SPECIAL MEETING
BOARD OF SELECTMEN (BOS)
TOWN ORDINANCE COMMITTEE (TOC)
September 30, 2019
Town Hall Annex

Minutes

MEMBERS PRESENT: John Turner, Melinda Ferry, Ronald Stomberg (arrived 6:13 pm)

OTHERS PRESENT: James York, Fire Marshal; Dorian Famiglietti, Town Attorney; Lisa Houlihan, Town Planner; John Coloneese, Assistant Town Planner/Zoning & Wetlands Enforcement Officer; Sergeant Brian Santa, Resident State Troopers’ Office Supervisor; Timothy Webb, Director of Public Works; Lori Spielman, First Selectman; Julia Connor, Recording Secretary; Tom Paishaw, Peg Busse, Rick and Christina Olmstead, Arno Groot, Harry Lambert, Lisa Whiteway, Jessica Flint, Eric and Linda Amioka, Corey Burrs

I. CALL TO ORDER:
Mr. Turner called the meeting of the BOS TOC to order at 6:05 p.m.

II. CITIZENS’ FORUM: None

III. APPROVAL OF MINUTES:
A. May 13, 2019

MOVED (FERRY), SECONDED (TURNER) AND PASSED UNANIMOUSLY TO APPROVE THE MINUTES OF THE MAY 13, 2019 TOWN ORDINANCE COMMITTEE MEETING.

IV. NEW BUSINESS
A. Review Proposed Revisions to Section 70-7 Fees for GIS Information and Adoption of a New Fee Schedule as recommended by the Town Assessor and Town Planner

Mr. Turner stated that the proposed revisions represented an extensive update to the ordinance, as it had been several years since it had been reviewed; Ms. Houlihan confirmed this. She stated that these revisions will allow the Planning Department and the Assessor’s Office to respond to requests for GIS information and the new fee schedule will allow them to recoup the costs associated with providing that information. Attorney Famiglietti has reviewed the revisions and she is satisfied with the update as presented.

MOVED (FERRY), SECONDED (TURNER) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO SECTION 70-7 FEES FOR GIS INFORMATION, AS WELL AS THE ADOPTION OF THE PROPOSED FEE SCHEDULE [ATTACHED].

B. Proposed Ordinance Regarding Discharging Firearms/Target Shooting in Residential Areas

Mr. Turner began this discussion by acknowledging that this is a sensitive issue, and he opened up the floor to public comment.
Rick Olmstead, 16 Middle Butcher Road, reported that gun shooting in the neighborhood has continued, with hundreds of rounds being shot on the weekends. He stated that he has considering selling the house and relocating, but he has concerns regarding any potential showing and resulting sale of their house given the gun activity. He doesn’t allow his grandkids to play in the yard while shooting occurs, due to the safety concerns he has.

Arno Groot, 12 Middle Butcher Road, shared that his property line runs through Turkey Brook and abuts the property in question; ATVs are also being driven on his property, and he expressed his feeling that liberties are being taken in the area. It’s very disruptive and an excess of 200 rounds are being discharged over the period of approximately 2 hours.

Harry Lambert, 82 Middle Road, stated that he is a gun owner and while he doesn’t shoot on his property often, he doesn’t feel that there should be a problem if he does choose to.

Lisa Whiteway, 4 Westview Terrace, shared that the shooting was excessive last weekend; she is concerned because it doesn’t seem like a safe or appropriate environment for shooting to take place. She would prefer these individuals go to a gun range to shoot.

Jessica Flint, 10 Westview Terrace, explained that houses in this neighborhood are very close together, and due to the gun noise, she is unable to have parties or family gatherings at her house. She doesn’t want someone to get hurt and wants steps to be taken. She feels that the individuals should go to a range if they wish to shoot. Mr. Lambert stated that at most ranges, you need to be a range member to shoot there, and membership is limited.

Eric Amioka, 7 Westview Terrace, feels that the noise is unbearable and unpredictable. He shared that his wife had spent months planning a baby shower and a week before the event, they had to cancel due to the families and children that were planning to attend; they didn’t want to subject their guests to the disturbance. He also expressed his opinion that property values were going to diminish with the atmosphere of the neighborhood.

Chairman Stomberg asked who the individual was that was causing this disturbance; many individuals expressed fear of retaliation if they spoke up about this and declined to answer.

Christine Olmstead, ’4 & 16 Middle Butcher Road, expressed gratitude to the other individuals present for their mutual concern over this issue. She has called 911 twice due to shooting; she was unaware of the range in the neighborhood and did not know what the gunshots were from. She was distressed by the lack of physical police response to her calls. Mr. Olmstead shared that he did have a conversation with the owner of the house; his reported response was that unless an ordinance is passed, he has no intentions of changing his behavior or pattern of activities.

Sergeant Santa said that has personally walked the property multiple times and has sent Troopers to the property numerous times; however, current laws regulating shooting activity are specific to hunting. He clarified a prior point and shared that there are multiple public gun ranges in the area that don’t require a membership.

Tom Palshaw, 120 Pinney Street, asked if the Ordinance Committee has taken any action on this item to this point; Chairman Stomberg stated that they have been researching and have looked at examples from other towns in the State. Mr. Palshaw shared Stafford has dealt with this issue through zoning regulations; between the available avenues, he feels that something should be done to address these concerns.

Linda Amioka, 7 Westview Terrace, feels that one of the more frightening aspects of the situation is that there are individuals who don’t live at the residence shooting at the property, sometimes when the owner isn’t home. Sergeant Santa stated that there is currently nothing that regulates this type of activity.

Ms. Whiteway expressed concern related to individuals who may suffer from post-traumatic stress disorder (PTSD) who are being subjected to these disturbances.
Mr. Turner stated that the Committee members and other relevant parties need to sit down and come up with something that is fair to all individuals in Town; any ordinance would have to go through a Public Hearing and Town Meeting prior to adoption. This scrutiny means that if an ordinance is put forward, it needs to be done thoroughly and not put together haphazardly.

Ms. Ferry feels that this should be addressed as soon as possible so that people feel protected.

Cory Burrs, 8 Westview Terrace, has two children and is relatively new to the area. She expressed amazement that there are regulations for fences around swimming pools and keeping livestock, which are relatively benign issues, but there are no rules about gunfire.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO TABLE THIS ITEM TO ALLOW FOR FURTHER RESEARCH AND POTENTIAL DEVELOPMENT.

C. Proposed Ordinance Regarding Illegal Discharge and Illicit Connection Storm Water Drainage Systems

Mr. Turner asked Timothy Webb if this ordinance has been fully vetted and is compliant with all relevant safety regulations; Mr. Webb confirmed that it had been reviewed by the consultant who helped prepare their Stormwater Management Plan and it meets all requirements.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED ORDINANCE REGARDING ILLEGAL DISCHARGE AND ILLICIT CONNECTION STORMWATER DRAINAGE SYSTEMS [ATTACHED].

D. Review Proposed Revision to Article II Snow and Ice Removal from Sidewalks §154-4 Removal of Snow and Ice

(MOVED), SECONDED (FERRY) TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED REVISION TO ARTICLE II SNOW AND ICE REMOVAL FROM SIDEWALKS §154-4 REMOVAL OF SNOW AND ICE.

There was no vote on this motion.

Peg Busse, 37 Abbott Road, asked if the Superintendent has weighed in on this, as related to students who may walk to school and would be impacted by this. Mr. Webb stated that the Superintendent will be contacted to get his opinion on this as it affects the schools.

Mr. Webb explained that the revision from 24 to 36 or 48 hours allows the Public Works employees more time to safely clear the snow. Attorney Famiglietti stated that this item is one that may be tied into the Citations Ordinance and could be tabled to allow for more discussion.

Mr. Olmstead stated that he's worked in snow removal for years and has not met anyone who has received a ticket for not shoveling their sidewalk in the mandated timeframe.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO TABLE THIS ITEM TO ALLOW FOR FURTHER RESEARCH AND DISCUSSION.

V. UNFINISHED BUSINESS

A. Ordinance Regarding Ticketing

Attorney Famiglietti stated that the reason the revisions to this ordinance have not yet been acted upon is that she had been working with Sergeant Santa and the Fire Marshal to finalize the fee schedule and to clarify some of the procedural items. The major change that has been made is the addition of a provision regarding the recoupment of any costs of collection.

Ms. Ferry asked whether the Committee was still planning to implement a single fee schedule across the board. Attorney Famiglietti answered that the specific ordinances that would be tied to this fee schedule don't lend themselves to a uniform fining system. James York supplied separate fee recommendations for the ordinances related to the Fire Marshal's Office. The only
item that does not yet have a specific number attached to its fines is Chapter 10. Alcoholic Beverages; this is something that the Board of Selectmen can discuss separately.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO CHAPTER 46. CITATIONS [ATTACHED].

B. Proposal for New Ordinance Requiring Permit and Permit Fees for Specific Occupancies, Including a Review of Information Provided by the Fire Marshal

Mr. Turner confirmed with Mr. York that the few questions brought up previously regarding fee amounts and multi-permit and multi-family occupancy issues had been addressed.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED ORDINANCE REQUIRING PERMIT AND PERMIT FEES FOR SPECIFIC OCCUPANCIES [ATTACHED].

C. Review Proposed Revisions as Recommended by the Fire Marshal
   i. Chapter 74, Article I – Fire Zones [74-1 through 74-6]

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO CHAPTER 74, ARTICLE I – FIRE ZONES [ATTACHED].

   ii. Chapter 74, Article II – Open Burning [74-7 through 74-11]

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO CHAPTER 74, ARTICLE II – OPEN BURNING [ATTACHED].

   iii. Chapter 17, Article II – Use of Outside Areas [17-11 through 17-14]

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO CHAPTER 17, ARTICLE II – USE OF OUTSIDE AREAS [ATTACHED].

D. Review Proposed Revisions to Ordinance Chapter 10. Alcoholic Beverages as Recommended by Sgt. Santa, Resident State Troopers’ Supervisor

Mr. Turner asked if there was a section where the related fees will be set; Attorney Famiglietti pointed out that Section 10-7 indicates that fines will be set in a policy, subject to amendment.

MOVED (STOMBERG), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE APPROVAL OF THE PROPOSED REVISIONS TO CHAPTER 10. ALCOHOLIC BEVERAGES [ATTACHED].

Attorney Famiglietti mentioned the following ordinances that can potentially be tied into Chapter 46. Citations moving forward: Chapter 154 – Snow and Ice Removal from Sidewalks; Chapter 116 – Parks and Recreation Areas; Chapter 147 – No Smoking Areas; Chapter 121 – Failure to Obtain a Peddlers/Itinerant Vendors Permit; and Chapter 36 – Building Numbering.

