

Ryan Knapp, Chair
Judit DeStefano, Vice Chair
Neil Chaudhary
Dan Honan
Mary Ann Jacob
Chris Eide



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TOWN OF NEWTOWN

Minutes of the Legislative Ordinance Committee Meeting

The Ordinance Committee met on Wednesday August 2nd, 2017 in Meeting Room 1 of the Municipal Center, 3 Primrose Lane, Newtown. Committee Chairman Ryan Knapp called the meeting to order at 7:00 pm.

Present: Mr. Honan, Mr. Eide, Mr. Chudhary, Ms. Jacob and Mr. Knapp. Also Present: Attorney David Dobin, Pension Commission member Ellen Whalen

Absent:
Ms. DeStefano

MINUTES:

Mr. Honan moved to approve the minutes of 7/12/17. Mr. Chaudhary seconded. All in favor.

PUBLIC COMMENT:

None

Old Business

Review and Recommendation regarding Pension Committee ordinance language.

Ms. Whalen was invited to join the conversation.

Ms. Jacob summarized the work on the Pension/OPEB Ordinance to date noting that she shared the draft with the First Selectman, Finance Director, the Pension/OPEB Commission and Legal. She highlighted the changes including a change in responsibilities expanding the role of the commission in the search for Actuaries. The draft does not include the commission's recommended "H" as it was deemed a level of detail not required in an ordinance. The members section is expanded to allow flexibility around the Police member. She noted a challenge with turnover and the desire to seek staggered terms. Alternates were removed as members must be up to date on information.

Mr. Dobin will provide suggested language around staggered terms. He noted the Charter refers to it as a Commission so it should be a Commission not a Board. He suggested clarifying some confusion by adding a definitions section to capture the essence that it is one Commission with dual roles overseeing both the pension and OPEB.

Ms. Whalen spoke to the terms of the trust agreements.

Mr. Knapp said the ordinance really needs to deal with how the commission is made up and allow them to do both with flexibility. It is a case of dual names, not dual commissions.

Mr. Dobin spoke to how definitions could address these issues.

Mr. Chaudhary noted a section in "G" with language that said "establish procedures" and how that is really a recommendation to the trustees, the BOS.

Mr. Edie asked how this impacts Ch 33 of our Code Book.

Mr. Dobin said this would repeal and replace Ch 33.

Mr. Honan asked if the Police member was selected or a volunteer.

Ms. Whalen said it is a volunteer approved by the BOS.

Mr. Chaudhary would like to see "for so long as required by contract" added to the Police section as the retirement plan is changing for new hires.

Ms. Whalen and the group discussed the pros and cons of quarterly vs monthly meetings.
Mr. Knapp shared input from Finance Director Tait on the subject.
Mr. Dobin asked if the Pension Consultant was a position derived from the trust.
Mr. Knapp said that is from the new policy of the Trustees.
Ms. Jacob will work with Mr. Dobin to clean up the draft and we may have a possible meeting before the LC meeting on the 16th.
The group discussed scheduling, backing out dates.

Review and recommendation regarding Ad-hoc committee for Policy and Planning for Roads and the roads ordinance language.

Mr. Knapp reviewed the draft which addresses some of the major issues identified by the Roads Committee including a method for accepting roads that will never be able to conform, allowing the Town to decide to do maintenance of non-town owned roads where needed and combining the three documents into one. Not much input beyond what is in the report from the stakeholders.
Mr. Edie noted a language change in 185-59.
Mr. Knapp spoke to the paving of unpaved roads and the advantages of it in some circumstances. He will work on section 185-80 and get a draft to David Dobin.

Review and Recommendation regarding acquisition and disposition of real property ordinance.

Mr. Knapp reviewed where Ms. DeStefano was with the draft and that Land Use seemed enthusiastic about the content. It does need some formatting work.
Mr. Chaudhary asked about licensing.
Ms. Jacob spoke to an ongoing licensing issue and noted that a process would have been helpful.
Mr. Knapp recognized the need for easy licenses such as for sports but there could be an advantage to limitations that trigger process such as time, use and changes to the property.
Mr. Dobin, reviewing the Charter, does not feel licensing fits the Charter definition of Acquisition and Disposition of Property.
Mr. Eide will take a stab at formatting the document.
Mr. Dobin suggested removing Charter duplication and making references.

Review and recommendation regarding Public Act 14-33.

Mr. Dobin spoke to both sides of the issue of reserving or not reserving the right to amend levels in an ordinance by resolution citing both the authority of the legislative body and the purpose of the process.
Mr. Honan said this is pretty much ready to go to the LC.
Mr. Eide spoke to the costs under different scenarios
Mr. Knapp would rather cap it at \$50,000 to strike a balance between helping farmers and acknowledging costs.
Mr. Edie noted there are only four buildings over \$50,000.
Mr. Chaudhary noted that the LC will need a resolution after adoption.

Review and Recommendation regarding abatement for volunteer fire, ambulance and underwater rescue personnel.

Mr. Knapp noted that this is essentially done.
Mr. Dobin suggested we add one clause.
Mr. Eide still has concerns about the open-ended language around by-laws.
Mr. Knapp said the group can vote at the next meeting.

The group discussed a quick 7PM meeting before the next LC meeting.

PUBLIC COMMENT:

None.

Mr. Honan moved to adjourn the meeting at 9:40, Mr. Chaudhary seconded. All in favor (5-0)

Respectfully Submitted,

Ryan W. Knapp
Ordinance Committee Chairman

DRAFT ORDINANCE 2 AUGUST 2017

Motion to recommend to Legislative Council to strike Chapter 208, Article VI from Town Code to be replaced with the following language:

Chapter 208 Article VI. Tax Abatement for Volunteer Fire, Ambulance, and Underwater Rescue Personnel

§ 208-19 Purpose

In recognition of the benefits provided to the Town of Newtown by the dedicated service of the Town's volunteer fire, ambulance and underwater search and rescue personnel, the Newtown Legislative Council hereby establishes a property tax abatement program pursuant to Connecticut General Statutes § 12-81w for volunteer fire, ambulance and underwater search and rescue personnel on the conditions outlined below.

§ 208-20 Eligibility

Members of the Newtown Volunteer Fire Departments, Ambulance Corps and Newtown Underwater Search and Rescue (NUSAR), with at least three years' good standing, who reside in and pay property tax to the Town of Newtown as of October 1 preceding their application shall be eligible for such abatement. A year's service in good standing is achieved when meeting at least one of the following criteria:

- A. The member must respond to _____ calls in the calendar year preceding inclusion on any certified list; or
- B. The member must hold one of the following positions in the emergency services:
 - (1) Administrative/Executive board.
 - (2) Commissioner.
 - (3) Line officer/operational officer.
 - (4) Support member, per company or association bylaws.

§ 208-21 Tax ~~abatement~~ granted

A. For the 2016-2017 fiscal year and subsequent fiscal years (unless changed by the Legislative Council in accordance with this section), the years of service in good standing and the corresponding maximum available tax ~~abatement~~ for those levels shall be as follows:

Years of Service in Good Standing (preceding date of list certification)	Maximum Available Tax Abatement
3	\$250
4	\$440

Commented [1]: Reworded for clarity

Commented [2]: Change "credit" to "abatement"

Commented [3]: change "credits" to "abatement"

5	\$675
6	\$860
7 or more	\$1,000

B. Abatement amounts for two or more members can be applied to the same property if each member is a co-owner of that property.

C. Tax abatements granted are subject to change upon resolution by the Legislative Council, which may base such changes on recommendations to the Legislative Council from the office of the First Selectman.

§ 208-22 Maximum Tax Abatement Granted

A. In no event may any abatement amount equate to more than the maximum amount of relief permitted under state statute, and if so, the First Selectman may cap the total relief afforded to any individual to the permitted maximum.

B. Members are limited to only one annual abatement, regardless of the number of volunteer organizations to which they belong.

§ 208-23 Administration of Tax Abatement Program

A. Annually on or before December 5 of each year, the president of each Fire Department shall certify and submit to the Board of Fire Commissioners a list of the members of his/her organizations who are eligible as defined in § 208-20. This list shall contain addresses of such members and the number of years of service in good standing. The Board of Fire Commissioners will review and certify said list, making corrections as necessary, before submitting it to the Office of the First Selectman by December 15 of each year.

B. The Ambulance Association shall review and certify the Ambulance Corps list, and said list shall contain addresses of such members and the number of years of service in good standing and submit it directly to the Office of the First Selectman by December 15 of each year.

