period after the date the agreement was signed.

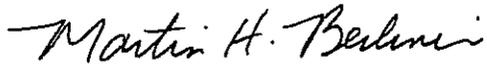
Parks Advisory Committee (PAC) volunteers and staff have met with NRCS representatives to begin to develop a plan for the property, in accordance with the town's existing management plan. The proposed plans of work are attached for each property. The 25 percent cost share provided by the town would consist of in-kind staff work, equipment use or volunteer labor. Consequently, the town would not be required to contribute any capital expenditures to the project.

Staff recommends that the Town Council authorize staff to include the three subject properties within the Natural Resources Conservation Service's Wildlife Habitat Incentives Program.

If the Town Council supports this suggestion, the following motion is in order:

*Move, effective July 28, 2003, to authorize staff to submit formal proposals to include Mt. Hope Park, Eagleville Preserve, Fifty-foot Cliff Preserve and Old Spring Hill Field within the Natural Resources Conservation Service's Wildlife Habitat Incentives Program.*

Sincerely,



Martin H. Berliner  
Town Manager

Attach:(5)



Town of Mansfield  
Parks and Recreation Department

---

*Curt A. Vincente, Director*  
*Jay M. O'Keefe, Supervisor*  
*Bette Day Stern, Coordinator*  
*Jennifer Kaufman, Parks Coordinator*

Four South Eagleville Road  
Storrs/Mansfield, Connecticut 06268  
Tel: (860) 429-3321 Fax: (860) 429-7785  
Email: Parks&Rec@MansfieldCT.org

TO: Martin Berliner, Town Manager  
Matt Hart, Assistant Town Manager

CC: Curt Vincente, Director of Parks and Recreation  
Greg Padick, Town Planner

FROM: Jennifer Kaufman, Parks Coordinator

DATE: July 23, 2003

SUBJECT: Wildlife Habitat Incentives Program (WHIP)--Mt Hope Park, Eagleville Preserve, Fifty-foot Cliff Preserve, and Old Spring Hill Field

Mansfield Parks and Recreation Department has submitted a preliminary proposal to participate in the Wildlife Habitat Incentives Program (WHIP) at the above referenced properties. WHIP is a voluntary program for landowners who want to develop and improve wildlife habitat on their land. Through WHIP, Natural Resources Conservation Service (NRCS) provides both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant generally last from 5 to 10 years from the date the agreement is signed.

During the preliminary proposal phase Parks Advisory Committee volunteers and staff met with NRCS representatives to develop a plan for the property, based on the Town's existing management plan. The proposed plans of work are attached for each property. The costs are detailed in each plan. For each property, the 25 percent cost share provided by the Town would be in-kind staff time, equipment use or volunteer labor. No capital expenditures are required. WHIP is an excellent way for the Town to be reimbursed for park management activities stated in the existing management plan for Mt Hope Park.

*We respectfully request that the Town Council approve the WHIP plans attached for the above referenced properties.*

## Eagleville Preserve (Town-Owned Land) WHIP Plan 07-23-03

The NRCS suggests invasive plant removal within the approximately 11 acres of riparian forest habitat and powerline bordering the Willimantic River. Invasive plant removal will focus on trails and the border with the state lands (CT DEP) to the north. The riparian area should remain as a vegetated buffer to protect the water quality of the Willimantic River and offer wildlife habitat. Where invasive plant removal leaves a sunny hole, native shrubs will be replanted.

During Years 1-3, invasive plants will be manually removed along the CT DEP border and the trails (10 feet on each side). Herbicides may be used where applicable. During Years 2-10, manual follow-up invasive plant removal along the previously treated border and trails will be done in an increasingly wide band. Native shrubs will be planted where invasive plant removal has left a sunny gap.

According to the CT Dept. of Environmental Protection (DEP) records, Wood Turtles and Frosted Elfin moths have been known from the general area in the past. All management will be done in a way prescribed by the DEP to avoid possible harm to these species.

The WHIP projects are supported through cost-share payments amounting to up to 75% of the total cost of the project with payments to be made after each component of the work is performed. It is expected that the work will be performed by volunteers. In addition, the Town is expected to contribute at least 25% of the total cost of the project. This can be done in in-kind service by staff or volunteers.

WHIP contracts run for 10 years with cost share payments for work performed during the first 8 years with the final two years of work to be performed on the honor system.

The total cost-share available for this project is \$5500.00.

Fifty Foot (East Road Gate Area) WHIP Plan 07-23-03

The NRCS suggests invasive plant removal on approximately ½ acre of grassland (old logging landing) and on approximately ½ acre of early successional habitat (shrubs and small saplings) adjacent to the grassy area. Invasives on the edge between the grassy area and a small wetland will be removed and replaced with native plants. The grassland will be maintained by mowing. Forest succession will be retarded in the early successional area by periodic cutting back of the vegetation. Grassland and early successional habitats are important for birds and other wildlife.

For the grassland, the plan calls for removal of invasive species in the central area in Year 1. The invasives along the wetland edge will be removed in 5 sections beginning in Year 1. Native shrubs will be planted to replace the invasives along the edge. The grassland will be maintained by mowing every 2 years.

For the early successional habitat, the plan calls for invasive plants and trees to be removed in Year 1. In Year 6, the vegetation will be cut back to prevent the progression of vegetation succession toward forest.

According to the CT Dept. of Environmental Protection (DEP) records, Wood Turtles have been known from the general area in the past. All management will be done in a way prescribed by the DEP to avoid possible harm to this species.

The WHIP projects are supported through cost-share payments amounting to up to 75% of the total expected cost of the project with payments to be made after each component of the work is performed. The work may be performed by Town staff (mowing and early-successional maintenance) and volunteers (invasive plant removal and re-planting). In addition, the Town is expected to contribute 25% of the total cost of the project. This can be done in in-kind service by staff or volunteers.

WHIP contracts run for 10 years with cost share payments for work performed during the first 8 years with the final two years of work to be performed on the honor system.

The total cost-share available for this project is \$1590.

## Mt Hope (Northern Half) WHIP Plan 07-23-03

The NRCS suggests invasive plant removal on approximately 4 acres of wetland (western portion of property) and 3 acres of grasslands (northern half; including a shrubby wet meadow) to improve wildlife habitat. Grasslands to be maintained by mowing.

For the 4 acre wetland, NRCS suggests manual removal of invasive species in Years 1 and 2 including the use of herbicides as needed. Follow up manual treatment to be performed in Years 3-10. Cost share payments on the planting of native shrubs are available.

For the 3 acre grassland, NRCS suggests manual removal of invasive species in Year 1 including herbicide applications as needed. Follow up manual treatment of invasives to be performed in Years 3-10. Mowing alternate halves of the grassland area each year will keep the area in grass/meadow.

The WHIP projects are supported through cost-share payments amounting to up to 75% of the total expected cost of the project with payments to be made after each component of the work is performed. The work may be performed by Town staff (e.g., mowing) and volunteers (invasive plant removal and re-planting). In addition, the Town is expected to contribute 25% of the total cost of the project. This can be done in in-kind service by Town staff or volunteers.

WHIP contracts run for 10 years with cost share payments for work performed during the first 8 years with the final two years of work to be performed on the honor system.

The total cost-share available for this project is \$4180.00.

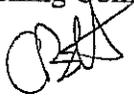
OLD SPRING HILL FIELD 7/24/03

"FIELD"	HABITAT	TREATMENT	Acres	Y-1	Y-2	Y-3	Y-4	Y-5	Y-6	Y-7	Y-8	X	Y-9	Y10	PRACTICE
Swath	Grass	Remove shrubs with excavator	2	all								X			ES-6-large equipment
		Remove trees manually	2	all									X		
Swath	Grass	Paint cut stems with herbicide as needed	2	all								X			ES-5-chemical
Swath	Grass	Brush Hog entire swath	2	all								X			ES-4-brush hog
Swath	Grass	Grassland Mowing	2		all	1/2	1/2	1/2	1/2	1/2	1/2	X	1/2	1/2	ES-3-Grassland Mowing
Swath	Grass	Disposal of invasive plants	2												PD-1 Disposal Invasives
												X			
Shrubs	Early-Succ	Remove trees/invasives with excavator	4	1/3	1/3	1/3						X			ES-6-large equipment
Shrubs	Early-Succ	Paint cut stems with herbicide	4	1/3	1/3	1/3						X			ES-7-chemical
Shrubs	Early-Succ	Brush Hog w/chain flail (except native shrubs)	4	1/3	1/3	1/3	1/3	1/3	1/3	1/3	1/3	X	1/3	1/3	ES-6-brush hog
Shrubs	Early-Succ	Meadow plants establishment	1.5	1/3	1/3	1/3									ESW-3 meadow establish.
Shrubs	Early-Succ	Shrub establishment	-		X	X	X					X			WD-1 Shrub establishmt
Shrubs	Early-Succ	Remove new trees & invasives	4		1/3	2/3	all	all	all	all	all	X	all	all	ES-6-manual
Shrubs	Early-Succ	Disposal of invasive plants	4												PD-1 Disposal Invasives
Acres refers to the total area occupied by the "field" (grass swath or early-successional shrubby/grassy area in this project)															
Y-1 Y-2 etc. refers to Year 1, Year 2, etc. (Year 1 = NRCS fiscal year 2004 which begins October 1, 2003)															
Under Y-1, Y-2, etc.:															
the fractions refer to the fraction of the total acreage of the "field" that will be worked in within a given year															
X refers to work done in within the "field"															
the column of bolded X's separates out the last 2 years of the 10 year contract in which work is part of the plan but not reimbursable															

0285



To: Town Council/Planning & Zoning Commission  
 From: Curt Hirsch, Zoning Agent  
 Date: July 16, 2003



Re: **Monthly Report of Zoning Enforcement Activity**  
*For the month of June 2003 (year-end totals)*

Activity	This month	Last month	Same month last year	This fiscal year to date	Last fiscal year to date
Zoning Permits issued	24	27	29	158	206
Certificates of Compliance issued	17	19	18	258	170
Site Inspections	47	52	41	524	525
Complaints received from the Public	1	4	7	52	77
Complaints requiring inspection	0	1	6	34	53
Potential/Actual violations found	1	2	3	37	44
Enforcement letters	5	16	5	94	110
Notices to issue ZBA forms	2	3	0	17	8
Notices of Zoning Violations issued	0	5	2	29	48
Zoning Citations issued	1	0	0	7	13

Zoning permits issued this month for single family homes = 7, multi-fm = 0  
 2002/03 Fiscal year: s-fm =31, multi-fm =14

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## MINUTES

### MANSFIELD PLANNING & ZONING COMMISSION

Regular Meeting, Monday, July 7, 2003

Council Chambers, Audrey P. Beck Municipal Building

Members present: A. Barberet (Chairman), R. Favretti, J. Goodwin, R. Hall, K. Holt, P. Kochenburger  
Members absent: B. Gardner, P. Plante, G. Zimmer  
Alternates present: B. Ryan  
Alternates absent: B. Mutch  
Staff present: C. Hirsch (Zoning Agent), G. Padick (Town Planner)

Chairman Barberet called the meeting to order at 7:43 p.m., appointing Alternate Ryan to act as a voting member. Members agreed by consensus to add consideration of the Town Attorney's 6/30/03 bill to the Agenda under Communications and Bills.

6/16/03 Minutes – Holt moved and Favretti seconded to approve the Minutes as presented; motion carried, all in favor except Kochenburger (disqualified).

Zoning Agent's Report – June Activity Report acknowledged. Mr. Hirsch was asked to check into a report of dumping at the southeastern corner of the Rosal's Restaurant property on Rt. 195.

#### Old Business

Paideia, consideration of amphitheatre approval conditions, file 1049-7 – Mr. Padick explained that some of the conditions of the 9/02 outdoor amphitheatre approval require further information to be reviewed by the PZC before construction can begin. Members discussed timing, parking/event plans, etc, with I. Tomazos and T. Giolas, representing Paideia. The Commission feels that a letter is needed from the marble quarry regarding timing and delivery of the materials for the project; a plan from Paideia is also needed for reestablishment of the site if the project cannot be completed, to allay concerns of Commission members and neighbors. Mr. Tomazos stated that, after extensive efforts, he has concluded that he will not be able to obtain such a letter of assurance from the quarry. He agreed to repeat his request again, however. He assured the Commission that the marble will be delivered and the project can be completed as per the approval conditions, noting that approximately 25% of the marble is already onsite, and the rest will be delivered at a rate of approximately one carton a month for twenty months. He said Paideia would like to begin construction late this fall and complete the amphitheatre by fall of 2005. Mr. Giolas summarized letters of documentation and support that Paideia already has and noted that its three similar projects in this country were completed satisfactorily and are all debt-free. He reiterated that Paideia is convinced that sufficient funds and labor will be available to complete this project. Mr. Padick added that the Town holds a \$15,000 site development bond. He explained that in order for construction to begin, the Commission would have to agree that, based on the submitted supplemental information, it feels that the approval conditions that had to be met prior to the start of construction, as cited in the 9/3/02 approval, have been met, and the Zoning Agent could therefore be authorized to issue a Zoning Permit. He noted that the Traffic Authority recommended that the Commission specifically retain the right to reassess the traffic control plan after actual event experiences have occurred.

Members again told Mr. Giolas and Mr. Tomazos that they need reasonable assurance that the marble will arrive in a timely fashion, including a schedule of delivery timing, to indicate that the project can be completed as per approval conditions, and Mr. Giolas agreed to supply such assurances in written form. Mr. Favretti felt that the PZC must soon assess the information it already has and determine what is still needed. Mr. Kochenburger agreed to work on a motion.

Public Hearing, special permit application for efficiency unit at 415 Bassetts Bridge Rd., D. Stevens, appl., file 1204 – The Public Hearing was called to order at 8:30 p.m.. Present were Barberet, Favretti, Goodwin, Hall, Holt, Kochenburger and Ryan. The legal notice was read and reports from the Town Planner and Director of Health (both 7/2/03) were noted. Mr. Stevens described the proposed unit and said it complies with all Town regulations; the Health Officer feels it has adequate septic and reserve system area. Neighborhood notification

receipts were submitted; there were no public comment or questions from the public or the Commission. The Hearing was closed at 8:37 p.m. Mrs. Holt volunteered to draft a motion.