VI. ADJOURNMENT:

MOVED (TURNER) SECONDED (FERRY) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN TOWN ORDINANCE COMMITTEE AT 7:28 P.M.

Submitted by

Ronald Stomberg, Chairman
Article III Fees for GIS Data & Information


Additions underlined, deletions strikethrough, otherwise as currently adopted

§ 70-7 Findings, purpose and authority.
A. The Town of Ellington ("Town") hereby establishes and hereafter shall charge reasonable fees to acquire, produce, copy, distribute, or otherwise make available data and information contained within and available through-derived from its geographic information system ("GIS") in response to a GIS data and information request.

B. The Town has expended considerable amounts of time, energy, resources and money to acquire, copy, distribute, and make available GIS data and information and to store it within a GIS system for public use. Such data and information is increasingly requested by public and private entities, which makes the information very usable for a number of municipal functions and also provides a database which can be very desirable and usable to citizens and professionals. In order Therefore, to offset some of the costs to the Town, associated with providing GIS data and information for public use, and to recognize the benefit to other users, it is appropriate to establish a fee schedulecharge reasonable fees for the use and request of GIS data and information, and method of sharing costs by those who make use of this data. This policy is established to accomplish this purpose pursuant to and consistent with the authority granted to the Town by C.G.S. § 7-148s.

§ 70-8 Definitions.
As used in this article, the following terms shall have the meanings indicated:
CD or COMPACT DISC
Optical media used to store digital data.

ELECTRONIC TRANSMISSION
Transfer or transmission of GIS or computer data by electronic means, including transfer of data over the internet or direct computer connection.

EXPORT FORMAT
A form of an original digital data set generally used to transfer data to different database operating systems or computer applications.

FLOPPY DISK
Magnetic media used to store digital data, 3.5 in size containing 1.44 MB of data.

FULL DATA SET
All GIS Town-wide data sets, excluding topography and ortho-photos.

PRE-MADE MAP
A map available in paper or digital form in advance of a request according to parameters preset by the Town.

PROGRAMMING TIME
Time spent developing a map, filling a GIS data request, changing a data format, developing a GIS computer application, or similar requests.

§ 70-9 Selectmen authorized to set fees.
The Board of Selectmen is hereby authorized to set reasonable fees for the Town's GIS services and for copying, transfer or transmission of geographic information system (GIS) the Town's acquisition and distribution of GIS data and information, and services from time to time to reflect the Town's cost to acquire and/or produce the data as well as the actual cost to copy, transfer or transmit the data, including the labor costs to do the same. Said fees may be revised by the Board of Selectmen as may be necessary.
§ 70-10 Refunds.

In the event that a GIS data or information request is withdrawn by the requesting entity within a reasonable time, the Town's fees shall be refunded.

Disclaimer Regarding Public and Private Use of GIS Data & Information

The following terms and conditions apply to any dissemination of GIS map data or information by the Town of Ellington ("Town") in response to a GIS data or information request by any person or entity:

The GIS map of the Town and all underlying map data and information is made available primarily for assessment and general informational purposes. Said map data and information is not intended for any official use or legal use by any person or entity.

The map data and information may not always represent the most current data and information. The Town and AppGeo reserve the right to change and update GIS map data and information at any time without notice. In addition, some of the data may have been compiled from third-party sources and the accuracy of that data cannot be confirmed.

The Town and AppGeo, respectively, do not make any warranty, representation, or guarantee as to the content, sequence, accuracy, timeliness, or completeness of any of the map data or information provided herein, and in particular accuracy in labeling and displaying dimensions, contours, property boundaries, and placement and location of any map features. The user should not rely on the data and information provided herein for any purpose, including survey and property conveyance purposes. The Town and AppGeo, respectively, explicitly disclaim any representations and warranties, express or implied, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose with respect to this map and the underlying data and information. Any user of the map’s data or information covenants and agrees to hold the Town and AppGeo harmless from and against all damage, loss, or liability arising from any use of the map’s data or information, in consideration of the Town and AppGeo making said data and information available to the public for informational purposes.

The Town and AppGeo, respectively, shall assume no liability for any errors, omissions, or inaccuracies in the data and information provided regardless of how caused and for any decision made or action taken or not taken by the user in reliance upon any data or information furnished hereunder.

The Town and AppGeo, respectively, shall assume no liability for any alterations, modifications, or manipulations made to GIS data or information by any person or entity who has requested said data and information.
TOWN OF ELLINGTON

FEE SCHEDULE

GIS DATA & INFORMATION

[Adopted: ]

A. GIS digital data: Cost is calculated for data in its original format and provided as a town-wide data set.
   • 1 to 2 layers - $25 per quarter hour of work;
   • 3 to 5 layers - $50 per quarter hour of work;
   • 5 or more layers - Cost to be determined on a case by case request.

B. Media
   • $10 per 8mb flash drive
   • $15 per 16mb flash drive

C. Maps
   • Small Maps up to 11x17 - $4
   • Large Maps up to 24x36 - $8
Chapter ---
Illegal Discharge and Illicit Connection Stormwater Drainage Systems Ordinance

§1. Purpose
§2. Definitions
§3. Applicability
§4. Responsibility for Administration
§5. Severability
§6. Discharge Prohibitions and Exemptions
§7. Suspension of Access to MS4
§8. Industrial, Commercial or Construction Activity Discharges
§9. Monitoring of Discharges
§10. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices
§11. Watercourse Protection
§12. Notification of Spills
§13. Notice of Violation
§14. Appeal of Notice of Violation
§15. Enforcement Measures After Appeal
§16. Cost of Abatement of Violation
§17. Injunctive Relief
§18. Effective Date
§19. Town’s Expenses
§20. Remedies Not Exclusive

§ 1. Purpose.  
This ordinance is adopted pursuant to Chapter 98 of the Connecticut General Statutes ("C.G.S.") (Section 7-148 et seq.). The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Ellington (the "Town") through the regulation of non-stormwater discharges to the Town’s stormwater drainage system to the extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the Town’s municipal separate storm sewer system ("Town MS4") in order to comply with requirements of the National Pollutant Discharge Elimination System ("NPDES") permit process and the State of Connecticut’s General Permit for the Discharge of Small Municipal Separate Storm Sewer Systems ("MS4 General Permit"). The objectives of this ordinance are:

   a. To regulate the contribution of pollutants to the Town MS4 by illicit discharges by any user;
   b. To prohibit illicit connections and illegal discharges to the Town MS4; and
   c. To establish the legal authority to carry out inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

§ 2. Definitions. As used in this ordinance, all words, terms and phrases, shall have the meanings ascribed to them in the MS4 General Permit, except when the context of this ordinance clearly indicates a different meaning, or as defined below.

   a. Best Management Practices ("BMPs"). Schedules of activities, practices (and prohibitions of practices), structures, vegetative, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state consistent with state, federal or other equivalent and technically supported guidance. BMPs also include treatment requirements, operating procedures, and practices to
control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

b. **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

c. **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this ordinance.

d. **Illicit Connections.** An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved or, any drain or conveyance connected from a commercial, construction or industrial landuse to the storm drain system which has not been documented in plans, maps, or equivalent records and approved.

e. **National Pollutant Discharge Elimination System (“NPDES”) Storm Water Discharge Permit.** A permit issued by the United States Environmental Protection Agency (“EPA”) (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

f. **Non-Stormwater Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.

g. **Person.** Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner, occupant, or as the agent of the owner or occupant.

h. **Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

i. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

j. **Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

§ 3. **Applicability.** This ordinance shall apply to all water and other discharges generated on any premises that enters the Town MS4 storm drain system, unless explicitly exempted by this ordinance or the Director of Public Works.

§ 4. **Responsibility for Administration.**

The Director of Public Works shall have the authority to administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director of Public Works may be delegated in writing to a person(s) that is an employee of the Town or an entity acting as a consultant of the Town.

§ 5. **Severability.**

The provisions of this ordinance are severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, premises, facility, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

§ 6. **Discharge Prohibitions and Exemptions.**

A. **Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the Town MS4 any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards promulgated by the Connecticut Department
of Energy and Environmental Protection, as may be amended, other than stormwater. The commencement, conduct or continuation of any illegal discharge to the Town MS4 is prohibited except, the following discharges are exempt from the discharge prohibitions established by this ordinance:

1. Water line flushing or other potable water sources, landscape irrigation or lawn watering runoff, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, washing of non-commercial vehicles, residual street wash water associated with sweeping, natural riparian habitat or wetland flows, swimming pools (if dechlorinated-typically less than one part per million chlorine), firefighting activities (other than training), and any other water source not containing pollutants.

2. Discharges specified in writing by the Director of Public Works or his/her designee as being necessary to protect public health and safety.

3. Dye testing, if prior written notice is given to the Director of Public Works or his/her designee or conducted by North Central District Health Department.

4. Any non-stormwater discharge permitted under a NPDES Stormwater Discharge Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that prior written approval has been granted for any discharge to the Town MS4.

5. Any non-stormwater discharge which is authorized by a permit pursuant to C.G.S. §§ 22a-430 or 22a-430b. as may be amended.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the Town MS4 is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Town MS4, or allows such a connection to continue.

§ 7. Suspension of Access to MS4.

A. Suspension Due to Illicit Discharges in Emergency Situations. The Director of Public Works or his/her designee may, without prior notice, suspend a person’s discharge to the Town MS4 when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States (“U.S.”). If a violator fails to comply with a suspension order issued in an emergency, the Director of Public Works or his/her designee may take such steps as deemed necessary to prevent or minimize damage to the Town MS4 or waters of the U.S., or to minimize danger to persons.

B. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the Town MS4 in violation of this ordinance may have their access to the Town MS4 terminated if such termination would abate or reduce an illicit discharge. The Director of Public Works or his/her designee will notify a violator of the proposed termination of its access to the Town MS4. The violator may petition the Director of Public Works or his/her designee for a reconsideration and hearing.

A person violates this ordinance if the person reinstates access to the Town MS4 for a premises terminated pursuant to this ordinance, without the prior written approval of the Director of Public Works or his/her designee.
§ 8. Industrial, Commercial or Construction Activity Discharges.
Any person subject to an industrial, commercial or construction activity NPDES Stormwater Discharge Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works or his/her designee prior to allowing of discharges to the Town MS4.

A. Applicability. This ordinance applies to all facilities that have stormwater discharges associated with industrial, commercial or construction activity.