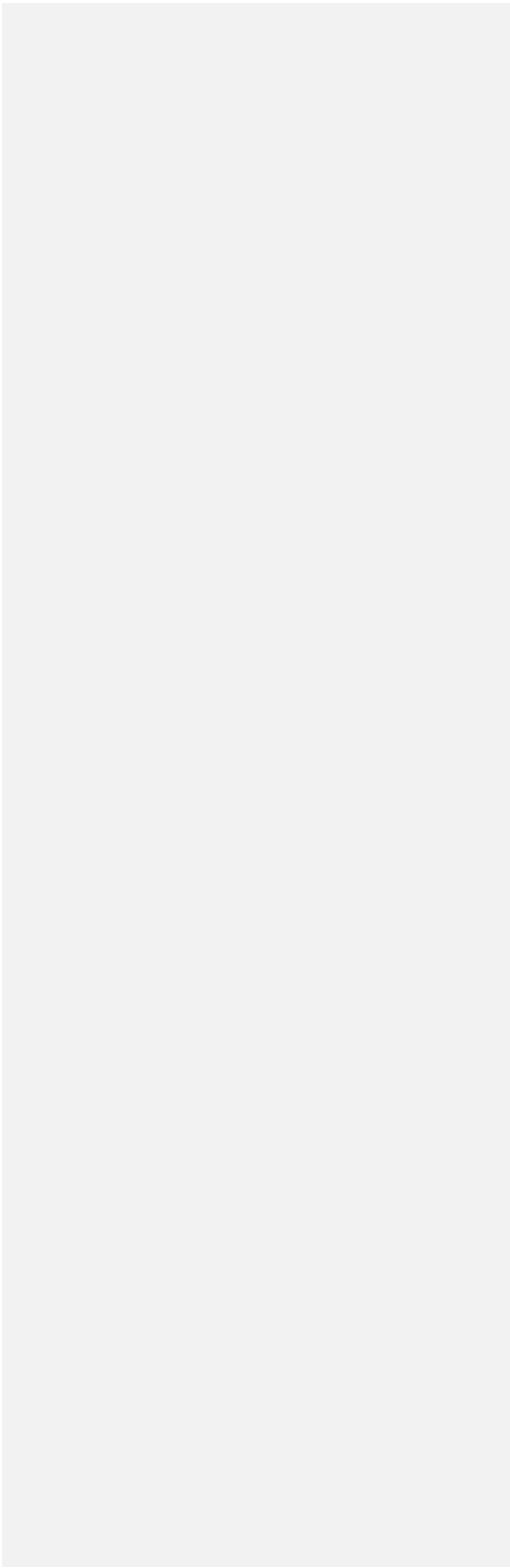
C. Annually, on or before December 5 of each year, the President of NUSAR shall certify and submit to the Director of Newtown Emergency Management its own list of members who are eligible as defined in § 208-20. The Director will review and certify said list, making corrections as necessary, before submitting it directly to the Office of the First Selectman by December 15 of each year.

Commented [4]: Change to December 5

§ 208-24 Severability

A. The provisions of this Ordinance are declared to be severable and the invalidity of any

portion thereof shall not affect the validity of the remainder.



Draft Ordinance for Farm Building Tax Exemption

Adopted: (Date) , Effective: (Date)

Section 1. Title.

This Ordinance shall be known and may be cited as “An Ordinance Providing a Property Tax Exemption for Farm Buildings.”

Section 2. Legislative Authority.

This Ordinance is enacted pursuant to the provisions of Section 12-91(c) of the Connecticut General Statutes, as it may be amended from time-to-time.

Section 3. Findings and Purpose.

The Legislative Council of the Town of Newtown finds that the preservation of farming and farmland is vitally important to retaining Newtown’s rural character and quality of life, works towards the Plan Goals in the Newtown Plan of Conservation and Development, and promotes economic and environmental sustainability. Therefore, pursuant to *Connecticut General Statutes* § 12-91(c), as amended, the Town of Newtown seeks to protect, preserve and promote the health, welfare and quality of life of its people by providing a tax exemption for certain farm buildings.

Section 4. Applicability and Benefits.

- (a) Subject to the terms of this section 4, for any individual farmer, group of farmers, partnership or corporation who qualifies for the farm machinery exemption under Connecticut General Statutes § 12-91(a), any building used actually and exclusively in farming, as defined in Section 1-1 of the Connecticut General Statutes shall be entitled to an exemption from property tax of up to one hundred thousand dollars (\$100,000.00).
- (b) Such exemption shall be subject to the application and qualification process provided in subsection (d) of this section.
- (c) Such exemption shall not apply to any residence of such individual farmer, group of farmers, partnership or corporation.
- (d) Such exemption shall not apply to any building used to provide housing for seasonal employees of such individual farmer, group of farmers, partnership or corporation.
- (e) Annually, on or before the first day of November or the extended filing date granted by the assessor pursuant to section 12-42 of the Connecticut General Statutes, each such individual farmer, group of farmers, partnership or corporation shall make written application for such exemption to the assessor or board of assessors, including therewith a notarized affidavit certifying that such farmer, individually or as part of a group, partnership or corporation, derived at least fifteen thousand dollars in gross sales from such farming operation, or incurred at least fifteen thousand dollars in expenses related to such farming operation, with respect to the most recently completed taxable year of such farmer prior to the commencement of the

assessment year for which such application is made, on forms to be prescribed by the Commissioner of Agriculture. Failure to file such application in said manner and form on or before the first day of November shall be considered a waiver of the right to such exemption for the assessment year. Any person aggrieved by any action of the assessors shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of the assessors or board of assessment appeals.

- (f) The maximum amount of the exemption is subject to change upon resolution by the Legislative Council, which may base such changes on recommendations to the Legislative Council from the office of the First Selectman.

PENSION AND OPEB
FUND COMMITTEE ORDINANCE

§ 1 Title

This article shall be known and may be cited as the "Pension and Other Post-Employment Benefits (OPEB) Fund Committee Ordinance".

§ 2 Purpose of Fund

The purpose of the Pension and OPEB ~~se~~ Funds are to provide retirement benefits and other post-employment retiree healthcare benefits to those eligible to receive them.

§ 3 Pension and OPEB Committee Purpose

The Pension and OPEB Committee (the "Committee") is appointed by the First Selectman with the approval of the Board of Selectmen (Trustees) ~~to and~~ serves in an advisory role with respect to the administration and investment oversight of Pension and OPEB Plan assets. The Committee provides guidance and insight into Plan provisions and monitors and reports to the Trustees under the Other Post – Employment Benefits Trust Agreement, as amended from time to time (the "Trustees") on the Plans Investment performance.

§ 4 Responsibilities of the Committee

- a) To serve as a Advisors to the Board of Selectmen ~~Trustees~~ with respect to reviewing, for both plans, the following: Make selection of appropriate investment vehicles in line with the Investment Policy Statement (IPS) evaluation recommended asset allocation, risk parameters, return evaluation, specific interpretations of the Investment Policy, reviewing recommended investment vehicles and their risk parameters, monitor investment returns, for the Plans, selecting the appropriate investment and making a make recommendations to the Trustees regarding expanding or decreasing investment selections as appropriate to protect the assets of the Plans and for the Plan portfolio along with periodically reporting on the investment performance of Plan and Trusts investments.
- b) To ensure ~~the Statement of~~ Investment Policy Statement, along with other policy guidance and directives outlined by the Trustees, is properly implemented.
- c) To review ~~the monthly~~ quarterly Trust reports with respect to the status and value of each Plans' assets and report any exceptions or major variances to the Board of Selectmen. The Committee recognizes that some risk must be assumed to achieve the Plan's long-term objectives.
- d) Monitor the performance of each Plans' investments ~~not less than~~ quarterly. Meet with the Investment Consultant to review and discuss Plan performance and report to the Board of Selectmen.
- e) To discharge their duties with the care, skill, prudence and diligence appropriate to the circumstances then prevailing and to comply with the Employment Retirement Income Security Act (ERISA) ~~F~~ fiduciary ~~S~~ standards and the Connecticut ~~P~~ Prudent Investor Rule as set forth in CT Gen. Stat. 45a-451 to 45a-541l inclusive.