**Public Hearing, special permit, application for efficiency unit at 945 Mansfield City Rd., D. Dzurec, appl.**, file 1204 - The Public Hearing was called to order at 8:34 p.m.. Present were Barberet, Favretti, Goodwin, Hall, Holt, Kochenburger and Ryan. The legal notice was read and reports from the Town Planner (7/3/03) and the Director of Health (7/2). Mr. Dzurec described the proposed unit which is to be above the garage of the house now being constructed, and said it complies with all Town regulations. Neighborhood notification receipts were submitted; there was no public comment and no questions from the Commission. The Hearing was closed at 8:37 p.m. Mrs. Holt volunteered to draft a motion.

**Public Hearing, requests for renewal of existing sand and gravel operation permits** - The legal notice was read and memos from the Zoning Agent (7/1/03) and Ass't. Town Engineer (7/2/03) were noted. All of the sites were visited during the most recent field trip.

Logan/deBella, Laurel Lane, file 993-2 - R. Logan explained that no work has taken place on the site since last year. There were no comments or questions from the public or Commission members.

Hall, Mansfield Hollow Rd., file 910-2 - Att'y. E. Knapp explained that little excavation has taken place at the site this year. One of the three trailers onsite has been removed, and the site is in compliance with conditions of the permit. He noted Mr. Hirsch's suggestion that the current condition #4 could be eliminated. There were no comments or questions from the public or Commission members.

Banis, Pleasant Valley Rd., file 1164 - Mrs. Holt remarked that the site had seemed stable at the time of the field trip visit, and no environmental issues were evident. There were no comments or questions from the public or Commission members. The Public Hearing was closed at 8:50 p.m. Mrs. Holt agreed to draft motions.

#### **Old Business** (continued)

Sibley Estates, request for driveway revisions, Lot 2 (Mansfield City Rd.), file 1199 - Mr. Padick's 7/3/03 memo notes a possible utilities issue about which more information is needed, and the request was tabled.

Chatham Hill, Sec. 2 subdivision, 14 lots off Fern Rd., file 1131-2 - Mrs. Holt had previously disqualified herself. Earlier in the evening, the Inland Wetland Agency had denied an application for the subdivision, citing drainage and wetlands impact concerns. Mr. Padick said the PZC could still approve its subdivision application, since Wetlands and Subdivision Regulations are independent, although no work could begin without IWA approval. Members mentioned some of their concerns, including the question of shared driveways (Mr. Padick noted he is not sure the PZC could require this); possible elimination of culs-de-sac; drainage; open space dedication and widening of trail right-of-way, and possible pipe replacement under the Rich driveway. The applicant is willing to use stones from disturbed stone walls to rebuild other stone walls. Mr. Hall volunteered to draft a motion for consideration at the next meeting.

Windswept Manor, East Rd. subdivision, file 1198 - Mrs. Goodwin disqualified herself on this issue. Mr. Padick's 7/3/03 memo was noted. At the meeting, he reported that the Town Attorney has consulted with SBC/SNET's legal staff to try to resolve the question of the PZC's legal jurisdiction in this case; more information, based on further investigation by the Town Attorney, will be presented at the next PZC meeting.

#### **New Business**

Proposed efficiency unit, 557 Wormwood Hill Rd., Lippa, o/a, file 1207 - Holt moved, Favretti seconded to receive the special permit application (file 1207) submitted by Gregg Lippa for an efficiency unit in association with existing single-family home located at 557 Wormwood Hill Road on property owned by Gregg and Lee Ann Lippa, as shown on plans dated 6/30/03 and as described in other application submissions, and to refer said application to the staff for review and comments, and to set a Public Hearing for 7/21/03. MOTION PASSED unanimously

Request to revise Development Area Envelope on Lot 20, Maplewoods II subdivision, file 974-3 - Mr. Hirsch's 7/3/03 memo describes the proposal; the owner and engineer for the house were present to explain that the new house plans require relocation of the driveway to the opposite side of the lot from that shown on the subdivision plan. They said no significant trees would be cut down, and the existing natural treed buffer between lots will remain. Favretti moved and Holt seconded to approve the Development Area Envelope revision for Lot 20 in the

Maplewoods, Section 2 subdivision as described in the 7/1/03 letter from John and Binu Chandy and as depicted on the 6/30/03 plan. MOTION PASSED unanimously.

Proposed efficiency unit, 117 Spring Hill Rd., B. Bellm, o/a, file 1206 – Holt moved and Ryan seconded to receive the special permit application (file 1206) submitted by Bruce Bellm for an efficiency unit in association with existing single-family home located at 117 Spring Hill Road owned by the applicant, as shown on plans dated 6/17/03 and as described in other application submissions, and to refer said application to the staff for review and comment, and to set a Public Hearing for August 4, 2003. MOTION PASSED unanimously.

Proposed efficiency unit, Lot 1B, Hawthorne Lane, R. S. Welden, o/a, file 1208 – Goodwin moved, Ryan seconded to receive the special permit application (file 1208) of Richard “Scott” Welden for a single-family dwelling with an efficiency unit on property owned by the applicant located at Lot 1B, Hawthorne Lane, as shown on plans dated 6/6/03 and as described in other application submissions, and to refer said application to the staff for review and comment, and to set a Public Hearing for August 4, 2003. MOTION PASSED unanimously.

Special permit application for telecommunication tower/related facilities north of Clover Mill Rd., adjacent to the Town Garage, TCP Communications and Town of Mansfield, a/o, file 1209 – Goodwin moved, Ryan seconded to receive the special permit application (file 1209) submitted by the Town of Mansfield and TCP Communications, Inc. for a telecommunication tower and related facilities on property located north of Clover Mill Rd., adjacent to the Mansfield Town Garage, owned by the Town of Mansfield, as shown on plans dated 1/20/03, revised through 6/5/03 and as described in other application submissions, and to refer said application to the staff and Design Review Panel for review and comment, and to set a Public Hearing for 8/4/03. MOTION PASSED unanimously.

Consideration of replacement of PZC alternate member – Holt moved, Kochenburger seconded to accept with regret the resignation of Eugene Mann from the Planning and Zoning Commission and Inland Wetland Agency; MOTION PASSED unanimously. Holt moved, Kochenburger seconded to accept the Democratic Town Committee’s recommendation and accept Barry Pociask as a seated PZC alternate member, replacing Gene Mann. This motion failed because Mr. Pociask was not present and, after further discussion, Kochenburger moved and Favretti seconded to receive the Democratic Town Committee’s recommendation of Barry Pociask and invite him to come before the Commission to explain his interest in becoming an alternate member and his qualifications before a vote is taken. MOTION CARRIED, all in favor except Holt (opposed).

**Old Business** (continued)

2003 Plan of Conservation and Development update – A draft update may be available by early September.

Storrs Center Downtown project – The Downtown Partnership’s 7/3/03 letter containing their Board’s recommendations for the 2003 Plan of Conservation and Development update was noted. Minutes from several earlier Downtown Partnership Board of Directors meetings were included in members’ packets.

AT&T telecommunication tower proposals – A letter from K.S. Coulter, representing the Greenfield Hill Homeowners Association, to the CT Siting Council letter urges that AT&T more specifically address the issue of future co-location on towers at the site. The Town has also expressed this concern to the Siting Council.

Consideration of cancellation of an August meeting – After discussion, Barberet moved, Holt seconded to cancel the second PZC meeting in August (August 18<sup>th</sup>). MOTION PASSED unanimously.

Communications and Bills – Holt moved, Ryan seconded to approve payment of the 6/30/03 bill from the Town Attorney, in the amount of \$2,436.00. MOTION PASSED unanimously. Mr. Padick noted that the Planning and Zoning Commission might want to review this issue further, and recommended adding it to the next agenda for further discussion. Otherwise, communications were as noted on the agenda.

The meeting was adjourned at 9:55 p.m.

Respectfully submitted, Katherine K. Holt, Secretary

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Mansfield Conservation Commission  
Minutes of the July 16, 2003 Meeting  
Conference Room B, Audrey P. Beck Building

Present: Robert Dahn (Chair), Jennifer Kaufman, Quentin Kessel, John Silander, Robert Thorson and Frank Trainor.

Absent: Denise Burchsted and Lanse Minkler.

Town Staff: Grant Meitzler

1. The meeting was called to order at 7:35 PM.
2. The minutes of the June 18, 2003 were approved with editorial corrections.
3. Fenton River Water Level: Kessel reported that it was ankle knee deep (approximately 12 inches) between rocks where he crosses the river by the University pumping station A. Thorson noted that Remo, one of the USGS geologists participating in the "Long-Term Impact Analysis of the University of Connecticut's Fenton River Water Supply Wells on the Habitat of the Fenton River" project expressed worry that this summer's season may not be dry enough to complete the study. If this is the case, University officials understand the study may not be completed until the following summer.
4. Open Space/Park Management Issues: Dahn and Kessel agreed it would be best to wait until October when the leaves would be off the trees to mark the Torrey Property boundaries.
5. Town Plan of Conservation and Development: The CC will continue to monitor the proposed changes to this plan.
6. Kaufman announced that the Town was applying for a cost-sharing grant to the National Resources Conservation Service for assistance in controlling invasive species on the following Town properties: "Fifty Foot," the old Spring Hill Field at the intersection of Spring Hill and Maple Roads, and the Mount Hope and Eagleville Parks. Trainor moved and Kessel seconded that the CC tell the Town Council that the CC enthusiastically support the Town in this effort. Kaufman agreed to forward this information to the Council.
7. IWA Referrals.
  - a) ~~W1217 - Perfetto - Route 32. Map date 4/15/03. This application is for a~~  
changes in a prior application to permit office use in a building approved earlier for  
warehousing. ~~This will require provision for additional parking. Concern was expressed~~  
that the parking shown might be excessive and it was suggested that the lot on the east

side be left as a gravel lot until full utilization of the proposed area becomes necessary. Kessel moved and Trainor seconded that there should be no significant negative impact on the wetlands as long as the sedimentation and erosion controls shown on the map are in place and removed after the site has stabilized. Additionally measures must be taken to control parking lot runoff into the pond. The motion passed unanimously with one abstention (Thorson).

b) W1218 - Town of Mansfield – Birch Road Bikeway. Map date 3/3/03. This application is for an extension of the Hunting Lodge Bikeway along Birch Road to Route 44 and on to Four Corners. Kessel moved and Kaufman seconded that there should be no significant negative impact on the various wetlands involved wetlands as long as the sedimentation and erosion controls shown on the map are in place during construction and removed after the sites have stabilized. The motion passed unanimously.

c) W1219 - Barreca - Candide Lane. Map date 6/9/03. This application is for a new single family house on an undeveloped lot remaining from the early years of the subdivision on Candide Lane. Kaufman moved and Kessel seconded that there should be no significant negative impact on the wetlands if the sedimentation and erosion controls shown on the map are in place during the construction and removed after the site is stabilized. The motion passed unanimously with one abstention (Thorson).

d) W1220 - Crow - 88 Hillyndale Road. Map date 7/2/03. This application is for the construction of an addition to a house within the regulated area. . Kessel moved and Trainor seconded that there should be no significant negative impact on the wetlands if the sedimentation and erosion controls shown on the map are in place during the construction and removed after the site is stabilized. The motion passed unanimously with one abstention (Thorson).

#### 8. Other Business:

a) Silander commented on the telecommunications tower proposed for installation on Town land along Clover Mill Road. Silander moved and Kessel seconded that the CC should express its concern that the proposed tower will have a negative impact on the viewshed from various points in the Town's largest park system. It was agreed that the CC should testify to this effect at the public hearing. Kaufman will discuss this with Town Manager Berliner.

b) Thorson reported being "grossed out" by the condition and appearance of Mirror Lake. The algal scum covering it advertises a water pollution problem that the University should be ashamed of. Thorson has written to the University's Larry Schilling about this but has not received a reply. Trainor noted that this was an unusual algae (hydrodiction) for this area and that it should be relatively easy to harvest. Harvesting the algae is a good practice in that it does help to clean the water during its growth and can be used for compost (if it proves to be non-toxic). The question was raised, why with the sorry condition of both Mirror Lake and Duck Pond (or Swan Lake), the University does not have a device for the removal of the algae and duckweed. It was agreed that since the condition of these bodies of water reflects poorly on both the University and the Town of Mansfield, that the CC ask the Town Council to discuss this problem with the University. Kaufman will bring the matter to Town Manager Berliner's attention.

c) W1215 - Lavitt - Coventry Road. Map date 2/03. This application is for a six-lot subdivision in a regulated area. Other land owned of Rega Acquisitions on the east side along Coventry Road does not have its wetlands mapped so the CC is unable to comment on the portion of the driveway to Lots 4,5,and 6. Furthermore, the CC could not identify the erosion and sedimentation controls for the individual lots. The CC also noted that on lots 5 and 6 the construction could take place further form the wetlands than the plan shows. Because of these concerns, the CC chooses not to make a recommendation at the present time.

d) W1216 - Cleare - Ravine Road. Map date 5/30/03. This application is for the construction of a house in a regulated area. The CC is concerned that the westerly lot line has been chosen in such a way as to force the placement of the house and septic fields unnecessarily close to the wetlands. No motion was made with respect to this application.