B. Access to Facilities.
1. The Director of Public Works or his/her designee shall be permitted to enter and inspect premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Director of Public Works or his/her designee.

2. Premises operators shall allow the Director of Public Works or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES Stormwater Discharge Permit, and the performance of any additional duties as defined by state and federal law.

3. The Director of Public Works or his/her designee shall have the right to set up on any premises such devices as are necessary in the opinion of the Director of Public Works or his/her designee to conduct monitoring and/or sampling of the premise's stormwater discharge.

4. The Director of Public Works or his/her designee has the right to require the discharger to install monitoring equipment as necessary. The premises' sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the premises operator at the written or oral request of the Director of Public Works or his/her designee. The costs of clearing such access shall be the responsibility of the premises and or premises operator.

6. Unreasonable delays in allowing the Director of Public Works or his/her designee access to a premises is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a premises with a NPDES Stormwater Discharge Permit associated with industrial, commercial or construction activity violates this ordinance if the person denies the Director of Public Works or his/her designee reasonable access to the premises for the purpose of conducting any activity authorized or required by this ordinance.

7. If the Director of Public Works or his/her designee has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director of Public Works or his/her designee may seek issuance of a search warrant from any court of competent jurisdiction.
§ 10. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The Director of Public Works or his/her designee will implement requirements identifying Best Management Practices ("BMPs") for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. Any person responsible for property or premises that is, or may be, the source of illicit discharge may be required to implement, at their own expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the Town MS4. Compliance with all terms and conditions of a valid NPDES Stormwater Discharge Permit authorizing the discharge of stormwater associated with industrial, commercial or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this ordinance.

§ 11. Watercourse Protection

Every person owning property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly impede the flow of water through the watercourse. In addition, said person shall maintain any existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 12. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials, said person shall immediately notify the appropriate emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director of Public Works or his/her designee in person or by phone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his/her designee and all appropriate emergency response agencies within three (3) business days of the phone/in-person notice. If the discharge of prohibited materials emanates from a commercial, construction or industrial premises/activity, the owner or operator of such premises/activity shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three (3) full years from the date of occurrence.

§ 13. Notice of Violation

Whenever the Director of Public Works or his/her designee finds that a person or premises has violated a prohibition or failed to meet a requirement of this ordinance, the Director of Public Works or his/her designee may order compliance by written Notice of Violation to the responsible person. Such notice shall be delivered in accordance with Chapter 46, Citations, and may require without limitation:

1. The performance of monitoring, sampling, analyses, and/or reporting;
2. The elimination of illicit connections or cessation of illegal discharges;
3. That cessation of violating discharges, practices, or operations;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected premises;
5. Payment of a penalty and/or the Town's administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected premises is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the person fail to remediate or restore by the deadline provided, the work will be done by the Director of Public Works or his/her designee or a third-party designated by the Director of Public Works and the expense thereof shall be charged to the violator.
Any person receiving a Notice of Violation may appeal the determination of the Director of Public Works or his/her designee. The notice of appeal must be received by the Director of Public Works or his/her designee within fourteen (14) days from the date of the Notice of Violation and must contain a copy of the Notice of Violation being appealed, as well as a brief statement regarding the grounds for the appeal. Hearing on the appeal shall be before the Ellington Board of Selectmen and shall take place within fourteen (14) days from the date of receipt of the notice of appeal. The decision of the Ellington Board of Selectmen shall be final.

§ 15. Enforcement Measures after Appeal.
If the violation has not been fully corrected as set forth in the Notice of Violation, or, in the event of an appeal within fourteen (14) days of the decision of the Ellington Board of Selectmen upholding the decision of the Director of Public Works or his/her designee, then representatives of the Director of Public Works or his/her designee shall enter upon the subject private premises and are authorized to take any and all measures necessary to abate the violation and/or restore the premises. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Director of Public Works or his/her designee to enter upon the premises for the purposes set forth above.

Within fourteen (14) days after abatement of the violation, the owner of the premises will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within the time set forth in the decision of the Director of Public Works or his/her designee the charges shall become a special assessment against the premises and shall constitute a lien on the premises for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the Town by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eighteen (18) percent per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

§ 17. Injunctive Relief.
It shall be unlawful for any person and or premises to violate any provision or fail to comply with any of the requirements of this article. If a person and or premises has violated or continues to violate the provisions of this article, the Director of Public Works or his/her designee may petition for a preliminary or permanent injunction restraining the person and or premises from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 18. Effective Date.
This ordinance shall be effective fifteen (15) days after publication thereof in a newspaper having substantial circulation in the Town of Ellington.

§ 19. Town’s Expenses.
The Town may recover all attorney’s fees, court costs, and other expenses associated with the enforcement of this ordinance, including any sampling and monitoring expenses.

§ 20. Remedies Not Exclusive.
The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Director of Public Works to seek cumulative remedies.
Chapter 46. Citations


§ 46-1. Findings and purpose.

It is hereby found and declared that it is desirable to adopt a citation hearing procedure in accordance with and under authority contained in Connecticut General Statutes § 7-152c in order to permit a local forum under which citizens may be heard in connection with citations that may be issued by municipal officials in connection with any municipal ordinance.

§ 46-2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

CITATION HEARING BOARD

The Board of Selectman shall constitute the Citation Hearing Board and shall conduct hearings pursuant to the rules set forth in this chapter and issue decisions in connection with citations for violation of any municipal ordinance. The Citation Hearing Board is hereafter referred to as the “Board”.

CITED PERSON

The person, individual or business to whom or to which a notice of violation was issued by an official and whose act or conduct is the subject of a hearing pursuant to this chapter.

NOTICE

Any notice required by this chapter shall be given and is sufficient if provided in one of the following forms:

A. In-hand delivery by an agent designated by the Board of Selectman.

B. Certified mail, return receipt requested, addressed to the person cited at his last known address on file with the tax collector.

C. Delivery by any commercial carrier and delivery service such as Fed Ex or UPS.

D. A commercial process server, state marshal, police officer or constable.

OFFICIAL

The municipal official charged with enforcing a municipal ordinance or regulation who issued the notice of violation or citation subject to a hearing pursuant to this chapter.

ORDINANCE

Any ordinance, rule, regulation or policy adopted by the Town of Ellington or any of its boards, commissions or agencies proscribing specified actions or activities and which ordinance or rule, regulation or policy imposes a penalty or fine or requires specified action by the party charged.

A. Notice to cited person. At any time within 12 months from the expiration of the final period for the uncontested payment of any fine, penalty, cost or fees set forth in any citation issued under any municipal ordinance for an alleged violation thereof, the officer charged with such enforcement shall provide written notice to the cited person. Such notice shall inform the cited person:

1. Of the nature of the allegations against him which constitute a violation of a specific ordinance and the amount of fines, penalties, costs or fees due.

2. That he may contest his liability before the Board by delivering a written notice in person or by mail within 10 days of the date of such notice to the office of the First Selectman.

3. That if he does not demand such a hearing, an assessment and judgment shall be entered against him.

4. That such judgment may issue without further notice.

B. Admission of liability. If the cited person wishes to admit liability for an alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees set forth in the citation to the First Selectman's office either in person or by mail on or before the date required for the payment of the same as set forth in the notice of violation. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person. Any cited person who fails to pay the full amount of the fines or penalties within the time period provided for in the notice of violation and does not deliver or mail written demand for a hearing within 10 days of the date of the notice provided for in subparagraph A above shall be deemed to have admitted liability, and the designated official shall certify such person's failure to respond to the Board. The Board shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in §46-5A of this chapter.

C. Appeal by cited person. A cited person may at any time, but not later than 10 days following the date of a notice provided for in subparagraph A above, appeal such notice of violation and the financial penalty imposed thereby by filing a notice of appeal in the office of the First Selectman, which notice shall include all of the following information:

1. Name, current mailing address, telephone number and FAX number, if any, of the cited person taking the appeal.

2. A copy of the notice of violation from which an appeal is being taken or sufficient identification of the notice for the First Selectman to identify the subject of the appeal, i.e., the date, place of violation, and name of the official issuing the notice of violation.

3. A statement of the facts or theories upon which the appeal is based and which the appellant would like the Board to consider.
D. Notice of hearing. The Board, through the office of the First Selectman, will give written notice of the date, time and place of the hearing to the cited person and official not less than 15 days nor more than 30 days prior to the hearing by any means considered by the First Selectman as adequate to give all parties notice of the hearing, including a notice delivered by confirmed FAX to the number given by all cited person.

§ 46-4. Hearing procedures.

A. The Board shall grant, upon good cause shown, any reasonable request by an interested party for postponement or continuance of the hearing.

B. Since the primary purpose of the ordinances of the Town is to gain compliance with the purposes thereof, the Board, upon receipt of a request for additional time within which to remedy the state of facts which gave rise to the issuance of the citation, may continue the hearing for a reasonable amount of time to permit the cited person to accomplish that goal and may impose such additional conditions upon the continuance as the Board deems appropriate.

C. An original or certified copy of the initial notice of violation issued by the issuing official shall be filed and maintained by the First Selectman’s office and shall be deemed to be a business record within the scope of § 52-180 of the Connecticut General Statutes and evidence of the facts contained therein. The presence of the issuing official shall be required at the hearing if the cited person so requests.

D. The cited person wishing to contest his liability shall appear at the hearing and may be represented by counsel and may present evidence in his behalf. If the cited person fails to appear, and such appearance has not been determined by the Board to be unnecessary (see subparagraph F below), the Board may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances and shall thereafter follow the procedures set forth in §46-5A of this chapter.

E. Any municipal official, other than a sitting member of the Board, may present evidence on behalf of the municipality.

F. Notwithstanding the provisions of subparagraph D, the Board may accept copies of police reports, investigatory and citation reports and other official documents delivered to it directly or by carrier from the cited person and may determine thereby that the appearance of the cited person at the hearing is unnecessary.

G. The Board shall conduct the hearing in the order and form and accept such methods of proof as it deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.

E. The Board shall announce its decision at the end of the hearing, and shall provide notice to the cited person and provide notice to the officer who issued the initial citation. If the Board determines that the cited person is not liable, it shall dismiss the matter and enter its determination in writing accordingly. If
the Board determines that the cited person is liable for the violation, it shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the Town of Ellington and shall thereafter follow the procedures set forth in §46-5A of this chapter.