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PENSION AND OPEB
FUND COMMITTEE ORDINANCE

- f) To meet with the Board of Selectmen, not less than annually, to review the status of each the Plans' investments, their performance, the Investment Policy Statement, IPS, actuarial assumptions, funding policy and any changes that the Committee, in consult with the Investment Consultant Actuary, Investment Consultant and/or Trustees, might feel appropriate to suggest.
- g) To establish procedures for coordinating a search for actuary(s), custodians(s), investment manager(s), consultant(s), and other service providers as necessary and advisable in consultation with the Investment Consultant and Trustees.

§ 5 Members of Committee; Appointment; Terms of Office

- a. There shall be six volunteer members of the Committee appointed by the first Selectman, with the approval of the Board of Selectman; with a preference for those volunteers who have relevant expertise and knowledge backgrounds in one or more of the following disciplines: in finance, healthcare, healthcare, human resources, insurance, legal, investments and trustee/custodian and/or insurance.
- ~~a.b.~~ A seventh volunteer member shall be from the ranks of the Police Department an appointed by the Board of Selectman.
- ~~b.c.~~ Members of the Committee shall be appointed by the First Selectman with the approval of the Board of Selectmen to serve a Two-year term. Initially, the First Selectman shall appoint three members for a one-year term in January 2018, and three members for a two-year term. The one member from the Police Department shall serve a two-year term.
- c. There shall be two alternates each appointed for a two-year term. The term of the alternates shall run from January 1 of the even year through December 31 of the ensuing year. Use of alternates shall follow the Town Charter
- d. One member shall be from the ranks of the police department to serve a two-year term.

§ 6 Chairman, Vice Chariman, ~~;~~ Clerk.

- a. The Committee shall elect a Chairman and a Vice Chariman; to serve for a term of one year.
- b. The Chairman shall preside at meetings and public hearings. The Vice Chairman shall preside at all meetings and public hearings in the Chairman's absence.
- c. The Committee shall utilize a clerk whose responsibility is the taking of minutes at all meetings, typing and file minutes with the Town clerk, distribute to committee members in the same, and performing all other clerical or recording services for the Committee.

§ 7 Meetings

- a. The Committee shall meet quarterly and at other times as the Chairman deems necessary.

PENSION AND OPEB
FUND COMMITTEE ORDINANCE

- b. The Chairman shall prepare an agenda prior to each meeting. The Committee Clerk shall~~and~~ distribute agenda-copy~~copy~~ to each Committee member.
- c.

§ 8 Severability

The provisions of this Ordinance are declared to be severable and the invalidity of any portion thereof shall not affect the validity of the remainder.

Roads and Sidewalks Ordinance - Draft

185-1 Purpose

To establish a comprehensive source for Road and Sidewalk standards, procedures and policies. This Chapter is enacted pursuant to the powers granted by the General Statutes of Connecticut (Rev. 1958), as amended to the present date, and particularly, but without limitation, under the authority of Sections 7-118, 7-148, 7-194, 8-27, 8-29, 13a-48 and 13a-71.

185-2 Definitions

COMMISSION

The Newtown Planning and Zoning Commission.

Non-Town Owned Road

Any Road that has not been formally accepted by the Town of Newtown into the Town road system

Nonconforming Road

Any road that does not currently meet the Town road standards.

OWNER

A person, partnership or corporation, who or which holds a road permit issued under the provisions of this chapter.

PERSON

A person, partnership or corporation, and shall include persons undertaking a joint venture.

PRIVATE WAY

~~Any right-of-way which has not become a Town highway.~~

ROAD

That portion of a street surfaced and improved for vehicular traffic.

ROLLER

Either a self-powered mechanical roller, vibrating roller or compactor weighing a minimum of 10 tons, having a minimum of two wheels.

SCENIC ROAD

A road designated by the Legislative Council as a scenic and historic resource warranting protection pursuant to Connecticut General Statutes § 7-149a.

SELECTMAN'S AGENT or AGENT

A qualified inspector as appointed by the Selectman.

SELECTMEN and FIRST SELECTMAN

The Board of Selectmen.

STREET

Any right-of-way or portion of land to be developed for vehicular traffic, excluding driveways.

STREET LINE

The boundary of the street right-of-way.

SUBGRADE

Existing ground surface prepared as specified and brought to grades indicated to receive subbase course.

8/2/17

TOWN

The Town of Newtown, Connecticut.

TOWN ENGINEER

A professional engineer employed by the Town either on a consulting or a full-time basis.

TOWN HIGHWAY

Any street or right-of-way maintained by the Town of Newtown over which the general public has the right to pass and repass.

Road Construction:

Article II. General Regulations

§ 185-3. Compliance and permit required.

No road, drainage structure, bridge, sidewalk or appurtenance to any the foregoing items shall be constructed by any person other than the Town of Newtown except in accordance with the terms of this chapter and after obtaining the permit required by § 185-41.

§ 185-4. Minimum and maximum grade.

Roads shall have a minimum grade of 1% with a maximum grade of 10%. Upon the written recommendation of the Engineer, when special circumstances require, the Selectmen may modify the maximum grade in order to better conform with existing natural ground slopes.

§ 185-5. Cross slope.

Roads shall have a cross slope of 3/8 inch per foot each side of the center line, except on curves where the design bank shall be as suggested by the Town Engineer or Selectman's agent.

§ 185-6. Applicability of state regulations.

Where appropriate to the description of materials, methods of construction or design, the State of Connecticut, Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction Form 814, 1989 hereinafter referred to as "Form 814," are hereby incorporated by reference, except where inconsistent with the terms of this chapter, and its successor, in which event this chapter shall govern. A copy of Form 814 and its successor shall be available for inspection in the office of the First Selectman during business hours.

§ 185-7. Interpretation of road thickness.

All thicknesses required by this chapter are compacted thicknesses.

§ 185-8. Curbing.

Curbs shall be installed on both sides of the road on the first course of pavement prior to placing the second course of pavement. The final curb height shall be six inches.

§ 185-9. Street classifications.

All proposed streets shall be designated as major collector, minor collector or local residential by the Commission prior to granting of the road permit and, where applicable, approving the final subdivision plan. Standards are set forth herein for all such streets.

A.

Major collector street.

(1)

The proposed street is a direct and logical continuation of the state and local arterial highway system that carries or can be expected to carry a heavy volume of traffic.

(2)

The proposed street may also provide a shorter or more convenient through route, so that it can be reasonably expected to collect traffic from other streets.

(3)

The proposed street is the particular collector of vehicles from 150 or more potential or existing homes in the area.

(4)

The proposed street could logically be expected to become a major street because of proposed development or other foreseeable circumstances.

B.

Minor collector streets.

(1)

The proposed street is in an area zoned for business or industry, or is near the dividing line between a residential and business industrial area so that it may reasonably be expected to carry a substantial volume of commercial or industrial traffic.

(2)

The proposed street is the particular collector of vehicles from 75 to 150 potential or existing homes in the area.

(3)

The proposed street creates a shorter or more convenient route between a commercial or industrial area or the area containing 75 or more homes and a major traffic artery.

(4)

The proposed street for any other reason may reasonably be expected to carry a substantial volume of traffic.

C.

Local residential streets: the proposed street will serve only the residential subdivision in which it is laid out and is not reasonably expected to become a major or minor collector street.

D.

After classification by the Commission, each street shall have the design and shall be built to the specifications set forth in the table of Street Classification and Design Standards found herein and made a part hereof. (See the street classification and design standards included at the end of this chapter.)

§ 185-10. Sidewalks. [Move?]

Sidewalks shall be constructed on both sides or either side of all streets where specified by the Selectman and/or the Commission as needed for the public health and safety.

§ 185-11. Drainage. [Rec from Roads Committee to update]

A.

All roads shall be properly drained and shall have sufficient culverts, manholes and catch basins installed as approved. No portion of any road shall drain in one direction more than 300 feet without catch basins on both sides of the road. In cases of extremely steep or flat grades or excessively large drainage areas, the Commission and/or the Selectman may require installation of catch basins at lesser intervals. Wherever water will discharge from a proposed street onto land outside the street, whether or not owned by the owner, a drainage easement in favor of the Town will be required. Said drainage easement shall be a minimum of 30 feet wide with adequate access provided to the drainage easement. Said easement shall be in a form acceptable to the Town Counsel and, where the construction is incidental to a subdivision, shall be clearly delineated on the subdivision plan to be placed on the Land Records following approval. Where conditions apparent in the field after the start of construction indicate that additional or larger drainage pipes structures (including, without limitation, underdrains, catch basins and manholes) are necessary in order to drain the street properly and in accordance with the intent of the application, the Selectman or his agent may order such additional or larger drainage pipes or structures installed. If the owner objects to such order he may stop work and appeal to the Commission, which shall determine whether or not such additional or larger drainage pipes or structures would have been required before issuance of permit had the circumstances causing the Selectman or his agent to issue the order originally been known to the Commission.