7. The meeting adjourned at 8:48 P.M.

Respectfully submitted,

Quentin Kessel  
Secretary

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**TOWN OF MANSFIELD**  
**OPEN SPACE PRESERVATION COMMITTEE**  
Minutes of the July 15, 2003 meeting

Members Present: Ken Feathers, Quentin Kessel, Jim Morrow (chair), Steve Lowery, and David Silsbee

Town Officials Present: Martin Berliner and Curt Vincente

Guests: Bill Rosen and Michael Taylor

- 1. The meeting was called to order at 7:35 P.M.**
- 2. The minutes of the June 17, 2003 meeting were approved.**
3. Taylor discussed the unique 6 acre property along the west side of Hanks Hill Road owned by the late Raymond Hitchcock. Much of this property is covered by the mill pond and wetlands. He recommends that the Town consider the purchase of this property for open space. He noted that the property owners in the area are willing to contribute significantly toward such a purchase. An extensive discussion followed, and the topics included the question as to whether it is a buildable lot and whether the dam represents an asset or liability for its owner.
4. Two larger tracts of land and their value as open space and/or farmland were discussed. One was the Claude McDaniels farm, currently owned by Green, on Wormwood Hill Road. There are approximately 100 acres, but the land is not designated as prime farmland. On the other hand, access through it would provide a connection between the Atwood property and Joshua's Trust property on the north side of the road. Another tract discussed is owned by Albino and Micacci on Woodland Road. It is farmed by and is contiguous with land owned by Tom Wells on Wormwood Hill Road. A portion of this is designated as prime farmland by the State. It was agreed that it would be desirable to have these tract farmed and remain as open space; however their development value may preclude this.
- 5. The meeting adjourned at 8:55 P.M.**

Respectfully submitted

Quentin Kessel  
Secretary

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**TOWN OF MANSFIELD**  
**Community Center Building Committee Meeting**  
**July 07, 2003**  
**MINUTES**

Present: R. Moore, S. Goldman, M. Johnson, J. Pandolfo, A. Rash, M. Paquette

Staff: Assistant Town Manager M. Hart, Capital Projects and Personnel Assistant L. Patenaude,  
Director of Parks and Recreation C. Vincente

Others: SLAM Architect D. Harazim, Construction Manager K. Boutin, Construction Manager,  
D. Yoder

**1. Call to Order**

A. Rash convened the meeting at 7:10 p.m.

**2. Approval of Minutes**

Minutes of the June 16, 2003 meeting were accepted.

**3. Audience to Visitors**

None

**4. Additions to the Agenda**

None

**5. Staff Reports**

- a. Construction Manager's Report – K. Boutin gave an update on what was happening on the jobsite.
- b. Architect's Report – D. Harazim had nothing new to report.

**6. Old Business**

None

**7. New Business**

~~R. Moore asked when the grand opening might take place. D. Yoder replied that the completion is still scheduled for the end of August. C. Vincente replied soft opening would be for early September, with the grand opening during the month of October.~~

J. Pandolfo asked if there were problems with people on the job. K. Boutin replied that calls are made to subcontractors if no one shows up.

C. Vincente gave a marketing update. There was a flurry of registrations in June and there is now a concentration on Board of Education and Town employees. Analysis is now occurring for non-resident sign ups. Area towns will be targeted for informational meetings on the community center. Memberships to date have far exceeded the pre-sell goal.

The fitness equipment has been ordered. The completion date needs to be on target for delivery. Fitness equipment delivery and installation is currently planned for the week of August 18th.

The Aquatic Director started on Monday, June 23<sup>rd</sup>, the Recreation Coordinator starts on July 14th and the Health and Fitness Director starts on July 21. Interviews for the Head Lifeguards and Health and Fitness Specialist positions will occur within the next couple of weeks.

The track donor signed the agreement on July 3rd.

Dave Yoder stated that the State Department of Labor requested to see everyone's contract and prevailing wage rates and that everything was in order.

The next meeting is July 21st at 7:00 p.m.

R. Moore moved to adjourn at 7:44 pm. J. Pandolfo seconded.

Respectfully Submitted,

Linda Patenaude,  
Capital Projects and Personnel Assistant

TOWN OF MANSFIELD  
MEMORANDUM  
7/22/03

TO: Martin H. Berliner, Town Manager  
FROM: Lon R. Hultgren, Director of Public Works   
**RE: Status of Water Testing of the Separatist Road Detention Pond**

As we met recently with Larry Schilling of UConn and there have been some changes to the testing program for the detention basin suggested and agreed upon, perhaps this is a good time to update you and others interested in the testing program.

UConn's original testing plan was to test the basin's discharge quarterly through the Fall of this year. Town staff and Robert Miller of the Eastern Highlands Health District suggested a longer-term testing program done bi-annually so that the testing could extend through the Fall of 2004.

UConn has agreed to this extension and Rob Miller gave them the testing parameters to be included in this testing which UConn has also agreed to use.

At this point then, we are in full agreement on the testing program with UConn through the Fall of next year. Tests will be done again in the Fall of 2003, the Spring of 2004 and the Fall of 2004.

cc: Larry Schilling, University Architect  
Greg Padick, Town Planner  
Rob Miller, EHHD  
file

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**Matthew W. Hart**

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**From:** Gregory Haddad  
**Sent:** Wednesday, July 16, 2003 4:28 PM  
**To:** Town Mngr; Matthew W. Hart  
**Subject:** FW: MDTC recommendation to fill vacancy

Marty, Matt,

I'm forwarding a communication from Richard and the MDTC regarding a replacement for Bill. I don't think he sent it to you. When is it appropriate to act on this -- at our next meeting?

Gregg

-----Original Message-----

**From:** app.designs@snet.net  
**To:** TownCouncil@mansfieldct.org  
**Sent:** 6/26/2003 2:34 PM  
**Subject:** MDTC recommendation to fill vacancy

Mayor Paterson and members of the council:

The choice of the Mansfield Democratic Town Committee to fill the vacancy on the council to be created on August 4, 2003 with the resignation of Bill Rosen is Bruce Clouette of 483 Woodland Road. Thank you in advance for your consideration of this recommendation.

Sincerely,  
Richard L. Sherman, chair  
Mansfield Democratic Town Committee

**§ C206. Vacancies.**

Except as otherwise provided by statute, any vacancy in any elective office, except in the Board of Education and Planning and Zoning Commission, for whatever cause arising, shall be filled by appointment by the Town Council for the unexpired portion of the term or until the next biennial town election, whichever shall be sooner. The Board of Education shall fill its own vacancies in the same manner. Vacancies in the Planning and Zoning Commission shall be filled in such manner as the Town Council may determine. If the person vacating the office shall have been elected as a member of a political party, the vacancy shall be filled by the appointment of a member of the same political party. If there shall be a biennial election before the expiration of the term of office in which a vacancy occurs, such vacancy shall be filled by appointment as provided herein until said election and thereafter by the person elected to fill the office for the remaining portion of the term. Except as otherwise provided by statute, such person shall take office on the third Monday following the election.



## TOWN OF MANSFIELD

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
STORRS, CONNECTICUT 06268



CURT B. HIRSCH  
ZONING AGENT  
(860) 429-3341

To: Mansfield Town Council/Planning & Zoning Commission  
From: Curt Hirsch, Zoning Agent  
Date: July 8, 2003

Re: Zoning Citations Ordinance

The Zoning Citations Ordinance has been in place since June 1999. The Ordinance authorizes the Zoning Agent to issue citations and levy \$150.00 fines for violations of the Mansfield Zoning Regulations. The Ordinance provides for a notification of the violation and an opportunity to remedy the violation prior to the issuance of a citation and fine. Repeat offenders can be cited and fined, without the initial notification requirement being repeated. The Ordinance also provides for an appeals process, which includes a hearing before a Hearing Officer appointed by the Town Manager. The Town Council adopted the Ordinance pursuant to the authority granted to it under Section 8-12a of the Connecticut General Statutes. The Council approved an amendment to the Ordinance in January of this year, which clarifies the 'subsequent' notice requirements for repeated violations.

During the 2002-03 year I issued 40 violation notices and 10 citations. Violations of the regulations concerning the display of commercial signs continue to generate the largest number of violations/citations. There were 19 violation notices evolving into three citations for signs. Other categories of violations issued in order of frequency were:

- Junk/junk yards 9
- Construction w/o permit 3
- Failure to submit as-builts 3
- Home occupations w/o permit 2
- Contractors storage 2
- Boarding horses
- Use of truck body as storage

Only one violation was appealed before the Citations Hearing Officer. The appeal led the Hearing Officer to void the fine although the violation was admitted. The appellant took action to remedy the violation to the satisfaction of the Hearing Officer.

Four of the violation notices and one citation (fine) regarding the disposing of 'junk', concern the painting of the "Rock" on South Eagleville Road just west of the community center. About two years ago I began using the Citations Ordinance to cite UConn student





University of Connecticut  
*Division of Business and Administration*

Architectural and  
Engineering Services

Larry G. Schilling  
*Executive Director*

June 19, 2003

Gregory Paddick  
Town of Mansfield  
4 South Eagleville Road  
Mansfield, CT 06268

Dear Mr. Paddick:

Enclosed is the fifth annual Consumer Confidence Report on the quality of University water. We are pleased to report that University water meets both State and Federal standards for high quality water.

The Federal Safe Drinking Water Act of 1996 requires the University to provide information to users on the quality of the water supply. Regulations prescribe the form and the method of reporting. The University continues to monitor the quality of its water in compliance with the Connecticut Department of Public Health.

This report is distributed to users of University water, both in hard copy and on the University website.

We hope you find this report useful. If you have any questions or need additional information, please contact Mary Ann Ettinger at 486-3157.

Sincerely,

Larry G. Schilling, Executive Director  
Architectural and Engineering Services

Enclosure

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*An Equal Opportunity Employer*

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31 LeDoyt Road Unit 3038  
Storrs, Connecticut 06269-3038

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Telephone: (860) 486-3116  
Facsimile: (860) 486-3255

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e-mail: [larry.schilling@uconn.edu](mailto:larry.schilling@uconn.edu)  
web: [www.aes.uconn.edu](http://www.aes.uconn.edu)

## WHAT CAN I DO TO CONSERVE WATER?

### \* If you live on campus:

1. Turn off faucets and showers when not in use.
2. Take shorter showers.
3. Wash full loads in washing machines and dishwashers.
4. If you live in a dorm, report leaks, dripping faucets and showers, and malfunctioning toilets to your Resident Advisor.
5. Report water leaks, dripping faucets and showers, and malfunctioning toilets in other buildings to Facilities Operations (486-3113).

### \* If you work on campus:

1. Turn off faucets when not in use.
2. Report water leaks and running water in buildings on campus to Facilities Operations (486-3113).
3. Select water efficient equipment.

### \* In your personal residence:

1. Repair leaks.
2. Turn off faucets and showers when not in use.
3. Take shorter showers.
4. Wash full loads in washing machines and dishwashers.
5. Limit running water in food preparation.
6. Defrost foods in the refrigerator or microwave rather than under running water.
7. Limit outdoor watering. If watering, water in the early morning or evening. Do not water on windy days.
8. Weed around shrubs and flowers to reduce water demand.
9. Mulch around plants to reduce evaporation and weed growth.
10. Limit running water time when washing your car or go to a car wash.

### \* In your business:

1. Turn off faucets and equipment when not in use.
2. Repair leaks.
3. Install water efficient fixtures and equipment.

Additional information is available from other sources, including the Environmental Protection Agency's website:  
[www.epa.gov/water/water\\_efficiency.html](http://www.epa.gov/water/water_efficiency.html)

## Why should I conserve water?

Effective water conservation is the combination of individual actions. Reduction in water use has multiple benefits:

- 1) reduces the impact on the environment by reducing surface and groundwater withdrawals,
- 2) helps maintain water quality via lesser withdrawals,
- 3) reduces the need to seek additional sources of water, and
- 4) reduces the cost of water.

## EDUCATIONAL INFORMATION ON THE HEALTH EFFECTS OF LEAD AND COPPER

### Major Sources of Lead and Copper in Drinking Water

Sources of both lead and copper are corrosion of household plumbing systems and erosion of natural deposits. Another major source of copper is leaching from wood preservatives.

It is possible that lead levels at your home may be higher than at other homes in the community as a result of the materials used in your home's plumbing. If you are concerned about elevated lead or copper levels in your home's water, you may wish to flush your tap for 30 seconds to 2 minutes before using tap water. You may also wish to have your water tested.

Additional information is available from the Safe Drinking Water Hotline (1-800-426-4791).

### Lead

Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children exposed to high levels of lead could show slight deficits in attention span and learning abilities. Adults who drink water containing lead in excess of the action level over many years could develop kidney problems or high blood pressure.

### Copper

Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

## General Contaminant Information

The sources of drinking water include rivers, lakes, streams, ponds, reservoirs, springs and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and in some cases, radioactive material, and can pick up substances resulting from the presence of animals or human activity.

Contaminants that may be present in sources of drinking water include:

Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations and wildlife;

Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining or leaching;

Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff and residential uses;

Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff and septic systems.

Radionuclides, which can be naturally occurring or the result of oil and gas production and mining activities.

## Water Source Protection

The University continues to protect the sources of University water. Both the University and the Town of Mansfield have procedures in place to protect our wells, which are located in stratified drill aquifers next to the Fenton and Willimantic Rivers. Protected areas are determined by wellfield mapping. Preliminary boundaries were established by Level B Mapping, which has been approved by the Connecticut Department of Environmental Protection (CTDEP). More precise boundaries are determined by Level A Mapping. Level A Mapping for the Fenton aquifer has been completed by UConn and has been approved by the CTDEP. Level A Mapping for the Willimantic Wellfield has been completed by UConn and is under review by the CTDEP. The University is cooperating with the Windham Water Department in a watershed inspection program that will assure continued protection for both the University's Fenton aquifer and the Windham Watershed. Portions of the Storrs Main Campus, including the Fenton Wellfield, are located within the Windham Watershed.

## Source Water Assessment Program (SWAP)

The Connecticut Department of Public Health is performing an assessment of our drinking water sources. The completed assessment report will be available for access on the Drinking Water Division's web site after July 1, 2003.

The DWD web site address is:  
[www.dnh.state.ct.us/DWS/Water/DWD.htm](http://www.dnh.state.ct.us/DWS/Water/DWD.htm)

Separate assessments are being made for each of the University's sources of water, the Fenton Wellfield and the Willimantic Wellfield.

## Did you know?

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health benefits can be obtained by calling the Environmental Protection Agency Safe Drinking Water Hotline at 1-800-426-4791.

## For Your Information

Some people may be more vulnerable to contaminants in drinking water than the general population. Immune compromised persons, such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. Environmental Protection Agency/Center for Disease Control guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline at 1-800-426-4791.