§ 46-5. Notice of Assessment, Judgment, and Appeal and Costs of Collection

A. If the assessment is not paid on the day of its entry, the Board shall give notice of the assessment to the cited person and shall file, not less than 30 days nor more than 12 months after such notice, a certified copy of the notice of assessment with the Clerk of the Superior Court for Geographical Area No. 19, together with such entry fee as may be required by the court. The certified copy of the notice of assessment shall constitute a record of assessment. Within such 12-month period, assessments against the same cited person may be accrued and filed as one record of assessment. The Clerk shall enter judgment in the amount of such record of assessment and court costs against such cited person in favor of the Town of Ellington. Notwithstanding any other provision of the General Statutes, the Board’s assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

B. A cited person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of an appeal in the Superior Court. An appeal shall be instituted within 30 days of the issuance of notice of such an assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to § 52-259 of the Connecticut General Statutes, in the Superior Court for Geographical Area No. 19 which shall entitle such person to a hearing in accordance with the rules of the Judges of the Superior Court.

C. A cited person against whom an assessment has been entered shall be responsible for payment of all costs, including, but not limited to, reasonable attorney’s fees, incurred by the Board in the collection of said assessment.


If any provision of this chapter or the application thereof shall be held invalid or unenforceable, the remainder of this chapter, or the application of such terms and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof shall be deemed valid and shall be enforced to the fullest extent permitted by law.

§ 46-7. Effect on other laws.

The provisions of this chapter shall be in addition to and not in derogation of any and all provisions of the Connecticut General Statutes and ordinances of the Town of Ellington.
Chapter 74. Fire Prevention

Article III. Fire Safety Permits

(Adopted xx-xx-2019)

1-074-12 Scope of Ordinance

1-4A This ordinance shall be applicable to all uses, occupancies, facilities, conditions, processes, and activities set forth in §74-143-9 of this Ordinance, whether temporary or permanent, existing as of the effective date of this Ordinance or proposed thereafter, or under construction or renovation.

1-2B This ordinance shall not be applicable to:

(a) detached one and two-family dwellings nor to multiple single-family dwellings attached side-by-side (townhouse) not more than three stories in height with each dwelling having a separate means of egress;

(b) subsections of §2-074-14 where expressly excepted.

(c) any federal agency performing construction or operating on federally owned land or on leased land totally under the control of the federal government.

(d) the examination as part of the zoning or building permit process of any site development plans or any plans depicting the construction, remodeling, renovation or demolition of any proposed, new or existing permanent or temporary building, structure, occupancy, facility, process or condition.

2-074-13 Permits Required

2-4A Notwithstanding any permits or licenses otherwise required and/or issued by the Town of Ellington or the State of Connecticut, the Town of Ellington shall require by this Ordinance, in conformance with and as authorized by the Connecticut State Fire Prevention Code (CSFPC), that each and all of the occupancies and activities identified at §3-074-14, below, be operated and/or conducted only when authorized by a permit as issued by the Ellington Department of Town Fire Marshal, unless specifically excepted.

2-4-(1) The mere act of filing an application for a permit does not constitute having or possessing a permit, having been issued a permit or having approval for a permit.

2-4-(2) Operating without a permit or operating with a suspended, revoked or expired permit shall constitute a violation of this Ordinance and the appropriate sections of the CSFPC and the operator of such occupancies
and activities shall be subject to the statutory penalties prescribed for violations of the CSFPC.

2.2B. Permit Classes and Fees

2.2-(1) There shall be four classes of permits, as provided in §3.074-14 below.

2.2-(2) All permits shall be for a term of one (1) year, unless a shorter term is specified in §3.0 below. Upon expiration of a permit, the continuation of any occupancy or activity described in §3.074-14 below shall require a renewal application and fee.

2.2-(3) The class of permit (i.e., Class I, II, III or IV) required for the occupancies and activities described in §3.074-14 below has been determined by the discretion of the fire marshal, having taken into consideration the level of investigation, research, scrutiny, examination and inspection required by the inspectional provisions of the CSFPC.

2.2-(4) Permit Fees

A Fee Schedule shall be established by the Board of Selectmen for each permit class and shall be reviewed from time to time upon recommendation by the fire marshal. Governmental departments, boards, agencies and commissions shall be exempt from any fee requirements. Formally organized civic groups and organizations, including churches, scouting organizations, sports, police and fire associations shall also be exempt. The permits, however, will be required.

2.3C. Permit Applications and Renewals

2.3-(1) Existing occupancies and activities shall be issued an explanatory notice and an initial application by the fire marshal for the initial permit as soon as is practicable following passage of this Ordinance and the application period shall be thirty (30) calendar days from the date of that notice. Failure to file said application for the initial permit required at §3.074-14 within the thirty (30) day application period shall constitute a violation of §2.474-13B of this Ordinance and a violation of the applicable sections of the CSFPC.

2.3-(2) Except as otherwise provided below, it shall be the responsibility of the owner or operator of each newly established occupancy or activity to properly apply to the Ellington Fire Marshal’s Office on detailed forms provided by the fire marshal for all required permits and permit renewals. Such application shall be filed with the fire marshal at least thirty (30) calendar days prior to the commencement of any such newly established occupancy or activity.

Exception 1: Those occupancies and activities existing at the time of passage of this Ordinance shall receive an initial application from the fire marshal as in §17-13(C)(1)2.3-4, above.
Apartments shall be as defined in the CSFPC and, for the purposes of this Ordinance, as further defined at §2-12-74-14M(1), below.

An apartment building or complex of buildings shall be issued a single permit to include all apartment style living units within that building or complex of buildings.

Exception 1: Condominiums shall be processed as in §74-13(C)(2)(c)2-3-2-3, below.

The party to whom the initial Certificate of Occupancy for a newly constructed condominium unit shall be the party responsible for applying to the Ellington Fire Marshal’s Office for the required permit. Thereafter, each permit renewal shall be applied for by the association, management company or then owner of such condominium unit.

The permit fee shall be based upon the total number of individual living units requiring inspection, without regard to the requisite frequency of those inspections.

The application period for renewal of an existing permit shall be the period of thirty (30) calendar days directly preceding expiration of the existing permit; applications for renewals filed after expiration shall qualify for a late fee penalty.

Application submittals shall be accompanied by the permit fee and any late fee penalties due.

The existence of a Certificate of Occupancy as issued by the Ellington Building Department or a current fire marshal inspection record of substantial compliance with the CFSC and the CSFPC, or a written plan for compliance in those instances where violations have been cited, may constitute a reasonable basis without additional inspection, for issuance of the initial permit for an existing occupancy, at the discretion of the fire marshal; however, possession of a permit shall not constitute prima facie evidence of code compliance.

Substantial compliance, as determined by the fire marshal, with the CSFPC and this Ordinance, or the owner or operator being a party to a written plan for compliance in those instances where violations have been cited, such plan having been approved by the fire marshal, shall be mandatory in the renewal of permits required by §2-074-14 of this ordinance; however, possession of a permit shall not constitute prima facie evidence of code compliance.

Specific Occupancies and/or Activities Requiring Permits
3.4A. The operation or existence of any occupancy or activity described in §3.074-14 without a valid permit as issued by the Ellington Fire Marshal's Office shall constitute a violation of the CSFPC and this Ordinance.

3.2B. Compressed Gases, Special.

The installation, operation, storage, use and/or handling, repair, abandonment, removal temporary placement out of service, closing or substantial modification of compressed gas systems or equipment for quantities enumerated in Table 74-14B 3.2.4, below, in portable and/or stationary containers, cylinders, equipment and tanks in all occupancies shall require a Class III permit.

3.2.4 Table 74-14B3.2.4: [Table 1.12.8(b) of CSFPC]
- Corrosives and flammables in excess of 200 cu. ft.
- Highly toxic in any amount
- Inert and simple asphyxiant in excess of 6,000 cu. ft.
- Oxidizing (incl. Oxygen) in excess of 504 cu. ft., and
- Pyrophoric, toxic and/or unstable in any amount

Exception 1: Flammable compressed gas shall not include Liquid Petroleum Gas; see §3.1474-14N Liquid Petroleum Gases.

3.2.2(1) In those instances where a permit for one activity is required and one or more additional activities associated therewith as enumerated in this section are proposed or conducted, an appropriate additional permit or permits shall also be required.

Exception 1: The fire marshal is authorized discretion in requiring the additional permit(s).

3.3C. Consumer Fireworks 1.4(G).

The display, storage, on-site handling, use and/or sale of consumer fireworks 1.4(G) shall require a Class III permit.

3.4D. Cutting, Welding and Other Hot Work Operations.

Cutting, welding and allied processes, heat treating, large scale grinding operations, large scale pipe thawing operations, hot riveting, torch-applied roofing and similar applications producing or using a spark, flame or heat, all to be known as Hot Work Operations, shall require a Class I permit.

3.4(1) Such permit shall be for a specific period of time (not to exceed one year) and for a specific section or area within the subject building or facility or, if the operation is exterior to any building or facility, then that specific area shall be identified.

3.4(2) Management or a designated agent shall be responsible for the safe operations of all hot work activity. Such town permit shall authorize and/or require management to designate an on-site Permit Authorizing Individual (PAI) at the discretion of and suitable to the fire marshal and
that PAI shall then assume responsibility for all site-specific hot work activities in accordance with the applicable edition of NFPA 51B Standard for Fire Prevention During Welding, Cutting and Other Hot Work.

3.4.(3) The fire marshal is authorized discretion in requiring the permit(s), based upon the scope of the project and the equipment being employed.

3.5E. Day Care including Institutional I-4 and Education Use Groups.

New and existing day care occupancies including those occupancies classified as Institutional Group I-4 and Educational shall require either a Class II or Class III permit as provided below.

3.5.(1) Occupancies with not more than fifty (50) children shall require a Class II permit.

3.5.(2) Occupancies with more than fifty (50) children shall require a Class III permit.

3.6E. Explosives.

The storage, use and handling of explosives and the regulation of all blasting operations shall comply with the requirements of the Conn. Gen. Stat. §§ 29-343 through 29-370 and shall require a State of Connecticut permit as issued by the Ellington Fire Marshal.

3.6.(1) The construction or placement of explosives magazines shall further require a Class III permit from the fire marshal.

3.7G. Fire Protection Systems

This section shall be applicable to the installation, rehabilitation or modification of any fire protection system which shall include any standpipe system, automatic suppression system, fire pump, system reservoir, fire alarm system and/or fire detection system.

3.7.(1) A fire protection system protecting a building or occupancy of 5,000 s.f. or less shall require a Class I permit.

3.7.(2) A fire protection system protecting a building or occupancy of more than 5,000 s.f. but less than 15,000 s.f. shall require a Class II permit.

3.7.(3) A fire protection system protecting a building or occupancy of 15,000 s.f. or more shall require a Class III permit.