B.

Where drainage is tributary to a portion of a Connecticut Highway Department drainage system, such drainage shall be approved by the Connecticut Highway Department and such approval shall be submitted to the Commission along with other required documents.

C.

All drainage shall be designed utilizing the following minimum storm frequencies:

(1)

In-road storm drains: 10 years.

(2)

Outlet culverts: 25 years.

(3)

Major storm crossings: 100 years.

(4)

Minor crossings: 100 years.

§ 185-12. Documents to be submitted.

A.

Plan and profile drawings of all streets shall be submitted including the following information:

(1)

Layout of proposed streets in both plan and profile indicating right-of-way dimensions as shown on the final subdivision plan, width of right-of-way and paving; existing grades at fifty-foot intervals at center line and 25 feet right and left of center line, and proposed grades every 50 feet vertical curve data and percent of grade.

(2)

Typical cross-section of the streets with paving, shoulders, curbs and sidewalks in detail.

(3)

All utility lines, encroachment lines, easements for utilities, drainage and other rights-of-way, and the size and location of all existing and new drainage structures required pursuant to § [185-11](#).

(4)

All planned and profiled drawings shall be submitted in both paper and electronic formats. The electronic format shall meet the following criteria:

[Added 7-15-2009]

(a)

Drawings shall be on a compact disc (CD).

(b)

Electronics shall be in a format as described by the Town's GIS coordinator.

(c)

A certification letter stating that the electronic drawing is a copy of the survey map that was presented to the Commission shall accompany electronic drawings. A land surveyor licensed by the State of Connecticut shall certify the letter.

B.

Plan and profiles shall be at a scale of one inch equals 40 feet in plan and one inch equals four feet in profile. Elevations shall refer to USGS datum. Where required in the judgment of the Commission, Town Engineer or agent, street intersections shall be developed at a larger scale, showing catch basins, gutter, road center line, curb and sidewalk elevations.

C.

If considered advisable by the Commission, Town Engineer or agent, due to the terrain as determined from contours and the proposed profile showing original and final grades, cross sections of the proposed road shall be furnished by the applicant for the road permit at intervals of every 50 feet showing the original ground, top and toe of slopes, culverts or bridges. These sections shall extend at least 40 feet left and right of center line and shall be based upon elevations obtained by field survey.

D.

A drainage analysis map shall be submitted showing the watershed area of all culverts, bridges and roadways, the rate of flow which can be expected at the invert of each such culvert and bridge and at each discharge point of the storm drainage system, and the downstream area affected by the run off from the street and subdivision drainage system. All criteria and computations used to determine rates of flow, pipe, culvert and bridge sizes shall be submitted on 8 1/2 inch by 11 inch sheets, certified by a professional engineer, and be subject to review by Town Engineer. In case of a difference between the professional opinions of the engineer of the applicant for a road permit and Town Engineer as to the size of the pipe, culvert or bridge required, the opinion of the Town Engineer shall control.

E.

All of the above documents shall bear the appropriate seal as recommended by the Board of Registration for Professional Engineers and Land Surveyors of the State of Connecticut.

F.

The above information and documents shall be submitted to the Commission and shall be referred to the Selectman and Town Engineer by the Commission. seven copies of the plan profile drawing and drainage analysis map will be submitted, except that the Commission may increase or decrease said number by amendment to Chapter 460, Subdivision of Land.

§ 185-13. Street specifications.

All streets shall be developed to their full width in accordance with the set of plans designated "Typical Street Cross Sections, Town of Newtown." Copies of said plans are on file in the office of the Town Engineer and may be obtained during normal business hours.^[1]

^[1]

Editor's Note: Editor's Note: The Typical Road Sections diagram is included at the end of this chapter.

§ 185-14. Additional regulations.

The following reference manuals shall govern as the Town's specifications where this regulation is silent:

A.

State of Connecticut Department of Transportation Standard Specifications for Roads, Bridges and Incidental Construction - Form 814, 1989 (as amended).

B.

State of Connecticut Guidelines for Soil Erosion and Sediment Control (1985, as amended).

C.

Connecticut Department of Transportation Drainage Manual (1973, as amended).

D.

A Policy on Geometric Design of Rural Highways, AASHO (1965, as amended).

Article III. Construction Materials

§ 185-15. Submission of list of materials to Town.

The owner shall provide specifications of the materials to the Selectman and/or his agent upon request by either one.

§ 185-16. Processed stone/bank run gravel subbase.

Processed stone/bank run gravel subbase shall conform to Form 814 and its successors and the Town of Newtown Street Classification and Design Standards.

§ 185-17. Bituminous concrete.

Bituminous concrete shall be Class 4 course, Class 1 binder course, Class 2 wearing surface, Class 3 asphalt curb, Form 814 and its successors.

§ 185-18. Catch basins and manholes.

Catch basins and manholes shall conform to Form 814 and its successors, in entirety. Cast-iron specialties shall be State of Connecticut standard and shall bear a ten-year written guarantee, which shall be turned over to the Town of Newtown at completion of project. Catch basin frames and grates shall be Type C or, where necessary, Type CL. Frames shall be appropriate with the type of curb used.

§ 185-19. Culverts and underdrain pipe.

Culverts and underdrain pipe shall conform to Form 814 and its successors, in entirety. In general, solid wall pipe will be used. However, at the direction of the Selectman, his agent or the Town Engineer, perforated pipe shall be used in areas where high water table or other problem conditions exist. If metal pipe is used, paved inverts are required. Headwalls for culverts shall be constructed of Class A Portland cement concrete, either reinforced or gravity type, solid concrete block or stone rubble masonry.

§ 185-20. Concrete.

A.

All concrete specified herein shall be Class A concrete Form 814 and its successors, unless otherwise noted. All concrete materials and methods of all concreting operations shall be in conformance with Form 814 and its successors.

B.

Bar and mesh reinforcing: Form 814, and its successors, in entirety.

§ 185-21. Guide rails, fence, and posts.

With the exception of bridge railing, all guide rails shall be two-cable guide rail in accordance with Form 814 and its successors, in entirety. For bridge railings, see Section 9.04 of Form 814 and its successors.

§ 185-22. Monuments.

A.

Monuments shall be set on all right-of-way lines of streets, at all intersections, angle points, and points of curvature. There shall be a clear foresight and backsight to adjacent monuments on the right-of-way line or lines on which a monument is set. Monuments shall be at least 36 inches long and shall be at least four inches square. Monuments shall be of concrete with a center reinforcing rod of a type approved by the Selectman or agent or the Town Engineer. The monuments shall not be set before the final wearing course has been completed nor shall they be set while frost is in the ground. They shall be set so that the top is one inch above the finished grade, and they shall be so set and tamped as to prevent shifting.

B.

The engineer and/or surveyor of the owner shall certify that the location of all monuments is accurate before acceptance of the street by the Town of Newtown.

§ 185-23. Street signs.

Street signs shall identify both intersection streets, shall conform to the Town's standards and shall be installed by the owner.

§ 185-24. Curbs.

Curbs shall be bituminous concrete, its equivalent or better and shall conform to Form 814 and its successors. All curb shall be backed up full height with solidly packed earth. The final curb height shall be six inches.

Article IV. Construction Methods and Requirements

§ 185-25. Clearing and grubbing.

Clearing and grubbing shall conform to Form 814 and its successors.

§ 185-26. Roadway excavation and formation of embankment.

Roadway excavation and formation of embankment shall conform to Form 814 and its successors.

§ 185-27. Trench excavation.

Trench excavation shall conform to Form 814 and its successors.

§ 185-28. Preparation of subgrade.

Preparation of subgrade shall conform to Form 814 and its successors. No processed stone or bank run gravel shall be placed on the prepared subgrade until the Selectman or his agent has approved the condition of the subgrade.

§ 185-29. Slopes.

Slopes shall conform to Form 814 and its successors. Earth slopes shall be a minimum of 2:1 ratio and subject to inspection and approval prior to placement of topsoil. Slopes shall be loamed to a minimum depth of four inches, fertilized and seeded with a satisfactory grass seed mixture and mulched.