In order to ensure that tap water is safe to drink, the EPA regulations limit the amount of certain contaminants in water provided by public water systems. Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

The source of the educational information in the sections of this pamphlet entitled *Contaminant Information*, *Did you know?*, *Information on Lead and Copper*, and *For Your Information* is the EPA, *Preparing Your Drinking Water Consumer Confidence Report, Guidance for Water Suppliers*, March 1999.

2002

# DRINKING WATER REPORT

UNIVERSITY OF CONNECTICUT  
Main Campus and Depot Campus  
at Storrs, Connecticut

JUNE 2003

## OWNERSHIP

The University of Connecticut owns and operates the water supply system for the Main Campus (ID # CT020021) and the Depot Campus, formerly the Mansfield Training School, (ID# CT020011), all Storrs. The system also serves a number of adjacent private residences, apartments, commercial properties, and town and state governmental facilities.

## SOURCES

Water pumped from two large wellsfields, each containing four wells, provides water for the University and adjacent users. One wellfield is located on the east bank of the Willimantic River on Spring Manor Farm, about a mile west of the Depot Campus and about three miles west of the Main Campus. The other wellfield is located on the west bank of the Fenton River, about a mile northeast of the Main Campus.

## WATER QUALITY

In 2002, as in years past, University water met EPA and State drinking water standards. Our water is tested regularly by the Connecticut Department of Public Health. In 2002, tests were made for 85 contaminants, plus 12 unregulated contaminants. Tests were made at both sources and the distribution system according to Connecticut Department of Public Health criteria. Detected contaminants are listed on the table. When contaminants occur in low levels, the State does not require annual testing. Therefore some of the data are more than one year old.

## TREATMENT

Water distributed in 2002 to the Main Campus and most of the non-University users in Mansfield is treated with chlorine and fluoride and adjusted for pH. Water distributed to the Depot Campus and residences along Route 32 is treated with chlorine and adjusted for pH but did not have added fluoride.

WATER QUALITY TABLE

CONTAMINANT	MCL	MCLG	UCM99	Range of Detections	Violation	TYPICAL SOURCE OF CONTAMINANT
Inorganic Contaminants						
Boron	2	2	0.01	na	No	Erosion of natural deposits.
Fluoride (ppm)	4	4	1.4	< 0.2 - 5.6	Yes	Water additive which promotes strong teeth.
Nitrate (ppm)	10	10	0.7	0.1 - 0.7	No	Runoff from fertilizer used; leaching from septic tanks; erosion of natural deposits.
Radioactive Contaminants (1999)						
Gross Alpha Emitters (CML)	15	0	0.57	0.2 - 0.57	No	Erosion of natural deposits.
Disinfection By-Products						
Total Trihalomethanes (ppm)	100	na	4	1.2 - 6.9	Yes	By-product of drinking water chlorination.
ppb: parts per billion						ppm: parts per million
						ppb: picodisintegrations per liter

### Enolate Violation

Testing taken on December 11, 2002 at the Fenton Wellfield Pumphouse showed that the fluoride level was 5.6 mg/L, which exceeded the Maximum Contaminant Level of 4.0 mg/L. This was caused by a mechanical failure in the treatment equipment. This violation was limited to the Pumphouse at the Fenton Wellfield. After further review, it was decided to stop treating water with fluoride in 2003.

The U. S. Department of Environmental Protection requires that any violation report contain the following statements:  
 Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at least the MCL or more may cause rotting of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

### Reporting Violation.

Testing and reporting for cyanide was not completed by December 2002 because of a contract laboratory error. Shortly thereafter, a sample was taken in January 2003. The cyanide was detected at either source. This is consistent with previous years' results which detected no cyanide.

### Unregulated Contaminants Testing

As part of the Safe Drinking Water Act, in 2002 the U. S. Department of Environmental Protection required large water supply systems to test for the presence of 12 unregulated contaminants. The regulations required 2 sets of tests from both sources of the University's water supply system, the Fenton Wellfield and the Willimantic Wellfield. The tests were conducted in May and October 2002. None of the 12 contaminants was detected in either source.

## DEFINITIONS

**MCL (Maximum Contaminant Level Goal):**  
 The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLs are set for a margin of safety.

**MCL (Maximum Contaminant Level):**  
 The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best treatment technology.

### AL (Action Level):

The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

## CONTACTS

For more information or to make a public comment, contact:

Erigne Roberts, Director of Facilities Operations  
 University of Connecticut  
 25 Ladlow Road, Unit 3438  
 Storrs, CT 06269-3038  
 Telephone: (860)-486-3185

To report a water problem or ask for repair:

Call (860)-486-3173

For more information on water quality, contact:  
 Frank Lajoie, Director of Environmental Health and Safety: 486-3613



STATE OF CONNECTICUT  
CONNECTICUT STATE LIBRARY

231 Capitol Avenue • Hartford, Connecticut 06106-1537



Item #15

July 10, 2003

Town Clerk Joan Gerdson  
4 So. Eagleville Rd.  
Storrs, CT 06268

Re: Historic Document Preservation Grant No. 078-PC-04

Dear Town Clerk:

The State Library is pleased to inform you that you have been awarded a historic document preservation grant in the amount of \$7,000.00. The State Library is obligated only for the amount of funds requested and approved in the application. The town is responsible for any project expenses above and beyond that amount.

Enclosed is a copy of your grant application, which includes the contract terms, and your final report forms. Please note that the closing date for the grant is June 30, 2004. All monies not expended by that date must be returned to the State Library. Therefore, it is important that the contract with your vendor includes a guarantee that the work will be completed by this date. The Project Evaluation/Expenditure Report and any other required documentation are due at the State Library by September 1, 2004.

The State Library will make every effort to mail your check or transfer the funds within thirty days of this letter, however the State of Connecticut is implementing a new financial system in July. The transition to this system may result in a delay to our projected payment schedule. If you have any questions, please contact LeAnn Johnson at (860) 566-1100 ext 301.

Congratulations and good luck with your project.

Sincerely,

Eunice G. DiBella  
Public Records Administrator

cc: Town Manager Martin H. Berliner

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**Mansfield Downtown Partnership**  
*Helping to Build Mansfield's Future*

July 11, 2003

Ms. Marie McGuinness  
Project Manager  
State of Connecticut  
Department of Economic and Community  
Development (DECD)  
Infrastructure and Real Estate Division  
505 Hudson Street  
Hartford, CT 06106-7106

Re: June 30, 2003 Progress Report on Downtown Mansfield Revitalization and Enhancement Project, and Required Documentation from DECD Guidelines

Dear Ms. McGuinness:

I am pleased to provide you with a June 30, 2003 progress report on the Downtown Mansfield Revitalization and Enhancement Project.

In March 2003, Looney Ricks Kiss Architects, Inc., ("LRK") began work on the municipal development project plan for Storrs Center. On March 20 and 21, the LRK team, led by Project Manager Ed Wilson, held a series of kick-off meetings with the Mansfield Downtown Partnership ("Partnership") Board of Directors, the Partnership's Finance and Administration Committee, the University of Connecticut senior administration including the President of the University, the University Executive Director of Architectural and Engineering Services, the University Director of Environmental Policy, the Mansfield Town Planner, and DECD. These meetings provided a framework for the work to be undertaken. In addition, the LRK team began identifying prospective developers to receive a Request for Qualifications (RFQ) to develop the Storrs Center property.

In April, Lee Cole-Chu of Cole-Chu & Company, LLC, was hired as the Partnership's attorney for legal issues related to the municipal development plan process.

On April 22 and 23, the LRK team and Partnership staff Cynthia van Zelm met with Greg Padick, the Mansfield Town Planner, to identify and delineate project boundaries and the project area beyond the project boundaries, and identify parcels to be surveyed. After a walk around the property and a driving tour of the area, an opportunities and constraints map was begun by the consultant team. A present conditions and land uses map was also drafted. The Partnership's attorney met with Ed Wilson from LRK and Cynthia van



**Mansfield Downtown Partnership**  
*Helping to Build Mansfield's Future*

Zelm to continue drafting the RFQ for a master developer. Finally, the LRK team and the Partnership held two meetings with University of Connecticut students, and the business and property owners in Storrs Center to explain the municipal development plan process, answer questions and receive input on preferences for the new town center, and issues related to the development of a new town center. Finally, Partnership, LRK and subconsultant URS traffic engineering staff met with Connecticut Department of Transportation staff to discuss transportation issues on Route 195 which borders the proposed new development.

On May 1, members of the LRK team conducted a character preference workshop for the public based on the input they had received in March and April and their continuing work on the project. The workshop included a survey of issues related to the development of Storrs Center. The main emphasis of the workshop was for attendees to respond to a series of slides of architecture, open space, town greens, etc., to gauge which images fit their concept of a new town center. The results have recently been tabulated and will appear on the Partnership's website. Over 70 members of the public participated in the workshop.

Urban Partners, one of LRK's subconsultants, continues to work on the marketing study as part of the municipal development project plan. Surveys of residents and University students have been distributed to gather information on shopping preferences and geographic areas where respondents shop. Urban Partners staff continues to conduct field work to evaluate the Mansfield market.

In May 2003, under the guidance of the University of Connecticut engineering staff, the geotechnical work was begun on the Storrs Center property.

On May 12, 2003, a Request for Qualifications for a Master Developer was released to a list of identified developers, as well as through the Hartford Courant, and the Northeast Minority News. The RFQ also appeared on the Partnership's website. Three addendums were released to all who received the RFQ to provide additional background information to potential respondents. Over 50 RFQs were released. Three responses were received by the time of the deadline of June 19 at 4 PM. On June 30<sup>th</sup>, the Partnership and LRK staff reviewed the responses and decided to interview all three development teams. The Partnership will hear oral presentations by the developers the week of July 14 and the week of July 28. It is expected that final selection will be made the first week of August. The master developer will begin full participation in the development of the municipal development project plan by mid-August.



## Mansfield Downtown Partnership

Helping to Build Mansfield's Future

On September 23, 24, and 25, the LRK team is scheduled to conduct a public design workshop to develop design alternatives for Storrs Center. This will be an interactive process with a presentation to the public on its concepts on the night of September 25.

The Partnership will also continue to coordinate with the University of Connecticut School of Fine Arts as it embarks on the development of a Fine Arts Center to be designed by architect Frank Gehry. The School of Fine Arts is located directly across the street from the proposed new town center and will serve as a critical link to the Partnership's efforts to enhance downtown.

Work continues on the mapping, survey, and stormwater and traffic analysis of the property. It is anticipated that the municipal development project plan will be completed in late fall 2003.

In addition to the Progress Report, I am enclosing a revised Project Administrative Plan which we have discussed on the telephone, and a copy of the subagreement between the Partnership and the Town of Mansfield for services related to the STEAP grant.

Finally, listed here are several of the documents required under the DECD Guidelines for municipal development project plans. I have listed the required form along with our response. If the documentation provided is not adequate, please let me know so we can provide the appropriate documentation. There is other required information that will be sent to you as soon as it is complete.

From the DECD Guidelines, The Application:

2.f. Letters from the municipal planning commission and regional planning agency specifically indicating whether proposed land uses for project development are in conformance with their respective adopted plans of development.

*Attached is the copy of a motion approved by the Mansfield Planning and Zoning Commission on May 6, 2002, that indicates support for designation of the Mansfield Downtown Partnership as the Town's municipal development agency for Storrs Center, and requires involvement by the Commission and the Inland Wetlands Agency in all land use aspects of the municipal development plan. An attached background memo from Town Planner Greg Padick to the Planning and Zoning Commission refers to his view that the Storrs Center project "is consistent with local, regional and state land use plans" (see page 2).*



**Mansfield Downtown Partnership**  
*Helping to Build Mansfield's Future*

2.g. Certified copy of the ordinance, which created the municipality's planning commission and evidence of existence of planning commission (letter from municipality's legal counsel)

*Attached is a certified copy of the Mansfield Town Charter with the section referring to the election of Planning and Zoning Commission members. I have enclosed a copy of a public hearing notice for June 16, 2003 as evidence of the existence of the Mansfield Planning and Zoning Commission.*

2. h. Certified copy of the ordinance which created the development agency (economic development agency) or a copy of Certificate of Incorporation of the private development corporation. In both instances, please provide a copy of the by-laws. In the case of the private development corporation, please include the latest copy of the audited annual report and the latest biennial report filed with the Office of the Secretary of State.

*Attached is a copy of May 28, 2002 Mansfield Town Council minutes designating the Mansfield Downtown Partnership as the Town's municipal development agency for Storrs Center (see page 2).*

*Attached are the Partnership's Bylaws approved by the Partnership membership on September 26, 2002.*

*The Partnership was incorporated on September 5, 2002. The confirmation of the acceptance of this filing for incorporation is attached.*

2. i. Certified copy of conflict of interest ordinance or regulations approved by the municipality and development agency.

*A certified copy of the Town of Mansfield's Code of Ethics (Conflict of Interest Ordinance) is attached.*

*The Partnership's conflict of interest policy is included in its attached Bylaws.*



**Mansfield Downtown Partnership**  
*Helping to Build Mansfield's Future*

I look forward to hearing from you on the status of the required documents from the DECD Guidelines. Please do not hesitate to contact me at 860-429-2740. We look forward to continuing to work with you on this critical project for the Town of Mansfield.