3.8H. Flame Effects and/or Pyrotechnics

The use of flame effects and/or pyrotechnics special effects before a proximate audience, performers or support personnel shall require a Class III permit.

3.9I. Flammable and Combustible Liquids
Certain aspects of the installation, storage and use of flammable and combustible liquids including the storage, transmission by pipeline, operation, repair, modification and/or maintenance of such liquids shall require a permit, as provided below, except that bulk storage as defined at §3.9.474-14I(4) shall not be permitted.

3.9.(1) The storage, handling or use of Class I liquids in excess of five (5) gallons aggregate inside a building shall require a Class II permit.

Exception 1: The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motor boat, mobile power plant, or mobile heating plant unless such storage in the opinion of the fire marshal would cause an unsafe condition.

Exception 2: The storage of paints, oils, varnishes, or similar flammable mixtures when such liquids do not exceed fifty (50) gallons aggregate for maintenance, painting, or similar purposes including sale or re-sale.

Exception 3: The storage of Class I liquids sealed in the manufacturers’ or distributors’ consumer packaging and intended only for re-sale to the end user.

3.9.(2) The storage, handling or use of Class II or Class IIIA liquids in excess of sixty-five (65) gallons aggregate inside a building shall require a Class II permit.

Exception 1: Fuel oil not to exceed 350 gals. aggregate used in conjunction with oil burning equipment.

Exception 2: The storage of Class II and Class IIIA liquids sealed in the manufacturers’ or distributors’ consumer packaging intended only for re-sale to the end user.

3.9.(3) The storage, handling or use of Class I, Class II or Class IIIA liquids in excess of three hundred fifty (350) gallons aggregate outside a building shall require a Class III permit.

Exception 1: Fuel oil not to exceed 3000 gals. aggregate used in conjunction with oil burning equipment.

Exception 2: Bulk storage as defined at §74-14I(4)3.9.4, below, is prohibited.

Exception 3: Fuel Servicing, Aircraft and Fuel Servicing, Automotive shall require Class III permits; see §3.9.474-14J and K and §3.9.11.

3.9.(4) Bulk storage of Class I, Class II or Class IIIA liquids, defined for the purposes of this section as storage above ground, below ground or mounded, of more than three thousand five hundred (3,500) gallons aggregate and intended for redistribution, is hereby prohibited within the Town of Ellington.
Exception 1: Storage attendant to the approved and permitted fueling of aircraft or automotive vehicles and equipment as set out at §74-14J and §3.10 and §3.11.

3.9.[5] The construction, installation, repair or modification of a pipeline for the transmission of flammable or combustible liquids, liquid petroleum gas (propane and butane), natural or manufactured gas shall require a Class III permit.

3.9.[6] The installation, alteration, repair, lining with a protective coating, removal, abandonment, placement temporarily out of service, or otherwise disposing of a flammable or combustible liquid tank of greater than three hundred fifty (350) gallons capacity shall require a Class II permit.

3.10J. Fuel Servicing, Aircraft

Construction, installation, significant modification, alteration, repair, removal, abandonment, placing temporarily out of service, or closure of any aircraft fuel servicing in accordance with NFPA 407: Standard for Aircraft Fuel Servicing of every type of aircraft using liquid petroleum fuel, shall require a Class III permit.

Exception 1: In-flight fueling, fuel servicing of flying boats or amphibious aircraft on water and the draining or filling of aircraft fuel tanks incidental to aircraft fuel system maintenance operations or manufacturing shall not require such a permit.

3.11K. Fuel Servicing, Automotive

Construction, installation, significant modification, alteration, repair, removal, abandonment, placement temporarily out of service or closure of an automotive fuel service station, a fuel service station located inside a building or a fleet vehicle fuel service station or facility shall comply with the Connecticut State Fire Safety Code (CSFSC), the CSFPC, the Connecticut State Building Code (CSBC), NFPA 30A: Code for Motor Fuel Dispensing Facilities and Repair Garages, and the Refueling chapter of the CSFPC and shall require a Class III permit.

3.12L. Health Care Facilities

New and Existing Health Care occupancies providing medical or other treatment or care simultaneously to four (4) or more patients on an inpatient basis, where such patients are mostly incapable of self-preservation due to age, physical or mental disability, or because of security measures not under the occupant's control shall require a permit, as provided below.

3.12.(1) Facilities with at least four (4) patients but not more than ten (10) patients shall require a Class I permit.
3.12.2 Facilities with more than ten (10) patients but less than fifty (50) patients shall require a Class II permit.

3.12.3 Facilities with fifty (50) or more patients shall require a Class III _

3.13M Residential Occupancies

3.13.1 Apartment Complexes and Apartment Buildings

This section shall be applicable to any apartment building or complex of apartment buildings which meets the definition for “Apartments” as provided in the CSFPC but which also contains ten (10) or more dwelling units.

3.13.1.1(a) Apartment complexes and apartment buildings shall require one or more Class IV permits as identified below.

3.13.1.2(b) An apartment building as defined shall be considered such without regard to how it is otherwise marketed, advertised or known, such as a condominium, townhouse, etc.

3.13.1.3(c) Notwithstanding the CSFPC definition of an apartment building, this Ordinance serves to require a permit only for those apartment buildings or complexes with ten (10) or more such dwelling units;

3.13.1.4(d) Only a single permit shall be required, issued either for the entire complex (two or more buildings) or, if not a complex, for the single building, unless the apartment building contains condominium units which shall then require a permit, or additional permits, to be issued as provided in §74-13C(2)(c)2.3.2.3 of this Ordinance.

3.13.2 Bed and Breakfast Establishments (Group R-1)

A building that the owner occupies or is adjacent to a building that the owner occupies as his or her primary place of residence, has a total occupant load of not more than sixteen (16) persons including the owner-occupants, and has no provisions for cooking or warming of food in the guest rooms shall require a Class II permit.

3.13.2.1(a) No R-1 Bed and Breakfast establishment shall be permitted within a Mixed Use building.

3.13.2.2(b) No guest rooms shall be located on other than the first or second floors of a maximum three story building.

3.13.3 Hotels (including Residential Group R-1)

Any building or group of buildings under the same management in which there are sleeping accommodations for more than sixteen (16) persons
and primarily used by transients for lodging with or without meals shall require a Class III permit.

3.13.(4) Lodging and Rooming Houses

A building or portion thereof that does not qualify as a one or two-family dwelling, that provides sleeping accommodations for a total of sixteen (16) or fewer people on a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants except as provided in Chapter 24 of the CSFPC shall be considered a Lodging or Rooming House and shall require a Class III permit.

Exception 1: This section shall not be enforced until such time as the State Fire Marshal includes Lodging or Rooming Houses in the 1.12.8(a) Table of Permit Requirements, as expected in the next code revision.

3.13.(5) Residential Board and Care Occupancies

Occupancies used for lodging and boarding of four (4) or more residents, not related by blood or marriage to the owners or operators, for the purpose of providing personal care services including group housing for physically or mentally handicapped, group housing for the elderly and/or others that provides personal care services but not nursing services, facilities for social rehabilitation, and assisted living facilities shall require a permit as provided below.

3.13.5.1(a) Occupancies with accommodations for not more than ten (10) persons shall require a Class I permit.

3.13.5.2(b) Occupancies with accommodations for more than ten (10) persons but not more than fifty (50) persons shall require a Class II permit.

3.13.5.3(c) Occupancies with accommodations for more than fifty (50) persons shall require a Class III permit.

3.14N Liquefied Petroleum Gases Storage and/or Dispensing Facilities.

This section shall be applicable to the installation, substantial repairing or modification including the abandonment, temporary placement out of service, temporary closure, permanent closure or removal of liquefied petroleum gas dispensing facilities, storage facilities and retail sales facilities as further defined and shall require either a Class I or Class III permit as further specified.

3.14.(1) Installation, substantial repairing or modification including the abandonment, temporary placement out of service, temporary closure, permanent closure or removal of liquefied petroleum gas dispensing facilities, storage facilities and retail sales facilities shall require a Class III permit.

3.14.(2) Installation, repair, modification, temporary closure, temporary placement out of service, abandonment, permanent closure or
removal of portable container service on an exchange basis shall require a Class I permit.

3.14.(3) In those instances where a permit for one activity is required and one or more additional activities associated therewith as enumerated above are proposed or conducted, an appropriate additional permit or permits may also be required, at the discretion of the fire marshal.

3.14.(4) Bulk storage of liquefied petroleum gas, defined for the purposes of this section as storage above or below ground or mounded, of more than two-thousand-five-hundred (2,500) gallons (WC) aggregate and intended for redistribution, said aggregate to include storage in tanks, DOT cylinders, vehicles, etc., is hereby prohibited within the Town of Ellington.

Exception 1: Existing approved bulk storage of liquid petroleum gas is exempt from this sub-section (3.14.474-14N(4)).

3.14.(5) Existing bulk storage as defined at §3.14.474-14N(4) shall require a Class III permit.

3.15 Oxidizers.

The storage, use and/or handling of oxidizer solids and liquids in quantities as regulated by the Hazardous Materials chapter of the CSFPC require a Class II permit.

3.16 Special Outdoor Events, Carnivals and Fairs

CGS §29-291a-3a (7) authorizes and requires through the CSFPC the regulation and control of special events, including assemblages of people, exhibits, trade shows, amusement parks, haunted houses, outdoor events and other similar special temporary and permanent occupancies and events.

3.16.(1) All outdoor events open to the public, such as, but not limited to, carnivals, fairs, auctions, open air markets, musical presentations, trade shows, exhibitions, expositions, vehicular performances (not static displays) and similar events shall require a permit, as provided below.

3.16.1.(a) An expected occupant load of 250 or more, but fewer than 1000 persons shall require a Class II permit;

3.16.1.(b) An expected occupant load of 1000 persons or more shall require a Class III permit.

3.16.1.(c) Outdoor events with an expected occupant load of more than 50 persons, but fewer than 250 persons may require a Class I permit, at the discretion of the fire marshal.

Exception 1: Non-intrusive gatherings within the Town public park system which are considered normal and routine for any public park, as
determined by the fire marshal, are exempt from the requirement of a permit.

3.16.(2) Permit applications accompanied by the appropriate fee must be filed with the Department of Town Fire Marshal not later than 30 days prior to the scheduled opening of the proposed event.

3.16.2.4(a) No application shall be considered as filed or otherwise accepted until it is determined by the fire marshal to be complete in every aspect.