§ 185-30. Processed stone/bank run gravel.

For requirements regarding process stone/bank run gravel, reference the Town of Newtown Street Classification and Design Standards.[\[1\]](#)

[\[1\]](#)

Editor's Note: See the standards included at the end of this chapter.

§ 185-31. Gravel fill.

Gravel fill shall conform to Form 814 and its successors.

§ 185-32. Wearing surface.

The wearing surface will be bituminous concrete pavement, constructed in two courses to the thicknesses as indicated in the Town of Newtown Street Classification and Design Standards.[\[1\]](#) No surfacing shall be installed until adequate compaction of the subbase and base course has taken place. Where required by the Town Engineer, field density tests of the subbase shall be performed at the subbase and shall be performed at the owner's expense. These tests shall be done in locations designated by the Town Engineer or Selectman's agent by a qualified testing laboratory or professional engineer. The results of said tests shall indicate the percentage of maximum dry density achieved and shall be based on modified Proctor density. The first course of bituminous concrete pavement may not be placed until approval has been received from the Town Engineer or Selectman's agent. In all cases, the first course of pavement shall weather at least one full winter (November 1 through March 31) in place. The final wearing surface shall be placed only at the discretion of the Town Engineer or Selectman's agent only after all patches and repairs have been made to the base course as directed. In no case shall bituminous concrete be placed after November 1, unless specific written approval has been granted by the Town Engineer or Selectman's agent.

[\[1\]](#)

Editor's Note: See the standards included at the end of this chapter.

§ 185-33. Drainage.

A.

All drainage pipe shall be at least 15 inches in diameter, except as noted below, and installed with a minimum cover of 30 inches. All installation and construction shall be to the line and grade indicated on the submitted drawings as required elsewhere herein, and in accord with Form 814 and its successors.

B.

Class A concrete headwalls approved by Town Engineer shall be located at culvert ends. The underdrain must be a minimum of six inches.

C.

Curb-type catch basins, various types of endwalls, CL-type catch basins, manholes, wing-type endwalls and underdrains shall be constructed according to the dimensions, methods and materials shown in detail on Connecticut Department of Transportation Standard Sheets Numbers 228-A, 228-D, 228-C, 228-E, 223-A, 221-1, 221-F, 221-H, 217-B and 221-G. A copy of these Standard Sheets, will be kept on file in the Town Engineer's office and may be inspected during normal business hours.

§ 185-34. Utilities.

A.

Electric, telephone, and cable TV, shall be placed between the edge of pavement and the right-of-way line, placed in conduit with the proper size being designated by each custodian of their service. The location will be of mutual agreement between the assigned custodian and the Town of Newtown, as the intent is not to interfere with future drainage.

B.

Where sand backfill is required, it is necessary to tie into parallel catch basins, with perforated pipe and three-quarter-inch trap rock.

C.

Water.

(1)

Public or community water mains shall be laid in accordance with specifications of the local water company, not conflicting herewith. In no case shall any pavement of roadways be started until all water mains and laterals are completed under affected portions of the roadway.

(2)

Hydrants shall be installed on all roadways where water is available at such locations and in such number as the Selectman directs. The cost of provision and installation of hydrants shall be borne by the owner.

D.

Sanitary sewers.

(1)

Materials. Gravity flow mains shall be constructed of PVC pipe per specification ASTM D3032 or D3033, D3034, SDR35, ASTM F789 or equivalent material as approved by the Town Engineer. Pressure mains shall be constructed of mechanical joint cast pipe or equal material as approved by the Town Engineer. Minimum pipe size shall be eight inches for street sewers and six inches for laterals to buildings.

(2)

Location. Pipeline should lie at the center line of the road. Alternate locations must have Town Engineer approval, prior to construction. Depth of the pipe shall be below all other utilities, where possible. Cover over the pipe will be a minimum of six feet.

(3)

Minimum grade. The pipe shall be laid at a grade which will ensure self-cleaning. This grade shall be a minimum of 0.4%.

(4)

Manholes. Manholes shall be spaced at a distance no greater than 300 feet and at angle points, intersection and grade changes of pipe or where pipe increases in size.

(5)

Drawings. In all cases proposed, sanitary sewer plans and profiles shall be submitted to the Selectman or Commission on profile paper.

E.

Where utilities are installed, the owner shall bear the expense of raising all manholes, valve boxes, etc., up to the final road grade. These utility appurtenances shall be clearly visible and shall be so set that a true line and grade is maintained.

F.

In all cases, the installation of all utilities, within the right-of-way, shall be under the inspection of the Selectman or his agent. Water, electric and telephone lines shall be run to each and every lot at the time of initial installation of the distribution main, said service to extend to a minimum point 24 inches inside the lot line and shall be terminated with a valve and curb box; in the case of water service, up to the finished grade of the lot.

G.

Before the construction of curbs is started, either all service lines for underground utilities or conduits for underground utilities shall have been installed to every lot in the proposed subdivision. The intent of the above is to require that all underground construction work under the area to be paved be finished prior to the first course of paving.

§ 185-35. Bridges.

Where bridges are to be built, they shall be designed satisfy the requirements of H-20 wheel loading, and the applicable section of Form 814 and its successors. Drawings and design calculations shall be submitted to the Selectman and shall be certified by a professional engineer, registered in the State of Connecticut.

§ 185-36. Restoration of property upon completion of work.

Upon suspension or completion of any work under permit, the owner shall remove from all public or private property all temporary structures, tools and equipment, rubbish or waste materials resulting from his operation. All ditches shall be filled, and all sewers, drains, catch basins, manholes cleaned and flushed. Streets, walks, curbs and other structures shall be cleaned, repaired and the entire work area left in a neat and clean condition.

§ 185-37. Marking proposed roadway.

A.

The owner/contractor shall establish and clearly mark, on site, the center line of the proposed roadway. The stakes may be an offset from the center line. The owner/contractor shall also indicate the location of drainage easements in the same manner.

B.

Prior to subgrade inspection by the Town Engineer's office, line and grade stakes shall be set not more than 50 feet apart, two feet off the finished pavement (minimum). Stakes shall be set along both edges of road by a licensed land surveyor. The stakes shall be maintained until the street is accepted by the Town Engineer or the Selectman's agent.

C.

Two copies of all cut sheets shall be submitted to Town Engineer or Selectman's agent prior to the construction involved.

§ 185-38. Conflicting provisions.

In case of conflict on any of the specifications contained herein, the ruling of the Selectman shall be deemed final.

§ 185-39. Installation of guide rails.

When guide rails are required by the Town Engineer, they must be in place before issuance of the first building permit for the lots in an approved subdivision.

Article V. Administration

§ 185-40. Performance guaranty.

A.

Before any road permit is issued, a performance guaranty must be provided for all improvements required by this chapter, including without limitation any underground utilities not already secured by the owner to a recognized public utility, sanitary sewers and water supply systems to be installed and, where the road is to be constructed in a subdivision for which approval is being or has been sought from the Commission, any improvement required by said Commission. Where such approval is being sought, the same performance guaranty may be used to satisfy the requirements of both this chapter and the subdivision regulations.

B.

Such performance guaranty shall assure to the Town the installation and completion of the road and other improvements in accordance with the specifications contained in this chapter before an agreed date not to exceed two years unless otherwise extended by the Town Engineer and/or the Selectman on recommendation by the Town Engineer or the Selectman's agent, and shall also assure that said road and other improvements still meet the specifications of this chapter on the date the owner seeks acceptance pursuant to § 271-44C hereof. The aforesaid agreed date for the completion of the road and other improvements may be extended by the Selectmen to a later specific date, provided, in the case of letter of credit securing the performance guaranty, said letter of credit has been amended prior to its original expiration date to cover the period of said extension.

C.

The performance guaranty shall consist of a certified check or a letter of credit. Said letter of credit shall be in a form satisfactory to the Town Attorney and issued by a recognized financial institution doing business in the State of Connecticut.

D.

The amount of the guaranty shall be equal to 100% of the cost of roads and improvements. The cost of roads, bridges and drainage structures shall be estimated by the professional engineer of the applicant for a road permit. Estimates shall be prepared in detail for all phases of the work. Where there is a difference between the professional opinions of the engineer of the applicant for a road permit and the Town Engineer as to the cost estimate, the opinion of the Town Engineer shall control.

E.

The guaranty may be released or returned to the owner only in accordance with § [185-44](#) hereof.

F.