Sincerely,

Cynthia van Zelm  
Executive Director

cc: ✓ Martin Berliner, Mansfield Town Manager (w/o enclosures)  
Jeremiah Morrison, Senior Regional Manager, Easter Division, DECD  
Lee Cole-Chu, Cole-Chu & Company, LLC

Enclosures



Mansfield Downtown Partnership

1244 Storrs Road  
PO Box 513  
Storrs, CT 06268  
(860) 429-2740  
Fax: (860) 429-2719

**To: Marie McGuinness, Project Manager, Infrastructure and Real Estate Division**  
**From: Cynthia van Zelm, Executive Director, Mansfield Downtown Partnership**  
**Re: DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
INFRASTRUCTURE AND REAL ESTATE DIVISION  
PROJECT ADMINISTRATIVE PLAN OUTLINE**

**DOWNTOWN MUNICIPAL DEVELOPMENT PROJECT PLAN AND  
STREETScape IMPROVEMENTS FOR STORRS CENTER**

**Date: June 17, 2003**

### **Organization and Reporting**

- **Name of Implementing Agency** – The Mansfield Downtown Partnership, Inc., will manage the project. The Town of Mansfield is the grant recipient of the Small Town Economic Assistance Program grant funding and will prepare all financial documents. The Town of Mansfield will execute the contract with Looney Ricks Kiss Architects, Inc., to develop the municipal development project plan. The Partnership will have a subagreement with the Town of Mansfield to manage the project.
- **Governing Body for the Implementing Agency** – Eighteen member Board of Directors
  - **Legal Organization** – Connecticut Corporation (filed for 501 (c)(3) status in February 2003)
  - **Composition** – The Mansfield Downtown Partnership, Inc., has 18 Board members (three each are appointed by the Town of Mansfield, the University of Connecticut, and the Mansfield Business and Professional Association; six are elected by the Partnership membership; and the Mayor of the Town of Mansfield, the Chancellor of the University of Connecticut, and the Chair of the Mansfield Business and Professional Association represent the ex-officio members of the Board).

- **Authority and Responsibility** – The Executive Director of the Mansfield Downtown Partnership, Inc., Cynthia van Zelm, reports to the Board of Directors. Ms. van Zelm has responsibility for the day to day operations of the Mansfield Downtown Partnership, Inc.

## Project Management

- **Personnel** – Ms. van Zelm will be the project manager for the project. Cherie Trahan at the Town of Mansfield will prepare the financial reports.
  - **Job Titles** – Ms. van Zelm is the Executive Director of the Mansfield Downtown Partnership, Inc., and the only staff to the Mansfield Downtown Partnership, Inc. Cherie Trahan is the comptroller for the Town of Mansfield.
  - **Credentials and Experience** – Ms. van Zelm has over 15 years of planning, management, and government experience. She has managed several grants at all levels. Ms. Trahan has been the comptroller at the Town of Mansfield since 1994.
  - **Percentage of time devoted to project activities** – Ms. van Zelm will spend approximately 80 percent of her time managing the development of the municipal development project plan for Storrs Center. Ms. Trahan will spend less than 5 percent of her time to prepare financial reports for the project.
- **Reporting and Authority** – Ms. van Zelm will report to the Mansfield Downtown Partnership Inc., Board of Directors. As the project funding will go through the Town of Mansfield, she will also confer on a regular basis with Martin Berliner, the Town Manager. Ms. Trahan reports to Jeff Smith, the Finance Director for the Town of Mansfield.
- **Organization Chart** – See above.
- **Roles and responsibilities** – Ms. van Zelm will be responsible for overall management of the project. She will work directly with the consultant team of Looney Ricks Kiss Architects, Inc., and the Partnership attorney, Lee Cole-Chu on the development of the municipal development project plan. Ms. van Zelm will also be the direct contact with Marie McGuinness, and Jerry Morrison, Senior Regional Manager, Eastern Region, DECD, on all required procedures and forms.
 

Ms. Trahan will be responsible for preparing all DECD required financial forms.
- **Consultants** – The Mansfield Downtown Partnership, Inc., has hired Looney Ricks Kiss Architects, Inc., to prepare the municipal development project plan and preliminary design for the streetscape elements on Route 195 of the project. Looney Ricks Kiss' contract is with the Town of Mansfield and the Town of Mansfield will have a subagreement with the Mansfield Downtown Partnership, Inc., to cover the management of project. Looney Ricks Kiss has hired subconsultants to assist with the work.

- No consultants have been hired yet to provide design, engineering, and initial construction of the streetscape elements. The contract for this work is anticipated to be between the Town of Mansfield and a consultant still to be hired, with a similar subagreement to cover the Mansfield Downtown Partnership's management role. As part of its work on the municipal development plan, Looney Ricks Kiss will assist with the planning piece of the streetscape elements. It is also possible that Looney Ricks Kiss will continue to work with the Partnership on design documents. A more detailed schedule for construction will be developed once design is complete.
- **Project Schedules**
  - **Construction or Production** – As noted on the DECD Project Financing & Budget Report, the project began on December 1, 2002 and is scheduled to be completed on December 30, 2005. The municipal development project plan will be completed first with detailed design and engineering, and construction on the streetscape elements to be completed as a second phase.
  - **Cash Flow** – The Mansfield Downtown Partnership, Inc., will be billed by its consultants on a monthly basis. The invoices will reflect the work that has been completed and the percentage complete for each task as specified in Looney Ricks Kiss' Scope of Work. The Partnership will verify that the invoices are commensurate with work performed and deliverables. It is expected that the Town of Mansfield will compensate its consultants within 30 days of the billing cycle, and drawdown the DECD grant funding.

## Communication

- **Scheduled Meetings** – Representatives of the Mansfield Downtown Partnership, Inc., the Town of Mansfield, and Looney Ricks Kiss Architects, Inc., met with Marie McGuinness, Ed Fidyrcch, and Jerry Morrison on March 21 as a kick-off meeting to the project. It is expected that Ms. van Zelm, Martin Berliner, the Mansfield Town Manager, and representatives from Looney Ricks Kiss Architects, Inc., will meet periodically with DECD staff. Ms. van Zelm will be in telephone and e-mail contact with DECD staff on a regular basis throughout the duration of the project.
- **Periodic Reporting** – The Mansfield Downtown Partnership, Inc., in consultation with Looney Ricks Kiss Architects, Inc., will send Marie McGuinness copies of the draft municipal development project plan at 50, 75 and 90 percent completion and the first final draft of the municipal development project plan for her review.

The Mansfield Downtown Partnership, Inc., will provide quarterly progress reports, and semi-annual financial reports on the project to Ms. McGuinness and Mr. Morrison.

RETURN DATE: JULY 22, 2003 : SUPERIOR COURT  
 GRAND SHART, LLC : JUDICIAL DISTRICT OF  
 : TOLLAND  
 VS. : AT ROCKVILLE  
 TOWN OF MANSFIELD : JUNE 10, 2003

APPLICATION FOR DISCONTINUANCE OF PUBLIC HIGHWAY

TO THE SUPERIOR COURT FOR THE JUDICIAL DISTRICT OF TOLLAND now in session at Rockville comes GRAND SHART, LLC, a Connecticut limited liability company having a principal place of business in Mansfield, Connecticut, seeking an order discontinuing a section of the highway known as Tolland Turnpike located in the Town of Mansfield and respectfully represents:

1. The Town of Mansfield is a municipal corporation located within the County of Tolland. Its charter gives to the town council exclusive authority and control over all streets and highways within the limits of the town.
2. Tolland Turnpike is a public highway located in the Town of Mansfield. On June 2, 1962 a formal action was brought to a Town Meeting of the Town of Mansfield to discontinue the portion of the Tolland Turnpike located between Route 195 and Route 44. The motion was tabled subject to further study. The Town of Mansfield has since regarded this portion of the Tolland Turnpike as in a state of abandonment.
3. Tolland Turnpike was laid out by decree of the Tolland County Travel Court dated March 1828.
4. Section 13a-49 of the general statutes prohibits a municipality from discontinuing a highway which was laid out by a court. Section 13a-50 of the general statutes provides in part that the superior court on the application of any person may discontinue any highway which cannot be discontinued by the municipality.
5. Public convenience and necessity will be served by discontinuing a section of Tolland Turnpike approximately 900 feet in length and lying immediately west of Cedar Swamp Road to a point described in SCHEDULE "A". This section of Tolland Turnpike is more particularly bounded and described as follows:

---

SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART  
 HEREOF.

6. The applicant is the owner of land immediately adjacent to the above described section of Tolland Turnpike.

WHEREFORE, the applicant prays that the court hear and decide this application and upon finding the allegations herein to be true that the court grants the discontinuance of the highway herein described.

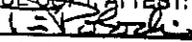
Dated at Mansfield, Connecticut, this 10<sup>th</sup> day of June, 2003.

GRAND SHART, LLC

By \_\_\_\_\_  
Its Attorney

Please enter our appearance for  
the Plaintiff.  
Samuel L. Schrager, Esquire  
P.O. Box 534  
Storrs, Connecticut 06268  
860-487-0350  
Juris No. 401667

A TRUE COPY ATTEST:

  
Tim Poloski  
State Marshal

## SCHEDULE "A"

A certain parcel of land situated in the Town of Mansfield, County of Tolland and State of Connecticut on the westerly side of Cedar Swamp Road and commencing at the northeasterly corner of land now or formerly of James E. West and Lorraine West; thence the line runs northwesterly along the northerly boundary of said land of West a distance of approximately 170 feet to land now or formerly of Grand Shart, LLC; thence the line turns and runs N-81°-31.4'-W a distance of 226.05 feet to an iron pipe; thence the line turns and runs N-72°-26.3'-W a distance of 734.38 feet to an iron pipe at land now or formerly of Green; thence the line turns and runs northeasterly a distance of 45 feet more or less to land now or formerly of Christa L. Barry and Richard I. Barry Jr.; thence the line turns and runs southeasterly along the southwesterly boundary of said land of Barry a distance of 244 feet more or less to an iron pin at land now or formerly of Michael Price; thence the line continues southeasterly along said land of Price a distance of 216.2 feet to an iron pin; thence the line turns and runs S-50°-29'-23"-E a distance of 90.95 feet to an iron pin; thence the line turns and runs S-75°-46'-34"-E a distance of 17.36 feet to an iron pin; thence the line turns and runs S-53°-45'-57"-E a distance of 119.72 feet to an iron pin; thence the line turns and runs S-59°-41'-29"-E a distance of 186.93 feet to an iron pin; thence the line turns and runs S-22°-19'-01"-E a distance of 15.35 feet to an iron pin; thence the line turns and runs S-58°-47'-13"-E a distance of 72.67 feet to an iron pin; thence the line turns and runs southerly along the westerly street line of Cedar Swamp Road a distance of 54 feet more or less to the point of commencement.

Docket No. CV030081647

RECEIVED  
10:25am  
JUN 16 2003  
Frank [Signature]  
TOWN CLERK  
TOWN OF MANSFIELD

RETURN DATE: JULY 22, 2003 : SUPERIOR COURT  
GRAND SHART, LLC : JUDICIAL DISTRICT OF  
TOLLAND  
VS. : AT ROCKVILLE  
TOWN OF MANSFIELD : JUNE 10, 2003

ORDER OF SERVICE

TO THE SHERIFF OF THE COUNTY OF TOLLAND OR HIS DEPUTY,  
GREETING:

BY AUTHORITY OF THE STATE OF CONNECTICUT You are hereby commanded to give notice to the TOWN OF MANSFIELD of the foregoing application and order by serving upon it on or before July 9, 2003 in the manner provided by statute for the service of process upon a municipal corporation a true and attested copy of such application and order and you are further commanded to place upon the signposts in the Town of Mansfield on or before July 9, 2003 a certified copy of such application and order and to publish in the Hartford Courant on or before June 29, 2003 an advertisement of this application and order.

Hereof fail not but due service and return make.

Dated at Rockville, Connecticut, this 11<sup>th</sup> day of June, 2003.

*Margaret R. George*  
A Judge of the Superior Court  
Clerk

TRUE COPY ATTEST:

*Tim Poloski*  
Tim Poloski  
State Marshal

JUN 16 2003  
SUPERIOR COURT

RETURN DATE: JULY 22, 2003 : SUPERIOR COURT  
GRAND SHART, LLC : JUDICIAL DISTRICT OF  
 : TOLLAND  
VS. : AT ROCKVILLE  
TOWN OF MANSFIELD : JUNE 10, 2003

ORDER

Upon the foregoing application it is ordered that the same shall be heard before the undersigned at the courthouse in Rockville on the 31 day of July, 2003 at 9:30 a.m. and that the Town of Mansfield be summoned to appear at said time and place by having some proper officer on or before July 9, 2003 leave with its clerk or at its office a true and attested copy of said application and of this order, then and there to show cause, if any there be, why said application should not be granted and further that such officer shall also place upon the signpost in such town on or before July 9, 2003 a certified copy of such application and order and shall give further notice by publishing in the Hartford Courant on or before June 29, 2003 an advertisement of this application and order and due return make to the undersigned.

Dated at Rockville this 11<sup>th</sup> day of June, 2003.

THE COURT

By: Margaret R. George  
Clerk Judge

A TRUE COPY, ATTEST:  
Tim Poloski  
Tim Poloski  
State Marshal

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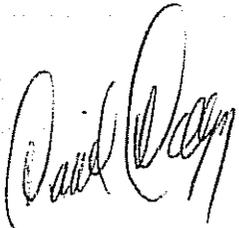


# Town of Mansfield

## Office of Emergency Services

**To:** Martin Berliner, Town Manager

**CC:** William Jordan, Chief EFD  
Ryan Hawthorne, Chief MVFC  
Mike Darcy, Resident Sgt. Mansfield

**From:** David J. Dagon, Emergency Services Administrator 

**Date:** Monday, July 17, 2003

**Re:** FY 2003 Homeland Security Grant Program – second allotment  
Personal Protective Equipment Purchase

Attached is a completed order form for the FY 2003 Department of Homeland Security Grant Program provided through the Office of Domestic Preparedness (ODP) for the purchase of Personal Protective Equipment. This is the second allotment of equipment under this grant program. The application was faxed to the Connecticut Department of Public Safety, Division of Homeland Security (DPS/DHS) this morning.

The Town of Mansfield was designated to receive the same quantities of personal protective equipment to protect first responders as in the first allotment. Equipment will be distributed to communities based upon the State of Connecticut's Three Year Statewide Domestic Preparedness Strategy. Equipment obtained from the grant program will be made available to the Mansfield Volunteer Fire Company, Inc., the Eagleville Fire Department, and the Police Department.

The attached order form identifies the quantities of personal protective equipment to be received. A feature this second allotment is the opportunity for Resident Trooper Towns to split the Police allotment between the Fire and EMS departments, Sgt. Darcy has agreed to allow the order to be split in this manner.

I will be the point of contact to coordinate the efforts between the Town and DPS/DHS regarding this grant program. I will be responsible to receive the equipment at a central location (Station #17 has been designated) and to notify DPS/DHS of any discrepancies with the order immediately upon receipt.