3.16.(3) In evaluating the permit application the Department of Town Fire Marshal shall examine access for emergency vehicles; provision of and access to fire protection equipment; placement, construction and/or erection of tents, stands, concession booths and exhibits; the control of hazardous conditions dangerous to life and property including, but not limited to, occupant and vehicular ingress and egress, bandstands, bleachers, tents, awnings, canopies, cooking equipment, open flames of all types, reviewing stands, electrical systems and generators, flammable and combustible liquids, trash and rubbish handling, smoking materials, liquid petroleum gases and occupancy loading.

Exception 1: The fire marshal shall have discretionary authority to waive or modify the permit requirements of this section based upon the type and duration of the event, expected attendance, degree of hazard, degree of community disruption, impact upon quality of life factors, potential burden upon emergency services and any other factors affecting public safety as enumerated in the application.

3.17Q. Tar Kettles

The use of any type of equipment including but not limited to chassis-mounted equipment used for pre-heating or heating tar, asphalt, pitch or similar substances for roofs, floors, foundations, pipes or similar objects and the installation of torch-applied roofing systems shall require a Class I permit.

4.074-15 Denial of Applications; Issuance, Suspension and Revocation of Permits

4.1A. Denial of a Permit Application

4.1-(1) All information requested during the initial application and renewal application processes must be furnished and failure to do so shall constitute grounds for rejection or denial of the application.

4.1-(2) Any permit application may be denied for cause as determined by the fire marshal.

4.1-(3) All fees paid in connection with an application are non-refundable, regardless of whether the permit is approved or denied.
4.2B. Issuance of a Permit

4.2.1(1) No permit shall be issued without all outstanding fees having been paid in full.

4.3C. Suspension of a Permit

4.3.1(1) Any permit issued by authority of this Ordinance may be suspended for an indeterminate period of time by the fire marshal for cause.

4.3.1(2) Written notice of suspension shall be made via certified mail upon the permittee or his/her employee/agent at the business address of record.

4.3.1(3) Such causes may include but not be limited to filing erroneous or untruthful information with an application; failure to pay fees and penalties; demonstration of an unwillingness to work towards maintenance of a violation-free occupancy or activity; violations of the CFSC or the CSFPC; unsafe procedures employed in processes and activities.

4.4D. Revocation of a Permit

4.4.1(1) Any permit issued by authority of this Ordinance may be revoked for cause by the fire marshal.

4.4.1(2) Written notice of revocation shall be made via certified mail upon the permittee or his/her employee/agent at the business address of record.

4.4.1(3) Such causes may include but not be limited to those causes shown at §74-15C(3)4.3.3, above.

4.4.2(4) Revoked permits shall not be considered for the return of any portion of any fee or penalty.

4.4.3(5) Revocation of a permit shall be considered final, unless appealed pursuant to §6.074-17 below; any new permit must be processed as a new application and must be accompanied by the permit fee and any penalties.

5.074-16 Penalties

5.1A. Violation of this ordinance shall also constitute a violation of the CSFPC and violators shall be subject to the various penalties prescribed by statute.

5.2B. In addition to any other remedies that may be provided for by law, the fire marshal is authorized to issue citations for violations of the provisions of this Article. The fine for each violation will be as set forth in the policy adopted by the Board of Selectman, as amended from time to time. Each separate day that a
violation exists after the issuance of a citation shall be subject to a separate additional fine without the issuance of a separate citation.

5.3C. In lieu of issuing a citation as provided in section 5.274-16B above, the fire marshal may serve written notice of the violation(s) of this Article to the owner or operator of the regulated occupancy. Such notice shall be made in accordance with Chapter 40-2 and shall state the violation(s), demand their correction within 10 calendar days, and state that if the owner and/or operator fails to correct the violation before the deadline, the fire marshal may issue a citation to the owner and/or operator per section 5.274-16B of this Chapter.

6.074-17 Appeals

6.1A. Any appeal of a statutory penalty (including without limitation fines and Infraction Citations) shall be handled in the manner provided by statute.

6.2B. The decision made by the Ellington Fire Marshal’s Office to deny any permit application or to suspend or revoke any permit may be appealed within fifteen (15) calendar days to the Ellington Board of Selectmen on a Notice of Appeal form as provided by the Fire Marshal’s Office.

6.2.(1) The First Selectman shall provide to the fire marshal immediately upon receipt, a copy of the properly executed Notice of Appeal and shall schedule a hearing to be held not later than forty-five (45) calendar days following receipt of such Notice; the fire marshal and the appellant shall be provided at least fifteen (15) calendar days advance notice as to the date, time and place of the hearing and both the fire marshal and the appellant may submit testimony. The hearing shall be concluded not later than thirty (30) calendar days from the date it commenced.

6.2.(2) The Board of Selectmen shall issue a formal written opinion to both the appellant and the fire marshal declaring their finding(s) within fifteen (15) calendar days of the conclusion of that hearing. The decision of the Board of Selectman shall be considered final and not subject to further appeal.

6.3C. If the fine provided for in any citation issued pursuant to section 5.274-16B above is unpaid beyond the due date, the fire marshal may initiate proceedings under Chapter 46, Citations, tc collect such fine.

6.4D. Any person issued a citation and fined pursuant to section 5.274-16B above may appeal such citation and fine pursuant to the provisions of Chapter 46, Citations.
Chapter 74. Fire Prevention

Article I Fire Zones

§ 74-1 Definitions.
§ 74-2 Designation and posting of fire zones.
§ 74-3 General regulations.
§ 74-4 Enforcement officers.
§ 74-5 Appeals.
§ 74-6 Penalties for offenses.

Article I: Fire Zones


§ 74-1 Definitions.

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

EMERGENCY VEHICULAR TRAFFIC
Includes fire apparatus, rescue vehicles, police vehicles, and private vehicles answering or working at emergency calls and shall also include any of the foregoing while such vehicles are on standby duty or any other official duty.

FIRE LANE
The same definition as the term "fire zone."

FIRE MARSHAL
The Town Fire Marshal, Deputy Fire Marshals and Fire Inspectors.

FIRE ZONE
Any area, space, lane, drive, path, or state, Town or private road or street so designated a fire zone by the Town Fire Marshal. Such designation shall cause that zone to become permanently available to emergency vehicular traffic and also available for large-scale firefighting evolutions.

PROPERTY OWNER AND/OR OPERATOR
Includes any and all persons who own, lease or operate any property or premises upon which a fire zone is established or designated to be established, including any and all of their employees, representatives, agents, guests and invitees.

TEMPORARY FIRE ZONE
A fire zone as specified above, except that it shall be established on a temporary basis to meet specific requirements in response to or in anticipation of a specific event.

§ 74-2 Designation and posting of fire zones.

A. The fire marshal shall designate all fire zones as he may determine appropriate in the interests of public safety.

B. No property owner or operator or other person shall establish any fire zone without a specific written or verbal fire zone designation by the fire marshal, whether that designation is for a permanent or temporary fire zone.

C. Fire zones may be designated and ordered established verbally or in written format from the fire marshal.

D. The fire marshal shall establish requirements for the proper posting of any fire zone, which may vary between applications due to the particular circumstances.

E. The fire marshal shall furnish to the policing agency, from time to time, an updated listing of established fire zones in the Town. Said policing agency shall review this list and, in the process of patrolling the fire zones, shall report to the fire marshal any conditions found to exist which appear to be a hindrance or an impediment to the proper enforcement of this article.

§ 74-3 General regulations.

A. Establishment of fire zone(s).

(1) The Town Fire Marshal shall make reasonable requirements regarding the establishment of fire zones on any premises as specified in § 74-2 or as authorized by the Connecticut Fire Safety Code, the Connecticut State Fire Prevention Code or the Connecticut General Statutes.

(2) This article shall apply equally to all lands and property, public and private, including but not limited to the premises of any assembly, educational, health care, residential, mercantile, business, industrial, storage and/or unusual occupancies including outside areas of public assembly and construction sites, except single- and two-family residential properties unless Chapter 17, Public Assemblies, Article II, Use of Outside Areas, of this Code is applicable.

(3) Property owners and/or operators shall establish fire zones exactly as specified and required by any order of the fire marshal designating any fire zone and this shall be accomplished within the period specified in any such order.

(4) Fire zones may be temporarily suspended only by the fire marshal when such suspension is in the best interests of the public and does not impact negatively upon the emergency services.

B. Design, construction and posting of fire zone(s).
(1) Fire zones shall be of sufficient design, width, turning radius, and durability so as to assure safe passage, setup and operation of emergency vehicles.

(2) Fire zones which are established within 50 feet of a principal building shall be interpreted and understood to include the area between the fire zone and the subject building.

(3) Fire zones may be required to be of specific design so as to permit particular fire ground operations within their confines.

(4) Construction requirements of fire zones shall consider severe weather conditions, such as snow, wind and flooding.

(5) In an effort to establish traffic patterns so as to further secure fire zones, such items as signs, berms, curbing, painted lines, barriers and other means, separately or in combination, may be required.

(6) All materials used in posting of or otherwise establishing a fire zone shall be professionally prepared materials designed for such use and application.

(7) The fire marshal is authorized to establish specific requirements for the design, construction, materials, posting, signage, berms, curbing, painted lines, barriers and other considerations, separately or in combination, for the proper establishment of fire zones; failure to meet these requirements shall constitute a violation of this Article.

C. Maintenance of fire zone(s).

(1) Property owners and/or operators shall supervise and maintain fire zones sufficiently to assure instant availability to the emergency services and shall not permit any obstruction to or encroachment upon any fire zone established upon their premises.

(2) At any indoor or outdoor public assembly occupancy the fire marshal may require the owner or operator to hire members of the Department of Town Fire Marshal, private duty police officers, firefighters, or such other persons as approved by the fire marshal in sufficient numbers and for sufficient duration so as to ensure proper enforcement of this Article.

(3) Snow shall be removed from any fire zone prior to the opening of the premises to the public when such snow is in excess of four inches. In circumstances where the premises are not normally open to the public, such snow shall be removed from any fire zone within three hours following the end of a storm.

(4) No person shall cause or encourage or otherwise allow or permit any obstruction to or encroachment upon any fire zone.

(5) Immediate hazards, obstructions and/or encroachments upon any fire zone may be ordered by the enforcing authorities to be removed forthwith, and refusal of any such order by the property owner and/or operator of the premises shall be just cause for the enforcing authorities to effect
the removal through any reasonable means with the costs related thereto to be borne by the property owner and/or operator of the premises.