Where a certified check is utilized as the performance guaranty, said check shall be deposited by the Financial Director of the Town in an account separate from accounts containing funds of the Town. The proceeds of said account shall be returned to the owner only in accordance with § [185-44C](#) hereof. When a default has occurred and the Town becomes entitled to payment as set forth in § [185-43D](#) hereof, the Financial Director shall transfer the amount required to the general funds of the Town and give written notice of said transfer to the owner. In the case of a certified check, the Financial Director may, in his sole discretion, invest the funds in a savings or income-producing account. To the extent that income is earned, it shall belong to the owner and shall be payable to him when the performance guaranty is entirely released or fully paid to the Town, or earlier at the convenience of the Financial Director.

§ 185-41. Road permits.

A.

All documents required to be submitted by an applicant for a road permit (See §§ [185-12B](#), [185-13](#), [185-14](#) and [185-40](#)) shall be submitted to the Commission. Copies of the documents shall be referred to the Selectman and the Town Engineer for review. After review of the documents referred by the Commission, the Selectman and the Town Engineer shall transmit their suggestions and recommendations to the Commission as to whether or not, or in what respect, the proposed road conforms to the provisions of this chapter. Thereafter, the Commission shall act upon the subdivision application; and where said Commission determines to issue a road permit, it shall direct the Selectman to do so upon payment of the fee set forth in Subsection B.

B.

The applicant shall pay a road permit fee, which shall be 1% of the amount of the performance guaranty. The applicant shall file his mailing address with the Selectman. Any written notice shall be deemed sufficient if it is sent, postage prepaid, to the owner at said address. Said 1% may be used to offset and defray the cost of inspections required hereunder.

C.

The road permit shall evidence the agreement by the owner thereof to abide by all the terms of this chapter and shall grant him the right to construct the roadways for which the permit was granted in accordance with the approved documents.

§ 185-42. Inspections.

A.

The road shall be inspected at such intervals as shall be determined by the Town Engineer and/or Selectman's agent. The Town Engineer and the Selectman's agent shall jointly develop regulations as to the stages at which the road shall be inspected and the procedures for said inspection.

B.

Any work being performed subject to the provisions of this chapter may be halted by the Selectman, his agent or the Town Engineer if, at any time, he shall find that said work does not comply with the provision of this chapter. In case it becomes necessary to halt such work, the Selectman shall notify the owner in writing by certified mail, return receipt requested. Said writing shall briefly set forth the manner in which the work fails to comply with this chapter. Construction shall not be recommenced until compliance with the provisions of this chapter is accomplished. Should the owner desire to close down the project for a length of time exceeding one week, due to weather conditions or other

unforeseen circumstances, the Selectman shall be notified in writing by certified mail, return receipt requested, of the close-down date. When the project is reopened, the Selectman shall be notified at least three days in advance of the proposed starting date.

§ 185-43. Default on guaranty; enforcement.

A.

Default.

(1)

The owner shall be deemed to be in default on the performance guaranty:

(a)

If the road and other improvements have not been completed within the agreed period; or

(b)

If the owner does not complete the work listed to be done before acceptance pursuant to § [185-46D](#) hereof within 90 days during which weather conditions permit the doing of such work.

(c)

If the road permit is revoked pursuant to § [185-42](#) above.

(2)

When default occurs and the owner fails, refuses or is unable to end said default, then the Selectman shall notify the owner of the default. Such notice shall generally describe the nature of the work which is required to be done.

B.

The Selectman may cause said work to be done at any time after giving notice of the default to the owner pursuant to Subsection [A](#). Said work shall be done by independent contractors. The cost for the performing of said work shall be paid for out of the performance guaranty. The Financial Director shall be directed to withdraw said funds from the accounts established or the Selectman shall call the letter of credit and deduct said amounts from the proceeds thereof.

C.

For purposes of completing said work following default, contractors hired by the Town may enter upon the property of the owner even though said proposed street is not a Town highway, and application for a road permit under this chapter shall constitute specific and irrevocable agreement to this provision by the owner, his successors, assigns and personal representatives.

D.

Where the road permit was not sought as part of a subdivision application, the Selectman shall, immediately after default, close and physically block said road pursuant to the General Statutes and shall only cause the work to be completed if the Board of Selectmen votes to lay out the proposed street as a Town highway or if the proposed street is shown as a proposed street on a preexisting subdivision plan which is still an effective subdivision plan under the Zoning Regulations and Land Subdivision Regulations then in effect in the Town of Newtown.^{[\[1\]](#)}

[1]

Editor's Note: See Chs. [560](#), Subdivision of Land, and [595](#), Zoning.

§ 185-44. Release of performance guaranty.

A.

Release during construction. (Note: The Subdivision Regulations do not permit partial releases.^{[\[1\]](#)})

(1)

When the drainage, utilities, foundation course, first course of pavement, curbing, sidewalks (if applicable) and shoulder slopes have been completely installed according to this chapter and so certified by the owner's professional engineer, and inspected by the Town Engineer and/or Selectman's agent, and upon recommendation by the Commission; the Selectmen may, upon written request signed by the owner, release up to 70% of the performance guaranty.

(2)

When the final wearing surface and all other final construction requirements have been completely installed and so certified by the owner's professional engineer and inspected by the Town Engineer and/or the Selectman's agent, and upon recommendation by the Commission, the Selectmen may, upon written request signed by the owner, release up to an additional 20% of the performance guaranty.

(3)

No part of any performance guaranty shall be released unless there are sufficient funds remaining to cover the cost of the remainder of the improvements covered by said guaranty.

(1)

Editor's Note: See Ch. [560](#), Subdivision of Land.

B.

Release upon completion. The performance guaranty shall not be wholly released following completion of the road until all of the provisions of Chapter 460, Subdivision of Land, § 460-14, have been complied with, and until the road or roads have been legally accepted as Town highways by the Town, and the maintenance guaranty required by § [185-45](#) has been provided. Application for acceptance of portions of the total road may be made upon completion of such portions. If any such portion is accepted as a Town highway, a pro-rata reduction of the performance guaranty based on the number of linear feet accepted will be allowed, except that where the Selectman finds that the cost of completing the remainder of the road and other improvements is not proportionate to the linear footage, he may release the balance obtained by subtracting the Town Engineer's cost estimate of the work to be completed from the original total amount of the performance guaranty.

C.

Release of all or any portion of a performance guaranty shall be in writing, signed by a majority of Selectmen, state the amount of the performance guaranty being released, and mailed to the owner.

§ 185-45. Maintenance guaranty and maintenance period.

A.

The owner shall keep and maintain the work in good repair for a period of one year from the date of final acceptance by the Town. Prior to final acceptance of the road by the Town, the owner shall file with the Selectman a maintenance guaranty, which shall consist of a certified check or a letter of credit. In the event a letter of credit is utilized, said letter of credit shall be in a form satisfactory to the Town Attorney and issued by a recognized financial institution doing business in the State of Connecticut. Said maintenance guaranty shall be in the amount of 10% of the original face amount of the performance guaranty. Said maintenance guaranty shall be held by the Financial Director on the same terms and conditions as the performance guaranty is held as set forth in § [185-40F](#) hereof.

B.

The maintenance guaranty shall assure to the Town that the road and other improvements shall remain in a state of good repair under normal usage for a period of one year from the date of acceptance as a Town highway.

C.

The owner shall, when notified by the Selectman, promptly and at his own expense repair all failures in the construction and operation of the drains, pipes, mains, conduits, curbs, gutters, sidewalks, road

surfacing, land turving or any other structures or improvements constructed by said owner occurring from normal usage during said one-year period.

D.

Notice of such failures shall be in writing, sent at any time during said year or within 30 days thereafter, shall generally describe the repairs needed and shall state a reasonable time within which such work shall be completed. Danger to persons and property resulting from said failures shall be considered in determining the reasonableness of the period within which the repair is to be accomplished.

E.

The owner's failure, refusal or inability to complete said repair within the time required shall constitute a default of the maintenance guaranty.

F.

Upon default, the Selectman may cause said work to be done and the Selectmen may authorize whatever collection procedures are necessary, including the institution of suit, to recover the reasonable value of said work for the Town.

G.

If no repairs are required at the end of the one-year maintenance period, the Selectmen shall release the maintenance guaranty as set forth in § [185-44C](#) hereof.

Article VI. Street Acceptances

§ 185-46. Methods of acceptance.