If you have any questions please do not hesitate to contact me.



# FY 2003 STATE HOMELAND SECURITY GRANT PROGRAM



## PERSONAL PROTECTIVE EQUIPMENT ORDER FORM

Allotment: Fire: 30 sets  
 Police: 30 sets  
 EMS: 10 sets

Municipality: Mansfield

Fax completed form to (203) 805-6599 by July 18, 2003 to ensure inclusion in FY 2003 State Homeland Security Grant Program. This is the **second** allotment of equipment your Municipality is receiving.

FIRE DEPARTMENT Level B Chemical Protective Clothing			
Item	Item #	Size	Qty
Dupont Tychem Coverall w/attached respirator fit hood and boots	TK124	Small	
		Medium	
		Large	16
		X Large	22
		2X Large	20
		3X Large	2
		4X Large	
Gloves		7	
		8	
		9	16
		10	22
		11	22
Will be worn over shoes and coverall	Boots	Large	16
		X Large	22
		2X Large	22
Signature indicates review and approval of the above sizing.			
<i>Robert M. DeLong</i> MANSFIELD DEPT. CHIEF		<i>William J. Chief</i> Eagleville F.D. (Signature of Fire Chief)	

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POLICE DEPARTMENT Level C Chemical Protective Clothing			
Item	Item #	Size	Qty
Dupont Tychem Coverall w/attached respirator fit hood and boots	LV96124	Small	
		Medium	
		Large	
		X Large	
		2X Large	
		3X Large	
		4X Large	
Gloves		7	
		8	
		9	
		10	
		11	
Will be worn over shoes and coverall	Boots	Large	
		X Large	
		2X Large	
Masks		Small	
		Medium	
		Large	
Signature indicates review and approval of the above sizing.			
<i>Sandra L. Perry</i> MANSFIELD POLICE CHIEF		<i>Resident State Trooper</i> (Signature of Police Chief)	

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# FY 2003 STATE HOMELAND SECURITY GRANT PROGRAM



## PERSONAL PROTECTIVE EQUIPMENT ORDER FORM

EMERGENCY MEDICAL SERVICE Level C Chemical Protective Clothing			
Item	Item #	Size	Qty
Dupont Tychem Coverall w/attached respirator fit hood and boots	BR95124	Small	
		Medium	
		Large	3
		X Large	5
		2X Large	2
		3X Large	
		4X Large	
Gloves		7	
		8	
		9	2
		10	4
		11	4
Will be worn over shoes and coverall	Boots	Large	5
		X Large	5
		2X Large	
65 % of wearers are medium 35 % of wearers are large (Small women wear a small)	Masks	Small	6
		Medium	20
		Large	14
Signature indicates review and approval of the above sizing. <i>Daniel M. DeLorenzo</i> (Signature of EMS Director)			

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*DP*

This is the **second** allotment of equipment your Municipality is receiving. If you have any questions concerning your previous order, please contact Rosemary Salerno @ (203) 805-6577.

In order to ensure all needs are properly addressed, please provide the following information concerning your First Responder Departments.

FIRE DEPARTMENT:  Career  Volunteer  
 Size of Department: 75 (Active Members)

Does this Department have a respiratory program?

yes  no

Dagon DJ@Mansfieldct.org  
 (Fire Chief's e-mail address)  
 Emergency Services Administrator

POLICE DEPARTMENT: Size of Department: 8

Darcy MB@Mansfieldct.org  
 (Police Chief's e-mail address)

EMS:  Career  Volunteer  
 Size of Department: 75 (Active Members)

Dagon DJ@Mansfieldct.org  
 (EMS Director's e-mail)  
 Emergency Services Administrator  
 P.329



# FY 2003 STATE HOMELAND SECURITY GRANT PROGRAM



## PERSONAL PROTECTIVE EQUIPMENT ORDER FORM

### TRAINING:

Each municipality is responsible for training their first responders in the proper use of the personal protection equipment.

- Does this Municipality have a training officer who can train the First Responders?  
 Yes                       No
- Does this Municipality need outside assistance to train the First Responders?  
 Yes                       No

Signature indicates review and approval of the contents of this form.

*Martin H. Berbeni*  
(CEO of Municipality)

**Fax completed form to (203) 805-6599 by July 18, 2003 to ensure inclusion in FY 2003 State Homeland Security Grant Program – Part II.**



**Mansfield Downtown Partnership**  
*Helping to Build Mansfield's Future*

July 3, 2003

Ms. Audrey Barberet, Chairwoman  
Mansfield Planning & Zoning Commission  
Audrey P. Beck Municipal Building  
4 South Eagleville Road  
Mansfield, CT 06268

Dear Chairwoman Barberet:

Thank you for the opportunity to provide comment on the draft revisions to the Town of Mansfield's *1993 Plan of Conservation and Development*. The provisions in the update to the *1993 Plan of Conservation and Development* will encourage compact development while respecting land use patterns that maintain the community's rural character.

We believe that the mission of the Mansfield Downtown Partnership to "strengthen and revitalize the three commercial areas of Storrs Center, Mansfield Four Corners, and King Hill Road" is supported by the General Policy Goals in the *1993 Plan of Conservation and Development*.

More specifically, the Downtown Partnership's Board of Directors encourages the Mansfield Planning & Zoning Commission and Town Council to adopt the following draft policies in the revised *1993 Plan of Conservation and Development*:

- Update and continue support for the Storrs Downtown mixed-use development project and current formulation of a Municipal Development Plan that will facilitate implementation of commercial and residential goals/objectives.
- Support negotiation with University officials to extend public sewer and water services to the Four Corners area in conjunction with the planned North Hillside Road Extension. Potential new roadway linkages between North Hillside Road and Route 195 also need to be considered in association with any development/redevelopment projects in the Four Corners.
- Implement more specific design standards for buildings, site work, signage, lighting and landscaping in all commercial areas (particularly for the Downtown and Four Corners areas and existing village commercial areas).

The proposed revisions to the Town's *Plan of Conservation and Development* foster the Partnership's efforts to help create Mansfield as an exciting place to live, work and play.

Thank you for consideration of our comments. We recognize that the recommendations presented above are preliminary in nature, and we look forward to reviewing and commenting on the more comprehensive draft of the *Plan of Conservation and Development* in the fall. If you have any questions please do not hesitate to contact me at (203) 431-0489 or Executive Director Cynthia van Zelm at (860) 429-2740.

Sincerely,

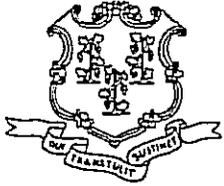
A handwritten signature in black ink that reads "Philip Lodewick". The signature is written in a cursive style and is positioned above the printed name.

Philip Lodewick  
President

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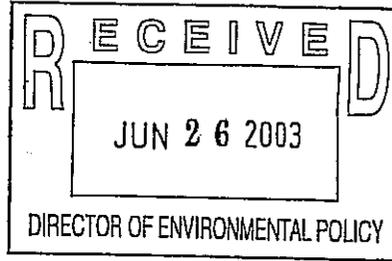


STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION-



STATE OF CONNECTICUT  
V.  
UNIVERSITY OF CONNECTICUT

Item #20



CONSENT ORDER NO. WSWDS03015  
DATE ISSUED: June 19, 2003

A. With the agreement of the University of Connecticut ("Respondent"), the Commissioner of Environmental Protection ("the Commissioner") ("DEP") finds:

1. Respondent is a public university of the State Of Connecticut and owns and maintains a closed, permitted solid waste facility, in the form of a landfill ("the landfill"), located north of the North Campus Dormitories, northwest of a cemetery on the north side of North Eagleville Road, and east of North Hillside Road, at the Storrs campus in Mansfield, Connecticut ("the site").
2. On March 12, 1970, the State Health Department issued an unnumbered permit to the Respondent for a refuse disposal area at the site. The dates of landfill disuse and closure are not known.
3. On April 13, 1998, the Commissioner issued an Authorization for Disruption of a Solid Waste Disposal Area to Sprint PCS for the replacement of an existing telecommunications tower with a new, self-supporting tower at the site
4. On December 11, 1998, DEP issued a landfill post closure use approval to URS Greiner Woodward Clyde at the site for placement of a new radio tower.
5. On July 15, 2002, DEP staff inspected the site and observed waste excavated from the landfill in association with the construction of new student dormitories.
6. On July 19, 2002, DEP issued Notice of Violation No. WSWDS02096 to the Respondent for failure to obtain approval for disruption of a closed solid waste disposal area, in violation of the Regulations of Connecticut State Agencies (RCSA) Section 22a-209-7u.
7. On August 15, 2002, the Commissioner issued Authorization for the Disruption of a Solid Waste Disposal Area to the Respondent for excavation of the landfill for construction of dormitories at the site.

---

8. By virtue of the above, Respondent has violated RCSA Section 22a-209-7u.

---

B. With the agreement of Respondent, the Commissioner, acting under Connecticut General Statutes (CGS) §22a-5a, 22a-6, 22a-208, 22a-225, 22a-428, 22a-438, and 22a-250, orders Respondent as follows:

1. Consultants. Respondents have retained a consultant, Haley & Aldrich, Inc., that is acceptable to the Commissioner, to prepare the documents and implement or oversee the actions required by this Consent Order. Respondents shall retain Haley & Aldrich, Inc. or one or more qualified consultants or, after demonstrating to the Commissioner that qualified in-house expertise exists, in-house expert(s) acceptable to the Commissioner, until this Consent Order is fully complied with, and, within ten (10) days after retaining any consultant or in-house expert other than Haley & Aldrich, Inc., Respondents shall notify the Commissioner in writing of the identity of such other consultant or expert. Respondents shall submit to the Commissioner a description of such consultant's education, experience and training which are relevant to the work required by this Consent Order within ten (10) days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant or expert unacceptable.
2. Work on Site. Respondent shall not develop, nor perform work at, the refuse disposal area described in paragraph A.2 of this Consent Order except as authorized in the Authorization for Disruption described in paragraph A.7 of this Consent Order, which is hereby incorporated into this Consent Order and attached as Appendix A.
3. Landfill Closure Plan. Upon completion of the landfill disruption and closure activities at the subject disposal area, the Respondent shall comply with the as-built closure plan filing and other closure requirements as specified in RCSA Section 22a-209-13.
4. Civil penalty. Within ten (10) days from the date of issuance of this Consent Order, Respondents shall pay a penalty of thirty-five thousand dollars (\$35,000) as the total civil penalty to be sought by the Commissioner for violations described in paragraph A.8 of this Consent Order.
5. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the Department of Environmental Protection, Bureau of Administration, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Environmental Protection. The check shall state on its face, "Bureau of Waste Management, Engineering and Enforcement Division, civil penalty, Consent Order No. WSWDS 03015." A copy of the check and any transmittal letter shall also be sent to Julie Cubanski in the Bureau of Waste Management at the same address.
6. Supplemental Environmental Project. In lieu of the civil penalty specified in paragraph B.4 of this Consent Order, Respondent has agreed to undertake a supplemental environmental project ("SEP") requiring an expenditure by the Respondent of at least thirty five thousand (\$35,000) dollars as determined by the Commissioner, or pay an additional civil penalty. Such SEP shall consist of the preparation of a report which identifies all solid waste disposal areas, as solid waste is defined in CGS §22a-207, on the University of Connecticut - Storrs campus, described below in paragraph B.6.a.

~~A~~

a. SEP Description.

**Project Purpose.** Respondent shall prepare a report which identifies the locations of all known and suspected, permitted and unpermitted, solid waste disposal areas on the University of Connecticut campus at Storrs, in Mansfield in order to assure the Commissioner that all possible effort has been made to prevent a future incidence of unauthorized disruption and/or postclosure use of a solid waste disposal area and to minimize the potential for environmental degradation due to development or other activity at the University of Connecticut. Definition of the campus area that shall be the subject of the required report is based upon a map entitled "University of Connecticut-Storrs Campus, Areas to be Examined as Sites of Previous Solid Waste Disposal – May 2, 2003" and attached as Appendix B, and a more detailed map of each shaded parcel shall be provided as part of the "Project Proposal" described below.

**Project Scope.** The report shall include but not be limited to 1) a map which accurately locates and, if known, delineates the identified sites and 2) a narrative description of each site. The map shall be prepared by a licensed professional engineer or land surveyor at such scale, and the accompanying text with sufficient detail, that it will serve as a tool in site assessment when future development projects are proposed. In preparation of the report, all available sources of information shall be reviewed, including records of the University, DEP, and the State Public Health Department; University staff and subcontractors, both current and former, who have knowledge of University operations and activities; adjacent landowners; and any other resource which may contribute relevant information. If any additional solid waste area is discovered in the course of executing this SEP, the remediation of such area shall be undertaken as separate from the requirements of this Consent Order, and completion of such remediation shall not prevent the determination of full compliance with this Consent Order.

**Project Proposal.** Within sixty (60) days from the date of issuance of this Consent Order, Respondent shall submit a proposal which outlines the format, methodology and scope of the subject report, for the review and written approval of the Commissioner.

**Project Submittal.** Within one hundred eighty (180) days from the date of the Commissioner's approval of the project proposal described in the preceding paragraph, Respondent shall submit the report for the Commissioner's approval. Upon final approval, Respondent shall make such document available in its entirety in both paper and electronic form.

**Project Availability.** A copy of the final report shall be made available to the public at the Mansfield Town Library.

~~b. Performance. Respondent shall perform the SEP in accordance with the approved proposal. Respondent shall perform such SEP in accordance with the approved schedule and shall obtain any federal, state or local permit or approval necessary to~~

carry out the SEP. The estimated cost of the SEP to the Respondent as determined by the Commissioner is a minimum of thirty-five thousand dollars (\$35,000).