(6) In instances where the safety of the public is in immediate jeopardy due to a violation of this article, enforcing authorities or any fire officer may cause the immediate removal of any such hazards, obstructions and/or encroachments without providing prior notice to the property owner and/or operator of the premises, except that as soon as is reasonably possible following such removal written notice shall be provided to the address(es) of record, if known, for the property thus removed.

(7) Said property owner and/or operator shall be liable for all expenses and damages associated with any such removal as authorized in Subsection C(6) and (7), including expenses associated with the removal, transportation and storage of any property or material associated with such removal.

§ 74-§4 Enforcement officers.

This article shall be enforceable by the Town policing agency and by the Town Fire Marshal.

§ 74-5 Violations, Citations and Appeals.

A. The enforcement officers are hereby authorized, in addition to any other remedies that may be provided for by law, to issue citations for violations of the provisions of this Article. The fine for each violation will be as set forth in the policy adopted by the Board of Selectmen, as amended from time to time. Each separate day that a violation exists after the issuance of a citation shall be subject to a separate additional fine without the issuance of a separate citation.

B. In lieu of issuing a citation as provided in subparagraph A above, the enforcement officers may serve written notice of the violation(s) of this Article to the property owner and/or operator. Such notice shall be made in accordance with Chapter 46-2 and shall state the violation(s), demand their correction within 10 calendar days, and state that if the property owner and/or operator fails to correct the violation before the deadline, the enforcement officer may issue a citation to the property owner and/or operator per § 74-5A of this Chapter.

C. If the fine provided for in any such citation is unpaid beyond the due date, the enforcement officers may initiate proceedings under Chapter 46, Citations, to collect such fine.

D. Any person issued a citation and fined pursuant to this chapter may appeal such citation and fine pursuant to the provisions of Chapter 46, Citations.

NOTE: APPEALS AND PENALTIES SECTIONS SHOULD BE CONSTRUCTED SO AS TO BE UNIFORM WITH THE OTHER ORDINANCES BEING PROPOSED FOR
INCLUSION WITHIN SGT. SANTA'S PROGRAM FOR UNIFORM ENFORCEMENT
BY CITATION.

A reference that appeals and penalties will be governed by the Ordinance Section
being proposed by Sgt. Santa should be made here.

A. Persons directed under the provisions of this article to provide one or more fire zones may
appeal the need for or particular requirements for a fire zone to the Town traffic authority in
writing using forms developed by the Fire Marshal.

B. Appeal forms may be obtained from either the Fire Marshal, First Selectman or policing
agency, and completed forms must be filed with the First Selectman within 15 calendar days of
receipt of the order to establish the fire zone.

C. The Town traffic authority, after a hearing at which the appellant and Fire Marshal shall be
invited to appear and give evidence, shall issue a written decision upon the appeal form which
may uphold the directive, modify the directive, rescind the directive, or any combination thereof.
The appellant(s) shall then be notified by said traffic authority and a copy of the fully executed
appeal form shall be transmitted to the Fire Marshal.

§ 74-6 Penalties for offenses.

A. Violation of this article shall be an infraction as defined in Connecticut General Statutes
§§ 51-164m and 51-164n, as the same may be modified from time to time. In the event that a
greater penalty is specifically set forth in the Connecticut General Statutes, then the greater
penalty shall apply.

B. Any person who violates any provision of the Fire Safety Code shall be fined not less than
$200 nor more than $1,000 or imprisoned not more than six months, or both, pursuant to
Connecticut General Statutes § 29-295.
Chapter 74. Fire Prevention

Article II: Open Burning


§ 74-76 Scope.

A. This Article shall be applicable to the entire Town.

B. This Article shall apply to all lands, public and private

C. Nothing within this Article shall be construed as restricting the duties and responsibilities of the open burning official as may be prescribed by the General Statutes or the Commissioner of the Connecticut Department of Energy and Environmental Protection.

§ 74-87 Definitions.

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

BONFIRE
Any outside fire considered by the fire marshal to be beyond the reasonableness of a CAMP FIRE; any outside fire involving actual construction and/or assemblage of a fuel source or requiring employment of guy wires or other means of support prior to ignition.

CAMP FIRE
Limited to any outside fire not greater than forty-eight (48) inches in diameter and developing flames not greater than thirty-six (36) inches in height in an area cleared of combustible material to a distance of six (6) feet in radius and burning charcoal, LP-gas in an approved appliance or unprocessed wood.

ENCLOSED COOKING FIRE
Includes only charcoal, LP-gas or unprocessed wood fires in containers carrying recognized testing laboratory listing, acceptance or approval and constructed for the obvious and express purpose of cooking.

OUTSIDE FIRE
A general term referencing all of the types of open outside fires including but not limited to camp fires, bonfires, enclosed or open cooking fires, permitted and non-permitted fires and open burning, and shall not be construed to include any type of fire normally kindled within a structure.

FIRE MARSHAL
Includes the fire marshal and any deputy fire marshal and fire inspector.

NON-PERMITTED FIRE
Includes any type of outside fire requiring approval or authorization as provided in § 74-109 but not having such approval or authorization; includes any outside fire kindled in violations of the Connecticut Department of Energy and Environmental Protection (CT-DEEP) open burning regulations or this Ordinance; including without limitation any outside fire deemed a hazard or nuisance as provided for in § 74-109. Any non-permitted fire shall constitute one or more violation/s of this Ordinance.

OPEN BURNING
Includes outside fires for the control or destruction of bona fide disease and pests, agricultural burning or vegetation management on farms; outside fires by any resident to dispose of brush on the property where he resides; outside fires for Fire Department training; outside fires authorized by the fire marshal at the Town landfill or transfer station; clearing of vegetative debris following a natural disaster; fire breaks; and habitat or ecological sustainability on municipal property or on privately owned property permanently dedicated as open space and shall include no fires where the products of emission do not pass through an approved chimney.

OPEN BURNING OFFICIAL
The official appointed by the Board of Selectman to administer this article and open burning regulations of the Connecticut Department of Energy and Environmental Protection.

OPEN COOKING FIRE
Includes all Camp Fires used for cooking and shall not deviate from or exceed the limitations of Camp Fires kindled outside on any property.

PERMITTED FIRE
Includes any outside fire that has been properly authorized by the open burning official and/or the fire marshal and shall also include any other type of outside fire authorized by § 74-409.

PERMITTEE
Includes any person to whom an open burning permit has been issued, any person authorized by the fire marshal to kindle an outside fire, and any agent thereof.

PROCESSED WOOD
Any wood that has undergone any process whatsoever, including all types of milled, painted, stained or otherwise treated wood and includes all construction and demolition lumber and scraps.

RESPONSIBLE PERSON
Includes the permittee and those persons designated or allowed by the permittee to kindle or maintain any outside fire under the provisions of this Article and all of whom shall be considered agents of the permittee; also includes the person or persons in charge of or otherwise responsible for any lawful or unlawful outside fire.

§ 74-98 Administration.
A. The Board of Selectman may designate one or more periods when, subject to obtaining a permit as provided in §74-409, open burning may be permitted under this Article, there being no permitted open burning during non-designated times.

B. Subject to Subsection A above, the open burning official may further designate certain days and times within any period designated by the Board of Selectman for open burning during which period application may be made for an open burning permit.

C. Any violation of § 74-409 of this Article shall be sufficient reason to deny any future application from the violator or from any other person acting as an agent of the violator for an open burning permit as issued by the open burning official or any type of fire permit as issued by the fire marshal.

D. The fire marshal or any fire or police officer having jurisdiction, after having been made aware of a particular outside fire and having satisfied himself as to the circumstances and applicable requirements, shall cause any outside fire not specifically permitted in § 74-409 or any outside fire deemed a hazard or nuisance to be immediately extinguished as a non-permitted fire and may summon the fire service to accomplish this extinguishment.

E. Any fire or police officer who orders any outside fire to be extinguished shall cause the fire marshal to be notified immediately and shall provide sufficient details so as to assist the fire marshal in determining the need for investigation and/or enforcement action.

F. Upon receipt of any complaint concerning any outside fire, the fire marshal shall cause an investigation to be made to determine the validity of the complaint and shall take enforcement action when deemed appropriate; the fire marshal may require that any complaint be made in writing and be notarized.

G. The fire marshal shall assume responsibility for notifying the open burning official when enforcement action is taken in those instances where an open burning permit was in effect.

H. The fire marshal shall institute procedures necessary to accomplish the requirement of obtaining fire marshal approval as required in § 74-409.
I. A fee schedule shall be adopted by the Board of Selectmen for permit applications and may be amended as appropriate by that Board.

J. The fire marshal or any fire or police officer having jurisdiction may enter upon any outside property at any time for the purpose of investigating a complaint regarding an outside fire or any fire that generates a complaint or a hazard or nuisance, whether or not the fire is burning or was extinguished prior to the complaint.

§ 74-409 Regulations.

A. No person shall kindle any outside fire within the Town unless he has received a permit from the open burning official for those fires defined as "open burning" in § 74-87 or as further provided in Subsections A(1), (2) and (3) of this section.

(1) An open cooking fire as defined in § 74-87 and a campfire properly maintained and kindled in approved manner of containment on single- or two-family residential property and not employing any unlawful type of fuel shall be permitted without any prior notice or approval, provided the same is continuously attended by a responsible person.

(2) An enclosed cooking fire as defined in § 74-87 on any property shall be permitted without any prior notice or approval, provided the same is continuously attended by a responsible person; except that such outside fires in forests and woodlands shall require fire marshal approval.

(3) Any other outside fire of any type on any and all types of property whatsoever shall require fire marshal approval.

B. Any outside fire shall be considered a non-permitted fire if it is determined by the fire marshal or any fire or police officer having jurisdiction to be a hazard or nuisance or otherwise violates this ordinance, whether an open burning permit has been issued or fire marshal approval has been granted or whether it is within a stated exception.

C. Sufficient tools and equipment necessary to extinguish any outside fire of any kind whatsoever must be present and readily available, and a responsible person, physically capable of using those tools and equipment, must be present and in control of any such outside fire.

D. The permittee or responsible person must be in physical possession of any written permit during the entire process of the outside fire. Said person must present any written permit or authorization to the fire marshal, fire officer or police officer upon request.

E. The permittee shall extinguish any permitted outside fire prior to leaving the proximate area of said outside fire for any reason whatsoever or upon the order of the fire marshal, open burning official, or any fire officer or police officer.

(1) Insufficient or unsuitable equipment or insufficient manpower to control any outside fire, a change to unfavorable weather conditions, a determination that the outside fire is a hazard or a nuisance, a change in the CT-DEEP forest fire index which would render the outside fire a violation, notice of an air pollution emergency, or any evidence of a type or magnitude of outside fire contrary to that which was specifically permitted or authorized or otherwise allowed by this Article shall justify any order to extinguish such fire.