The following shall be the method by which streets constructed by persons other than the Town of Newtown may be accepted for public use as a Town highway:

A.

No street on which all or part of the performance guaranty, required by § [185-40](#) of this chapter, or by any prior Newtown Road Ordinance still in effect, may be accepted by the Town, until the provisions of this chapter or said prior ordinance have been met.

B.

The proposed street shall be accepted as follows:

(1)

The street must be constructed in accordance with all provisions of this chapter.

(2)

The owner is responsible for the proposed street until it is accepted as a Town highway.

C.

When such a street is ready to be accepted for public use as a Town highway, the owner shall notify the Town Engineer or Selectman's agent for final inspection.

D.

The Town Engineer or Selectman's agent shall conduct a semi-final inspection and submit to the owner a list of work to be accomplished, if any, to meet the provisions of this chapter.

E.

Upon completion of the above as listed by the Town Engineer or Selectman's agent, the following items shall be delivered to the Selectman:

(1)

A copy of the "as built" Mylar or linen drawing showing all aboveground and underground improvements and utilities. The "as built" filed with the Selectman shall also be submitted in electronic format for the purpose of updating the Town's Geographic Information System (GIS) and shall meet the following criteria:

[Amended 7-15-2009]

(a)

Drawings shall be on a compact disc in a format as described by the Town's GIS coordinator.

(b)

A certification letter stating that the electronic drawing is a copy of the "as built" that was presented to the Selectman shall accompany the electronic drawings. The letter shall be certified by a land surveyor licensed by the State of Connecticut.

(2)

A maintenance guaranty as required by § 185-45.

(3)

A warranty deed for roads, drainage easements, other easements, appurtenant to said street, free of all defects and encumbrances, as provided in the Newtown Charter and in such form as prescribed by the Town Attorney.

(4)

A current certificate of title signed by a practicing attorney in the State of Connecticut.

(5)

A paid property tax statement.

(6)

A conveyance tax statement and Commissioner of Revenue form.

(7)

A letter from the Town Engineer or Selectman's agent that the road meets all the provisions of this chapter.

F.

Following the submission of the aforesaid documents, the Board of Selectmen, upon the written recommendation of the Town Attorney, shall accept the street as a Town highway.

G.

Following affirmative action by the Board of Selectmen, the warranty deeds, easements, conveyance forms, and tax statements shall be forwarded to the Town Clerk for recording with an approval letter from the Town Attorney. The certificate of title with date of acceptance and maintenance guaranty shall be returned to the Selectman's office. The "as built" Mylar drawing will be filed with the Town Engineer.

H.

The Selectman shall notify owner of record, Highway Department, Finance Department, Traffic Division of the Police Department, Fire Ambulance, and Assessor's Department of the acceptance of the street as a Town highway.

I.

Nothing herein shall be construed as lessening the powers of the Commission to lay out proposed highways, order improvements thereof and of existing Town highways, and to assess the damage and benefits of such action pursuant to Section 8-29 of the Connecticut General Statutes, as amended, which shall remain with the Commission, which is authorized to adopt regulations governing applications made thereunto and the procedures which it will follow in acting on such applications.

Article VII. Standards for Residential **Non-Town Owned Roads**

§ 185-47. Modifications in road ordinance standards.

A.

These modified standards apply only to residential non-town owned roads to be accepted by the Town which were originally laid out and developed prior to the existence of a Newtown Road Ordinance.

B.

Modified design standards.

(1)

Minimum right-of-way: 25 feet.

(2)

Minimum pavement width between curbs shall be determined by the Town Engineer.

(3)

Subbase course: minimum six inches processed stone unless more required by Town Engineer.

(4)

Wearing surface course: two-inch Class 1 and 1 1/2 inches Class 2.

(5)

Drainage structures: required only where Town Engineer determines they are needed to prevent destruction of the road from normal surface water.

(6)

Curves. The standard radius of 150 feet is not required, but the desirable radius shall be determined by the Town Engineer, considering the design and physical characteristics of the road and all pertinent safety factors.

(7)

Intersections. The radius of 25 feet is not required, but the radius shall permit full-size automobiles to turn without crossing the center line of the intersecting roads.

(8)

Grades. Grades shall be determined by the Town Engineer, considering all pertinent safety factors.

(9)

Turnarounds. In the absence of an ordinary turnaround or loop, an apron shall be provided, adequate to permit emergency vehicles to reverse direction by backing once.

(10)

Curbs: required only where the Town Engineer so determines.

§ 185-48. Acceptance procedures.

A.

The Selectmen is the Town agency to which a request for takeover of a non-town owned road shall be directed.

B.

Non-town owned road acceptance procedure shall be initiated by filing a signed petition with the Selectmen. Petitions may be filed by a majority of landowners fronting on the road in question.

C.

Upon the filing of a petition for **non-town owned** road acceptance, engineering and legal work necessary for takeover shall be accomplished within the monies appropriated by the Town for the purpose. The engineering and legal work may be done on the initiative of and at the expense of a **non-town owned** road association group of interested landowners. In such a case, the engineer doing the work must be a licensed professional in the State of Connecticut and meet the approval of the Selectmen.

D.

Engineering studies relative to Town acceptance shall include and establish:

(1)

The location of the existing right-of-way.

(2)

What land, if any, need be taken to accommodate the traveled way.

(3)

Drainage easements and radii at intersections.

(4)

Present grades and required work in the nature of drainage structures, base course and surface course.

(5)

An estimate of the costs of improvements necessary to take over.

E.

Landowners "benefitted" by Town takeover of private **non-town owned** roads shall be expected to equitably share the cost of acceptance and improvement of private **non-town owned** roads.

"Benefitted" landowners include:

(1)

Owners fronting on the road in question.

(2)

Owners who must travel on the road in question in order to obtain access to their properties and who have no other access a public highway.

F.

Benefitted landowners can expect a potential appreciation in property values from Town acceptance of private **non-town owned** roads. Benefitted owners shall bear, at a maximum, 50% of the cost of road acceptance and improvement. A proposal for an equitable allocation of costs shall be determined by negotiation between the Selectmen and the landowners. A competent real estate appraiser may assist in the negotiations.

G.

Upon agreement relative to the allocation of acceptance and improvement costs to be borne by the Town and benefitted landowners, the Town shall complete the engineering and legal work and take all steps necessary to take over the road and complete the improvements.

H.

The Selectmen may seek out and apply for any state or federal funds available for Town acceptance and improvement of private **non-town owned** roads when such funds would be beneficial to the Town in the opinion of the Selectmen.

I.

As an alternative to the Town doing the improvements, the petitioning landowners may improve the road and present it to the Town for acceptance, without the landowners being charged for an increase in property value. Similarly, if the Town obtained special funding for acceptance and improvements from the federal or state government, there shall be no need or a reduced need for the Town to obtain special funding to assess benefits.

J.

Following completion of the work, and if not already provided, warranty deeds to all streets, drainage easements or other easements appurtenant to said streets, free from all defects and encumbrances, shall be submitted, together with a current certificate of title signed by a practicing attorney in the State of Connecticut.

K.

Following the submission of the aforesaid documents, the Selectmen, upon finding them in order, shall sign a certificate certifying that the Road Modified Design Standards of the Road Ordinance have been met and they shall recommend to the Legislative Council acceptance of the street as a Town highway.

L.

Following affirmative action by the Legislative Council, said deeds and certificate shall be recorded in the Newtown Town Clerk's office. Such affirmative action by the Legislative Council shall constitute acceptance of such street as a Town highway.

M.

Pursuant to Section 13a-82 of the Connecticut General Statutes, the Selectmen may implement and enforce the acceptance procedure by assessing the benefits accruing to any landowner by Town acceptance and improvement of any road, upon the giving of written notice to the parties to be benefitted of the time, and place of a meeting therefor, and order such benefits to be paid by the parties assessed, within such time as they appoint. Such benefits may be collected in the same manner as Town taxes are collected.

N.

Where the Town is going to file a lien for acceptance and improvement costs to be borne by benefitted landowners, the Selectmen shall undertake all legal work necessary to the filing of said liens. Liens shall be filed in either the amount agreed upon through negotiation or following appraisal by the appraiser, pursuant to statute.

O.

The Selectmen may delegate the acceptance of the residential private **non-town owned** roads as hereinbefore set forth to the Commission, which may proceed in accordance with Section 8-29 of the Connecticut General Statutes.

Article VIII. Discharge of Water and Damage to Roads [Combine with drainage above?]