- c. Failure to perform. If Respondent fails to fully perform the SEP in accordance with paragraph B.6, Respondent shall immediately pay a civil penalty of thirty-eight thousand five hundred dollars (\$38,500). Respondent shall pay such civil penalty in accordance with the provisions of paragraph B.5 of this Consent Order.
- d. SEP progress reports. Beginning no later than sixty (60) days after the date of issuance of this Consent Order, Respondent shall submit written progress reports to the Commissioner according to the schedule established in paragraph B.7 herein. Each progress report shall include the following information: Respondent's progress in performing the SEP including tasks performed to date, a complete accounting of actual project costs incurred to date, planning for the remaining project tasks to be performed, significant activities or findings related to the project, and any other reasonable information requested by the Commissioner for the purpose of evaluating Respondent's progress in performing the SEP.
- e. Final report. Within thirty (30) days after completion of the SEP, Respondent shall submit for the Commissioner's review and written approval a comprehensive final report that certifies completion of the SEP. Such final report shall include, at a minimum, a narrative history of the project, detailed explanation of its design and implementation, summary of any data collected, complete final accounting of actual project costs including receipts for out-of-pocket costs, and a discussion of environmental benefits resulting from the SEP.
- f. Actual cost of SEP. Should the Commissioner determine that the actual cost to the Respondent of the completed SEP is less than the penalty calculated under B.3, Respondent shall pay the difference between such actual cost and the estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify the Respondent in writing of the amount of any such unexpended SEP funds which are due. Respondent shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut" and the check shall state on its face "Payment of Unexpended SEP Funds." Respondent shall mail or personally deliver such payment to the Department of Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.
- g. Publicity. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- h. Tax benefit. Respondent shall not claim or represent that any SEP payment made pursuant to this Consent Order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.

7. Progress reports: Beginning no later than sixty (60) days after the date of issuance of this Consent Order, on or before the last day of every other month and continuing until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit bimonthly progress reports to the Commissioner describing the actions which Respondent has taken to date to comply with this Consent Order.
8. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
9. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 90 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier.
11. Dates. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

13. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties.
14. False statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. Notice of transfer: Liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
16. Commissioner's powers: Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance.
19. Access to site. Any representative of the Department of Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
20. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.

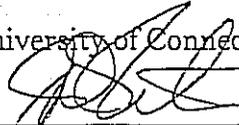
21. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
23. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
24. Joint and several liability. Respondent shall be jointly and severally liable for compliance with this Consent Order.
25. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in this Consent Order or in writing by the Commissioner, be directed to:

Martha Fraenkel, Environmental Analyst  
Department of Environmental Protection  
Bureau of Waste Management  
Engineering and Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

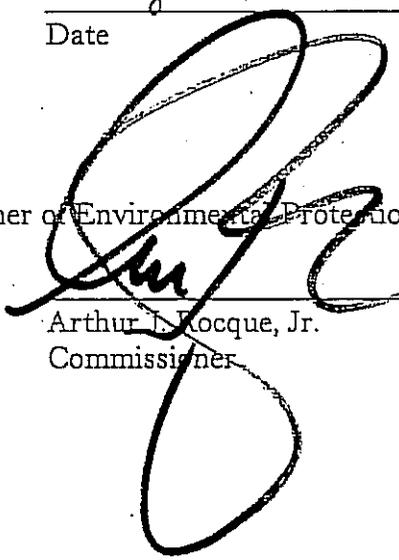
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Attachments: Appendix A: Disruption Authorization  
Appendix B: campus map

Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Consent Order and to legally bind the Respondent to the terms and conditions of the Consent Order.

By: University of Connecticut  
  
John D. Petersen  
Chancellor  
May 30, 2003  
Date

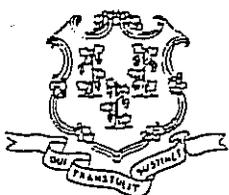
Issued as a final order of the Commissioner of Environmental Protection on June 19, 2003

  
Arthur J. Rocque, Jr.  
Commissioner

ORDER NO. WSWDS 03015  
TOWN OF MANSFIELD LAND RECORDS

Certified to be a true copy of a document in the files of the Department of Environmental Protection, Waste Management ~~Control~~.

Name: Joyce Evans  
Title: Secretary  
Date: June 26, 2003



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



APPENDIX A

AUTHORIZATION FOR THE DISRUPTION OF A SOLID WASTE DISPOSAL AREA

Municipality: Mansfield (Storrs)

Site of Activity: University of Connecticut, Storrs Campus, North Hillside Road

Authorization Holder: University of Connecticut

Pursuant to Connecticut General Statutes (CGS) Section 22a-208a and Regulations of Connecticut State Agencies (RCSA) Section 22a-209-7(u), the Commissioner of Environmental Protection (Commissioner) hereby issues this approval to the University of Connecticut (UCONN) to excavate and remove solid waste from a permitted, closed solid waste disposal area (i.e., "landfill") located on the Storrs Campus off of North Hillside Road. The material in question, household debris and trash, will be excavated and removed from this property and properly disposed of off-site at a facility or facilities permitted to receive these waste types. The work authorized herein shall conform to the terms and conditions of this Authorization.

1. Disruption activities shall take place in accordance with the letter (dated July 26, 2002) with attachments submitted by UCONN and received by the Department on July 29, 2002. The project is to be carried out in two phases. Phase 1 will be the excavation and disposal of approximately 3500 cubic yards of waste currently identified in the area of the proposed building #9. Phase 2 will involve locating, excavating, and removing any additional wastes that were disposed of in this area as a result of the 1970 permit issued to UCONN by the CT State Department of Health.
2. Proper sedimentation and erosion controls, including dust and odor controls, shall be maintained at all times by the authorization holder or its contractor(s) during construction activities associated with the disruption of this disposal area.
3. The authorization holder shall ensure that any solid waste that is excavated during the disruption of the landfill shall be removed from this site, appropriately characterized and properly disposed of at a facility or facilities permitted to receive such wastes.
4. As necessary, the authorization holder or its contractor(s) shall ensure that adequate odor controls are implemented and maintained at all times during landfill disruption activities, including off-site waste transportation, to prevent the production of nuisance odors.
5. No additional solid waste shall be disposed of at this site as a result of this authorization. Upon completion of waste removal activities and prior to the construction of any buildings, the authorization holder shall ensure that the underlying soils are suitable for their intended use in accordance with the applicable requirements of the Department's Remediation Standard Regulations.
6. Within thirty days of receipt of this disruption authorization, UCONN shall submit to the Commissioner for his review and approval a groundwater monitoring program which will determine whether the existing waste disposal activity has had an impact on underlying

groundwater.

7. Throughout implementation of the landfill disruption, the authorization holder or its contractor(s) shall prepare and comply with a site health and safety plan that complies with all applicable requirements of the Occupational Safety and Health Administration's (OSHA) 29 CFR Part 1910.120. A copy of said plan shall be provided to the Commissioner upon request.
8. As necessary, prior to implementing any disruption activities, the authorization holder shall register for the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities and submit for the Commissioner's review and written approval a Stormwater Pollution Control Plan pursuant to such permit.
9. Staff from the Bureau of Waste Management's Waste Engineering and Enforcement Division (WEED) shall be notified in writing by the authorization holder three (3) working days prior to the initiation of construction activities associated with the disruption of this disposal area.
10. Upon completion of each phase of the disruption activities approved in this authorization, the authorization holder shall submit a final summary report, including an as-built site plan, to the Department outlining the types and volumes of waste materials taken off-site for disposal and the permitted solid waste facility that accepted said waste materials.
11. This authorization is subject to and in no way derogates any present or future property rights or powers of the State of Connecticut and conveys no property rights in real estate or material nor any exclusive privileges and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the property or activity affected hereby.
12. This authorization may be revoked, suspended, or modified in accordance with law.
13. When this authorization requires that any document be submitted to the DEP, such document shall be delivered to: David McKeegan, Bureau of Waste Management, Waste Engineering & Enforcement Division, 79 Elm Street, Hartford, CT, 06016-5127.

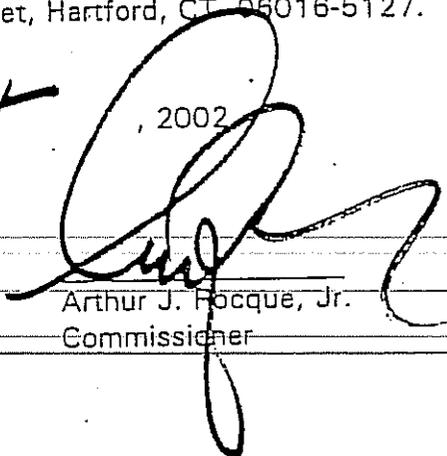
Issued this

15<sup>th</sup>

day of

August

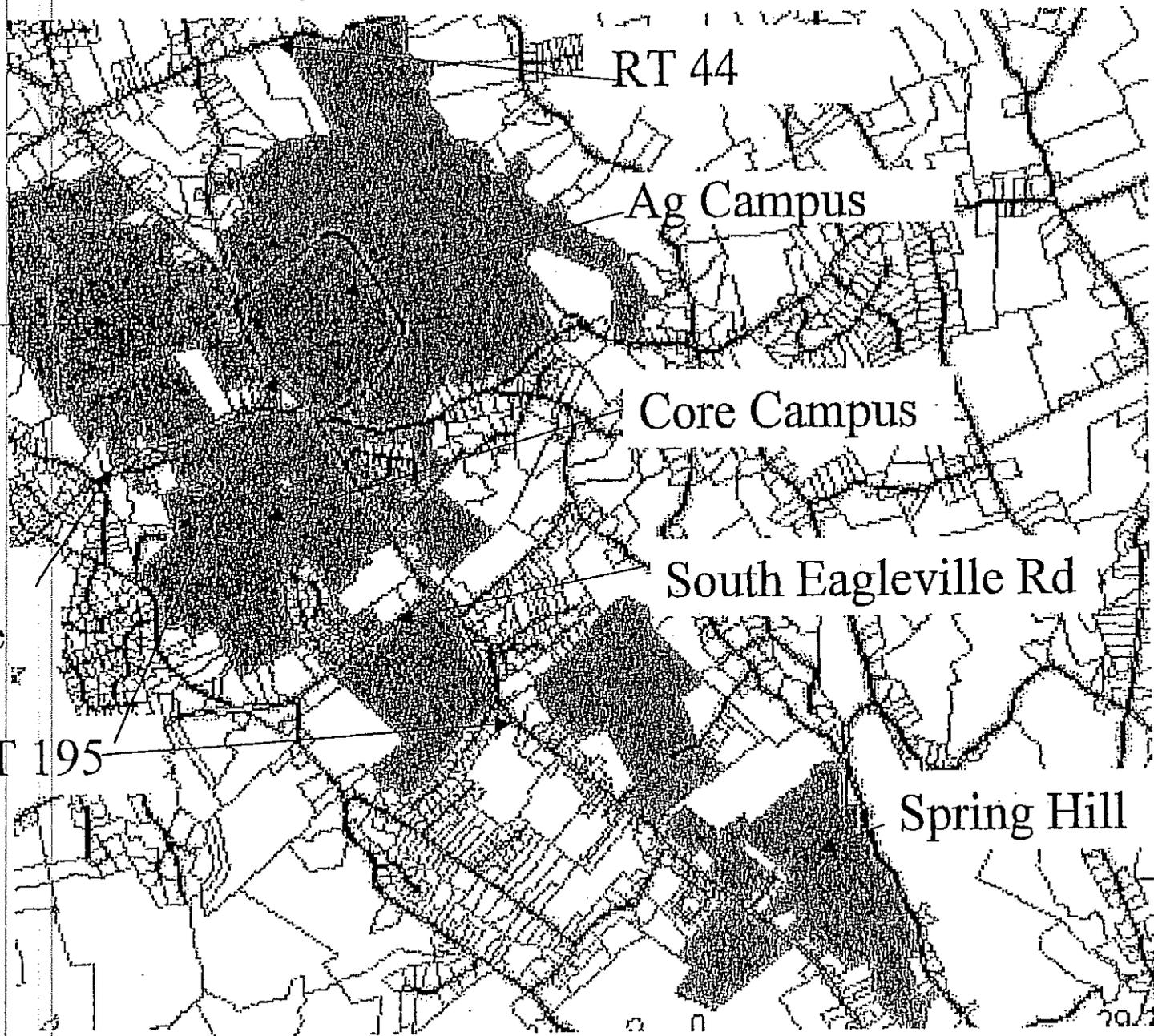
, 2002



Arthur J. Hocque, Jr.  
Commissioner

AJR:DM:dm

APPENDIX B



North Campus

North Eagleville

RT 195

RT 44

Ag Campus

Core Campus

South Eagleville Rd

Spring Hill

University of Connecticut – Storrs Campus

Areas to be Examined as Sites of Previous Solid Waste Disposal -- May 2, 2003

P.343

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# The Wildlife Observer

## Mansfield Cub Scouts Complete a Conservation Project

From reader Patrick Enright, of Storrs:

*"The Cub Scouts of Mansfield, Pack 61, Den 4, recently completed the requirements to earn their World Conservation Award. The scouts learned about recycling and conservation of our natural resources. They learned about different species of birds and fish, and participated in a day of ice fishing on Coventry Lake. The scouts also needed to complete a den conservation project. Through their scouting experiences, the*

*boys had learned about the American kestrel and its rapidly declining population in Connecticut.*

*The Cub Scouts of Den 4 decided to build American kestrel boxes for their den conservation project and place them in a town park that had suitable habitat. The scouts learned that the kestrel does not excavate its own holes and large woodpecker holes may be hard to find. However, the kestrel is attracted to man-made bird boxes.*

*Over the winter, the scouts gathered the necessary supplies and constructed eight kestrel boxes. A meeting was held with the Mansfield Parks Advisory Committee and, with their cooperation, permission was granted to place the boxes at Mount Hope Park in Mansfield. The park is located in a rural area. It has hay fields bordered by woodlands and the Mount Hope River.*

*The boxes were placed 15 to 20 feet high in trees bordering a large hay field during the month of March, just in time for the spring breeding season. The scouts plan to monitor the boxes for activity and they plan to maintain them on a yearly basis. It is our hope that this will help the recovery effort of the American kestrel in Connecticut."*

*Do you have an interesting wildlife observation to report to the Wildlife Division?*

Please send it (and any photos) to:

Wildlife Observations  
DEP - Wildlife Division  
P.O. Box 1550  
Burlington, CT 06013

Email:  
katherine.herz@po.state.ct.us

(submitted photos will be returned at your request)



The boys in Cub Scout Den 4, from Pack 61 in Mansfield, constructed nest boxes for American kestrels. From left to right is den leader Patrick Enright, Shane Enright, Connor Coffee, Robert Fusco, Andy Gardiner, Matt Marcellino, Chan-soo Kim, Mitch Vildavs and Jason Murphy.