(2) In the event of any refusal to comply with any order to any person in charge of any outside fire to extinguish said fire the Fire Department is authorized to extinguish said fire and shall immediately cause the fire marshal to be notified.

(3) Refusal to comply with any order authorized by this Ordinance to extinguish any outside fire shall constitute a violation of this Ordinance.

F. No permittee or responsible person shall allow an outside fire to be kindled outside the date, time, area or location parameters of any permit or to extend in area beyond that which is specifically authorized or permitted or otherwise allowed.
G. No permittee or responsible person shall introduce or allow the introduction of any improper, unauthorized or otherwise illegal material into any outside fire; such material shall include but not be limited to construction remnants, demolition debris, flammable or combustible liquids, treated lumber, rubbish, trash, waste materials and any substance known to be hazardous to health.

H. The permittee or responsible person shall be liable for any suppression costs that may reasonably be brought forth by the fire marshal in the name of the Town of Ellington which were incurred as a result of any outside fire.

I. No landowner shall knowingly allow, permit, authorize or encourage any type of non-permitted fire upon his property.

J. Any change in the CT-DEEP forest fire hazard index to "High" or greater shall cause any permit or authorization to be null and void without consideration of distance to woodland or grassland.

K. No CT-DEEP open burning permit shall be issued by an open burning official to any resident for any open burning when such open burning would occur upon any property or premises regulated by the Fire Safety Code or Fire Prevention Code of the State of Connecticut unless such permit is approved by the fire marshal.

L. Violation of any condition set down as a part of any permit approval or other approval shall constitute a violation of this Article.

M. No permit approval or other approval shall be granted for property not appearing to conform to Chapter 36, Numbering of Buildings, of this Code.

§ 74-410 Enforcement Officers.

This Article shall be enforceable by the fire marshal and the policing agency having jurisdiction.

§ 74-4211 Violations, Citations and Appeals.

A. The enforcement officers are hereby authorized, in addition to any other remedies that may be provided for by law, to issue citations for violations of the provisions of this Article. The fine for each violation will be as set forth in the policy adopted by the Board of Selectman, as amended from time to time. Each separate day that a violation exists after the issuance of a citation shall be subject to a separate additional fine without the issuance of a separate citation.

B. In lieu of issuing a citation as provided in subparagraph A above, the enforcement officers may serve written notice of the violation(s) of this Article to the permittee and/or responsible person. Such notice shall be made in accordance with Chapter 46.2 and shall state the violation(s), demand their correction within 10 calendar days, and state that if the permittee and/or responsible person fails to correct the violation before the deadline, the enforcement officer may issue a citation to the permittee and/or responsible person per §74-12A of this Chapter.

C.B. If the fine provided for in any such citation is unpaid beyond the due date, the enforcement officer may initiate proceedings under Chapter 46, Citations, to collect such fine.

D.C. Any person issued a citation and fined pursuant to this chapter may appeal such citation and fine pursuant to the provisions of Chapter 46, Citations.
CHAPTER 17. ASSEMBLIES, PUBLIC

ARTICLE II
Use of Outside Areas
[Adopted effective 2-24-1981, amended ______-2019]

§ 17-11. Applicability.

The provisions of this Article shall apply to all outdoor events within the entire town when operable to the public, such as, but not limited to, carnivals, fairs, auctions, open air markets, musical presentations, trade shows, exhibitions, expositions, vehicular performances (not static displays), and similar events when such public assembly exceeds, or can be reasonably expected by the Department of Town Fire Marshal to exceed fifty (50) persons (including employees, volunteers, vendors, visitors, patrons, sponsors, exhibitors, etc.).

§ 17-12. Authority of Town Fire Marshal, Deputy Fire Marshals and Fire Inspectors.

A. In addition to any requirements of Chapter 74, Article III——, Fire Safety Permits, of this Code, the fire marshal:

1. Shall designate fire zones as permitted in Chapter 74, Article I, Fire Zones, of this Code as he deems appropriate.

2. May require such fire-extinguishing equipment, personnel and apparatus as he may deem necessary to be held at a specific location or locations and in a state of immediate readiness to provide reasonable and adequate safety from fire and other emergencies.

3. May require direct communication with a designated emergency dispatch center from a safe area within the assembly area.

4. May make provisions and set conditions and/or requirements for such features as seating, capacity, occupant loading, aisles, lighting, storage of combustibles, storage of flammable and combustible liquids, rubbish handling, vending equipment, cooking equipment, electrical connections and equipment including portable, vehicle mounted and stationary generators, all displays and exhibits, stage and bandstand construction, operating procedures and methods which may be excluded or otherwise prohibited or, if approved or otherwise permitted shall be installed, operated and/or maintained in accordance with manufacturers’ specifications and/or recommendations, all as he deems necessary and appropriate for public safety.

B. Fire marshal as used in this Article shall mean the Town Fire Marshal, any deputy fire marshal or inspector.


Any violations of the foregoing, or the existence of any other hazardous condition, as determined by the fire marshal, which may jeopardize the safety of the public shall be just cause for the fire marshal to prohibit the opening or continuation of the public assembly function in whole or in part or to order the discontinuance and/or suspension of the public assembly function in whole or in part until such time as the fire marshal ascertains that required safety features have been provided or re-established.

§ 17-14. Violations, Citations and Appeals
A. The fire marshal is hereby authorized, in addition to any other remedies that may be provided for by law, to issue citations for violations of the provisions of this Article. The fine for each violation will be as set forth in the policy adopted by the Board of Selectman, as amended from time to time. Each separate day that a violation exists after the issuance of a citation shall be subject to a separate additional fine without the issuance of a separate citation.

B. In lieu of issuing a citation as provided in subparagraph A above, the fire marshal may serve written notice of the violation(s) of this Article to the organizer of the event. Such notice shall be made in accordance with Chapter 46-2 and shall state the violation(s), demand their correction within 10 calendar days, and state that if the organizer of the event fails to correct the violation before the deadline, the enforcement officer may issue a citation to the organizer of the event per § 17-14A of this Chapter.

C.B. If the fine provided for in any such citation is unpaid beyond the due date, the fire marshal may initiate proceedings under Chapter 46, Citations, to collect such fine.

D.C. Any person issued a citation and fined pursuant to this chapter may appeal such citation and fine pursuant to the provisions of Chapter 46, Citations.
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July 3, 2018

Chapter 10. Alcoholic Beverages

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

GENERAL REFERENCES

Parks and recreation areas — See Ch. 116.

Article I. Possession of Alcohol by Minors

[Adopted 11-13-2000, effective 12-12-2000]

(Reference C.G.S. 30-89a, Public Possession of Liquor by Minors Prohibited)

§ 10-1. Findings; purpose

A. The Board of Selectmen of Ellington finds that:
   1) The unregulated possession of alcoholic beverages by minors is detrimental to the general welfare, health, and safety of all residents of Ellington, as well as presents a public nuisance to the general public as well.

B. Therefore, the Town of Ellington seeks to protect, preserve, and promote the health, safety, and quality of life by regulating possession of alcohol by minors.

§ 10-2. Definitions

(Reference C.G.S. 30-1, 2017v)

The terms Alcohol, Alcoholic Liquor or Alcoholic Beverage, Beer, Spirits and Wine shall be defined as provided in Conn. Gen. Stat. 30-1, as amended from time to time.”

ALCOHOL: means the product of distillations of any fermented liquid, rectified either once or more often, whatever may be the origin thereof, and includes the synthetic ethyl alcohol which is considered non-potable.

ALCOHOLIC LIQUOR OR ALCOHOLIC BEVERAGE: includes the four varieties of liquor defined in subdivisions (2), (5), (18), and (19) of C.G.S. 30-1 (alcohol, beer, spirits, and wine) and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed by a human being for beverage purposes.

BEER: means any beverage by the alcoholic fermentation of an infusion or decoction of barley, malt, and hops in drinking water.

MINOR: means any person under twenty-one years of age.

SPIRITS: means any beverage that contains alcohol obtained by the distillation mixed with drinking water and other substances in solution, including brandy, rum, whiskey and gin.
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**WINE**: means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits, such as grapes or apples or other agricultural products containing sugar, including fortified wines such as port, sherry, or champagne.

§ 10-3. Possession restricted

No minor shall possess any form of alcoholic beverage, whether open or closed unopened, within the Town of Ellington except when accompanied by or in the presence of his or her parent, guardian, or spouse who is of legal age to purchase alcoholic beverages in the State of Connecticut. This restriction shall apply to both public and private property. *Nothing in this section shall be construed to burden a person’s exercise of religion under section 3 of article first of the Constitution of the state in violation of subsection (a) of section 52-571b.*

§ 10-4. Hosting an event or gathering

No person shall host an event or gathering at which alcoholic beverages are consumed by or dispensed to any minor. This prohibition shall apply to any events or gathering on both public and private property. *Nothing in this section shall be construed to burden a person’s exercise of religion under section 3 of article first of the Constitution of the state in violation of subsection (a) of section 52-571b.*

§ 10-5. Possession otherwise permitted by law

Notwithstanding the above, nothing herein shall prohibit the serving of alcoholic beverages by a minor if otherwise permitted by law.

§ 10-6. Enforcement

The First Selectman as the Chief of Police, or his/her designee(s), is charged with enforcing the provisions of this article.

§ 10-7. Penalties for offenses

A. First time violation

1) Any person cited under 10-3 will be subject to a **category-2-fine** *(in the amount of $100)* and/or be required to complete a substance abuse awareness and prevention program.

2) Any person cited under 10-4 shall be subject to a **category-2-fine** *(in the amount of $100)* and/or be required to complete a substance abuse awareness and prevention program.

B. Subsequent violation(s)

1) For each subsequent violation of 10-3, any person cited will be subject to a **category-2-fine** ($100) plus $25.
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2) For each subsequent violation of 10-4, any person cited will be subject to a category 2 fine ($100) plus $25.

C. All fines paid pursuant to this article shall be payable to the Town Clerk of the Town of Ellington.

§ 10-8. Appeals Procedure
Any person fined pursuant to this article may appeal such fine in accordance with the provisions of Chapter 46 of the Town Ordinances.

Board of Selectmen Meeting: May 14, 2018
Board of Selectmen Town Ordinance Committee: June 5, 2018
Board of Selectmen Meeting: June 11, 2018
Board of Selectmen Town Ordinance Committee: August 6, 2018
Board of Selectmen:
Public Hearing: _________________
Town Meeting: _________________