## Ten Bald Eagle Chicks Fledge in 2003

Written by Julie Victoria, Wildlife Diversity Unit Biologist

The DEP Wildlife Division is pleased to report that the eight bald eagle pairs that set up territories last year returned to the state this year. Six of these pairs produced young, while two pairs lost their eggs early in the nesting season, probably due to the cold weather. One pair of eagles in New London County produced three chicks (see "From the Field" in the May/June 2003 issue). Pairs in Litchfield County, Middlesex County and Hartford County all produced one chick each and two pairs in Hartford County produced two chicks each, for a grand total of 10 chicks! The Division does not disclose the exact locations of the nests to protect the

eagles from disturbance and out of respect for the landowners who do not want trespassers on their land.

In order to band and examine the eagle chicks, nesting trees were climbed by Wildlife Division technician, Geoff Krukar, who has been the Division's primary climber since 2001 (see the July/August 2001 issue). Division biologist Julie Victoria examined and banded all 10 chicks, as part of the protective management program for this state endangered species.

One of Connecticut's newest bald eagle chicks!



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**PRELIMINARY**

General Fund

Estimated Schedule of Estimated Changes in Fund Balance - Legal Basis

For the Year Ended June 30, 2003

Designated for 2002/2003 Budget Undesignated \$ 1,055,295

Fund Balance, July 1, 2002 \$ 1,055,295

	Original Budget	Amendment	Final Budget	Estimated Actual	Budget Comparison	
Total revenues and transfers in	\$ 31,441,110	\$ 25,070	\$ 31,466,180	\$ 30,970,943	\$ (495,237)	
Appropriation of fund balance						
Total appropriation, transfers in	31,441,110	25,070	31,466,180	30,970,943	(495,237)	
Total expenditures and transfers out:						
Town	8,945,320	25,070	8,970,390	8,834,665	135,725	
Mansfield Board of Education	15,351,930		15,351,930	15,073,033	278,897	
Contribution to Region #19 Board of Ed	7,143,860		7,143,860	7,143,860	-	
Total expenditures	31,441,110	25,070	31,466,180	31,051,558	414,622	
Results from budgetary operations	-	-	-	(80,615)	(80,615)	(80,615)
Fund balance, June 30, 2003						\$ 974,680

Fund balance:  
 Unreserved:  
     Designated for 2003/04 budget 974,680  
     Undesignated \$ 974,680

Item #22

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The Government Finance Officers Association  
of the United States and Canada

presents this

**CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION**

to

**Town Manager's Office  
Town of Mansfield, Connecticut**

*The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards.*

Executive Director

Date

October 30, 2002

P.349

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University of Connecticut  
Division of Public Safety

July 23, 2003

Robert S. Hudd  
Chief of Police  
Director of Public Safety

Mr. Martin Berliner  
Town Manager  
Town of Mansfield  
4 South Eagleville Road  
Mansfield CT 06268

Dear Marty,

In reference to a recent letter I was copied on concerning our outdoor firing range, I offer the following:

The total use of our outdoor range for all law enforcement purposes averages 11 to 13 days per year. By contrast our indoor range use averages 50+ days per year.

The outdoor use is restricted to UConn officers (from all of our statewide locations), Mansfield/State Police, limited Eastern University Police and an occasional exception for instances when requests for the indoor range are deemed important but there is a scheduling conflict (One day last year for the Willimantic Police Department).

As you can see our commitment to utilize the indoor range absorbs the majority of our training needs. We are committed to keeping our outdoor use extremely limited, but it's use is sometimes necessary to meet State training mandates.

I hope this information is helpful to you.

Sincerely,

Robert S. Hudd  
Chief of Police  
Director of Public Safety

Cc: Tom Callahan, President's Office

kk

*An Equal Opportunity Employer*

126 North Eagleville Road Unit 3070  
Storrs, Connecticut 06269-3070

Telephone: (860) 486-4806  
Facsimile: (860) 486-2430

P. 351  
*An internationally accredited law enforcement agency.*



97 Codfish Falls Road  
Storrs, CT 06268  
June 27, 2003

Mansfield Town Council  
Town Office Building  
South Eagleville Road  
Storrs, CT 06268

REC'D JUL 03 2003

Dear Town Council Members:

For reference, we live directly across the Fenton River from the University of Connecticut firing range; however, the university has received complaints about the range from as far away as Gurleyville Center because of the "good" acoustics of the valley. Copies of earlier Blanchard letters are attached.

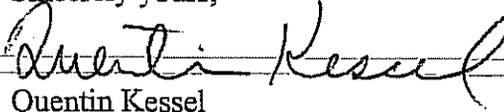
With your help, we have come a long way since the times when we would have our 5:30 AM breakfasts and morning walks along the Nipmuck trail interrupted by the sounds of nearby gunfire. In this tight little moisture-laden valley, the gunshots can be startling, sounding as if the shots are being fired right behind you. Since then, the University of Connecticut seemed to have regained control of their firing range along the Fenton River (at that time it seemed they didn't even know who they had issued keys to). For me, a high point in this controversy was about two years ago when I attended a University-Town meeting at which Tom Callahan and Chief Bob Hudd proudly announced that in the future they would be using the range only rarely and then only for practice with rifles.

The University has slipped badly with this promise and I'm asking that you intervene. You can imagine my frustration when I find that Town groups are among those utilizing the range. I assume that the Mansfield Troopers have access to State Police firing ranges for their certifications and should not have to utilize this neighborhood nuisance. Last year a number of new users were apparently permitted to use the range. I assume "new" because temporary cardboard signs were utilized to provide directions to the range for them. From those that I spoke with, I was given to understand that the users of this range last summer included officers from the City of Willimantic and ECSU. This is a far cry from the very limited use the University promised us at the University-Town meeting.

Another frustration is their "As a courtesy to you...." notification letter. I believe they have also relaxed a bit here, too. Earlier they would provide specific dates and times so that local residents might take their children (and themselves) shopping or elsewhere to get away from the sound of gunshots. Now the University simply announces one or two week periods when they might be using the range. This is only marginally helpful and perhaps you could encourage them to be more specific with their scheduling.

Thank you for your consideration of this matter.

Sincerely yours,



Quentin Kessel

CC: Chief Hudd

Jane Blanshard

**Jane Blanshard  
310 Gurleyville Road  
Storrs, CT 06268-1416  
860-429-4908**

July 23, 2002

President David Carter  
ECSU  
Willimantic, CT 06226

Dear Dave,

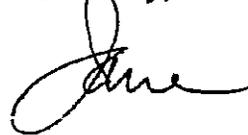
A voice from Memory Lane. Unfortunately, it is a complaining one!

For many years, the residents of Gurleyville have been complaining about the UConn cops practicing their marksmanship in our sandpit. They have always assured us that this is a state mandate, and they really hope they don't have to shoot any students. A couple of years ago, after we had passed a petition and also had the soil tested near the river, they said they were building an indoor firing range at UConn. They have also had Marty Berliner send us all notices before firing days. But last week, and again today, there were hours of noise, and the UConn police told me it was your police.

I know there is an indoor firing range at the Willimantic police station, because I have seen it with my own eyes. Your police chief at Eastern says it isn't safe any more. He was very nice to me, much nicer than the UConn group, but that doesn't solve the problem. If there is an indoor firing range at UConn, I wish you'd ask your people to use it. If not, I wish you'd find one somewhere else.

I see no reason why we should have to endure any of these groups shooting, and I certainly don't appreciate UConn's generosity!

Sincerely,



Jane Blanshard

CC: Thomas Callahan  
Martin Berliner  
Quentin Kessel  
Julie Wright  
Betsy Patterson  
The Chronicle

**Jane Blanshard  
310 Gurleyville Road  
Storrs, CT 06268-1416  
860-429-4908**

October 25, 2002

Mayor Elizabeth Paterson  
Town of Mansfield  
4 South Eagleville Road  
Storrs, CT 06268

Dear Betsy:

I have just received yet another "courtesy" copy of a note to you from Marty Berliner, informing us all that we are to be subjected to eight hours of UConn gunfire next Thursday, October 31. This follows more than two weeks of gunfire, from August 31 to September 18, not to mention five hours for the Mansfield Explorer Post to occur on November 9 (maybe our Boy Scouts can aspire to becoming snipers). In July UConn generously extended firing privileges to ECSU.

You were present at the meeting with Quentin Kessel, Julie Wright, and me, as representatives of Gurleyville, when Thomas Callahan said that UConn was going to build an indoor firing range, at least two years ago, perhaps longer. What happened to that?

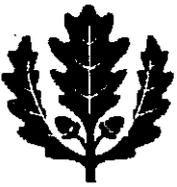
Please consider this a formal request for a copy of any legislation or regulation that permits Marty to make these outrageous decisions regardless of the community's wishes. There must be a legal way to get them to stop this.

Yours sincerely,



Jane Blanshard

cc: Martin Berliner  
Thomas Callahan  
Quentin Kessel  
Julie Wright  
The Chronicle



University of Connecticut  
*Division of Public Safety*

Police Department

Training Division

REC'D JUN 20 2003

Mayor Elizabeth Paterson  
Town of Mansfield  
4 South Eagleville Road  
Mansfield, Ct. 06268

June 19, 2003

Dear Mayor Paterson:

As a courtesy to you, this letter is to advise you that we will be conducting firearms training at the outdoor police range located on state property owned by the State of Connecticut off of Gurleyville Road.

This training will be conducted from July 17-25, 2003 between the hours of 0800 and 1600.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Master Sergeant Paul R. Witham  
Training Division

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*An Equal Opportunity Employer*

136 North Eagleville Road Unit 3070  
Storrs, Connecticut 06269-3070

Telephone: (860) 486-5150

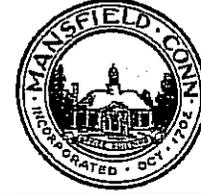
Fax: (860) 486-2620



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**TOWN OF MANSFIELD**  
**OFFICE OF THE TOWN MANAGER**

Martin H. Berliner, Town Manager

AUDREY P. BECK BUILDING  
FOUR SOUTH EAGLEVILLE ROAD  
MANSFIELD, CT 06268-2599  
(860) 429-3336  
Fax: (860) 429-6863

July 25, 2003

Ms. Rosemarie Susan Matos  
150 Crane Hill Road  
Storrs, CT 06268

Dear Ms. Matos:

The Town of Mansfield is in receipt your letter expressing concern over regulations governing the use of the water and picnic areas at Bicentennial Pond. The Town has reviewed this correspondence and would like to offer clarification on several issues raised in your letter. First, the pond has never been officially open to the public as early as 8:00 a.m. In recent years the pond has been opened at 10:00 a.m. on weekdays and 11:00 a.m. on weekends. Second, there has been a fee for the use of this area for at least the last fifteen years.

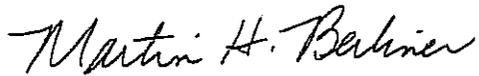
Due to budget constraints over the past year, the Town has looked at all of its programs to determine where substantial cost savings could be realized in order to improve the Town's financial position. After analyzing the costs associated with programs at Bicentennial Pond it was evident that the Town could reduce its costs by altering the scheduled use of this area. It was clear that few residents utilized the pond area in the morning, therefore it was determined that the pond would not open until noon this year. The result was a substantial savings on the costs associated with supervising the pond in the late morning.

The Town does utilize the pond area as part of its day camp operations. Camp participants take swimming lessons in the morning to minimize an intrusion of the program during the public's use of the pond. The supervision provided for the campers during swimming lessons is included in their camper fees and additional supervision would be required if the public were permitted to use the pond during this time. This would reduce any cost savings.

Finally, the Bicentennial Pond operation is largely subsidized by the Town's general fund. In order to restore the hours of the day or length of the season an additional subsidy is necessary. Attached please find copies of the Bicentennial Pond information page from each of our summer brochures of the last fifteen years that illustrate the hours of operation and the fees charged during those years.

We appreciate your concern for the operations at Bicentennial Pond but at this time we cannot accept your request to alter the Town's policy. Please feel free to contact the Town with any additional concerns.

Sincerely,



Martin H. Berliner  
Town Manager

Cc: Mansfield Town Council

# Rosemarie Susan Matos

150 Crane Hill Road, Storrs, CT 06268 (860) 423-0157  
E-mail: [s.d.matos@att.net](mailto:s.d.matos@att.net)

Mansfield Town Council  
4 South Eagleville Road  
Mansfield, CT 06268-2599

REC'D JUL 16 2003

To the members of the Town Council:

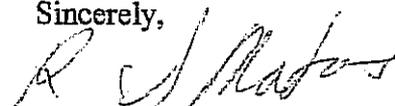
I have been living in Mansfield for 25 years and have enjoyed the water and picnic area at Bicentennial Pond for most of these years. I remember going there as early as 8:00 A.M. and finding the solitude very enjoyable. In recent years, there have been changes: such as a fee that one must pay in order to enter, even if one is a Mansfield resident.

Most recently, I have been notified that the beach area is not available to the public for swimming until noon due to budget cuts and various reasons. Yet, the swimming area, grass, and picnic areas are all available to the campers. This does not seem quite right to me, since we pay almost \$3,500 in taxes every year. It seems that this is quite ironic, that taxpayers do not have the access to swim until the middle of the day, when it is so extremely hot, and most people would never think of beginning to go to the beach at noon.

My suggestion is that it is time the Town of Mansfield realize that taxpayers should be able to not only enter Bicentennial Pond at the small annual fee of \$20, but should be able to use the beach area, as well as the other areas from early in the morning until dark, or sometime close to this.

Please consider this request, as it would behoove you to change this policy, in order to keep residents of the town in local swimming areas, rather than spend their money in other towns and/or states where the beaches are open early, and are accessible for long periods of time.

Sincerely,



Susan Matos

Cc: Town Manager, Martin Berliner

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