§ 185-49. Increase in water discharge prohibited; damage to roadways prohibited.

No person shall perform any act which creates or increases to any extent the discharge of water or other substance onto Town highways. No person shall cause any damage to the roadway, drainage structure or any appurtenance of a Town highway, including, without limitation, damage caused by vehicles which are overweight or which have improper treads or tires.

§ 185-50. Compliance as condition of permit.

Adherence to 8§ 185-49 during construction shall be considered a condition of all building or other permits issued by any agency of the Town. Any act creating or increasing the discharge of water or other substances, or causing damage as set forth in said § 185-49, shall be sufficient cause to revoke any permit issued by any agency of the Town for work which was being furthered by said acts.

§ 185-51. Violations.

A.

Where § 185-49 has been or is being violated, the Selectman may, at his option:

(1)

When the Town highway or the safety of persons using said highway is threatened, take all measures necessary to protect the Town highway from said discharge, to remove any accumulated substances, and to repair any damage for the account of the violator; and

(2)

Issue a written order specifying the nature of said violation, the substances to be removed and/or the repair work to be performed, and setting a date by which said violation shall cease and any removal or repair work be accomplished; or

(3)

Take action under both Subsection A(1) and (2) above, specifying in said order the measures taken or to be taken by the Town and the action to be taken by the violator.

B.

Said order shall be sent to the violator by certified mail, return receipt requested. If said order is not complied with the Selectman may then, without further notice, take all measures necessary to protect the Town highway from said discharge, to remove any accumulated substances and to repair any damage for the account of the violator. The Town, acting through the Selectmen, may accept payment for and/or institute suit to recover the costs of any work to protect the Town highways from said discharge, for removal of accumulated substances, and repair of damage.

§ 185-52. Payment of costs upon revocation.

If any permits are revoked because of a violation of § 185-49, the authority causing such revocation shall, as a condition of the reinstatement of said permits, require full payment for any costs incurred by the Town as a result of said violation, and may require a guaranty in cash or letter of credit to the Town in an amount not to exceed the costs incurred by the Town as a result of the violation for which the permit was revoked, said guaranty to be released when the work under permit has been completed without further cost to the Town as a result of subsequent violations.

§ 185-53. Connection to storm drains.

A.

Where storm drains exist in the street, all roof and building drains, drainage trenches and other structures, ditches and devices used to affect the natural flow or percolation of water, which were created or constructed subsequent to the effective date of this chapter and which would otherwise discharge directly or indirectly into said street, shall be connected with said storm drains in a manner satisfactory to the Selectman.

B.

Where storm drains exist on the effective date of this section or are subsequently installed in any Town highway, the Selectman may order any person owning and/or controlling any such drain, trench, structure, ditch or device which is capable of discharging water upon said Town highway to connect with said storm drains in a manner satisfactory to the Town Engineer. Said order shall be writing, shall be mailed to such person by certified mail, return receipt requested, and shall specify the date, not less than 30 days after mailing, when such connection shall be completed. Upon agreement between the Selectman and the person so ordered, or upon the failure of said person to complete the connection as ordered, the Town may make said connection for the account of said person and, acting by the Selectmen, may accept payment therefor and/or institute suit to recover the costs of said connection from said person.

Article IX. Sidewalks and Driveways

§ 185-54. Removal of snow, ice and obstructions from sidewalks.

Where any sidewalk has been or is in the future constructed on any existing street or where sidewalks are installed pursuant to the terms of this chapter, then it shall be the duty of the owner and the occupant of the land adjacent to said sidewalk to remove snow, ice, sleet, debris or any other obstruction therefrom and to keep it safe for use by all persons lawfully using it. In the event that neither the landowner nor the occupant removes the snow, ice, sleet, debris or other obstructions from said sidewalk, then the Selectmen may cause such removal and the Selectmen may charge the reasonable cost thereof to the landowner. In the event that such charges are not paid by the landowner, then the Selectmen shall, within 60 days from the date of the removal, cause a certificate of lien to be recorded in the Town Clerk's office in the name of such landowner and the cost thereof shall become a lien on the property pursuant to the General Statutes.

§ 185-55. Driveway construction; penalties for offenses.

No driveway shall be constructed or created intersecting with a Town highway, street or **private non-town owned road** way until the person owning the land upon which said driveway is being constructed or created has obtained a driveway permit from the Selectman or his agent and has filed a cash bond with the Selectmen in the amount of \$1,000 or an amount equal to the cost of the improvements required by § [185-57](#), whichever is greater. Where the person on whose land the driveway is being created or constructed and the Selectman cannot agree on the amount of the bond, an estimate of the cost of the required improvements shall be obtained from the Town Engineer, and the cash bond filed shall be in that amount. Driveway permits will be issued for a period not to exceed 1 1/2 years from the date of issuance. The Selectmen shall have the authority to extend the permit for additional periods of six months in the event of exceptional hardship demonstrated by the owner. In the event that the improvements are not completed within such time period, said bond shall be forfeited to the Town and a new application and fee must be filed and a permit issued and a new bond filed. Any person who fails to complete the improvements within 30 days of the expiration of the initial driveway permit shall be fined the sum of \$100 per month until such improvements are completed. After completion of said improvements to the satisfaction of the Selectman or his agent and upon recommendation of the Selectman, the Selectmen shall release said driveway bond.

§ 185-56. Driveway construction specifications.

Driveways shall enter streets only in locations where a sight distance of 150 feet in each direction can be obtained along the street or, if a one-hundred-fifty-foot line of sight cannot be obtained, due to the fact that the person constructing or creating the driveway does not own a sufficient amount of frontage, then said driveway shall enter said street at the point where the maximum sight distance can be obtained. Within the triangle formed by the curblane, the edge of the driveway, and a line from the point where the edge of the driveway and the street line intersects to the point in the curblane to which sight distance is required, the holder of the driveway permit shall regrade and/or remove trees, brush, stones and any other objects obstructing vision. Driveways, where they meet the roadway, shall flare to a sufficient width so that the vehicles entering and leaving said driveways under normal conditions may do so without crossing to the opposite side of the road, and they shall be paved with bituminous concrete or other equal all-weather surface to at least a point that lies 15 feet from the edge of the proposed edge of the pavement, if the roadway itself is paved or proposed to be paved.

Article X. Building on Unaccepted Streets

§ 185-57. Building construction on unaccepted streets prohibited.

No building or structure shall be erected nor shall any building permit be issued for the erection of any building or structure on any lot abutting or having sole access to any street which has been accepted for public use or as a Town highway in accordance with Article [VI](#), except as provided in Article 8.02.100 and 8.02.200 of the Newtown Zoning Ordinance.[\[1\]](#) The Selectman shall certify in writing to the building official when a proposed road meets the requirement of this chapter for "public use." For the purposes of this section, "public use" shall mean that the first course of pavement for a street in an approved subdivision shall have been installed and approved by the Selectman or his agent.

[\[1\]](#)

Editor's Note: See Ch. [595](#), Zoning.

[§ 185-58. Penalties for offenses.](#)

Any person, firm or corporation who or which erects a building or structure in violation of [§ 185-57](#) above shall be fined not more than \$200 for each building or structure so erected in addition to any penalties or relief granted to the municipality which may be provided by any other regulations, ordinances or statute.

[§ 185-59. Exceptions.](#)

A.

Sections [185-57](#) and [185-58](#) hereof shall not apply to private **non-town owned** streets and ways which were laid out prior to February 8, 1956, or to streets shown on maps approved by the Commission (or Newtown Planning Commission) prior to October 2, 1967, where the intention that such streets remain forever private **non-town owned road** was set forth on the approved subdivision map and/or in the deeds of conveyance of the lots from the subdivider.

B.

Should a non-conforming road be judged by the Selectman's Office to be unable to meet the modified design standards established under §185-47, the First Selectman shall bring a recommendation to the Legislative Council to exempt the road from the modified design standards and accepted either as is or as negotiated with the owners.

C.

A list of roads that have been accepted by the Town pursuant to §185-59B shall be kept on file in the Town Clerk's Office.

[Article XI. Road Layout and Improvement Fund](#)

[§ 185-60. Applicability of fund provisions.](#)

The procedures established by this article shall relate solely to the collection of benefits assessed and payment of damages appraised and other expenses incurred as a result of action taken by the Commission pursuant to the powers vested in it by Section 8-29 of the General Statutes of Connecticut, as amended from time to time.

[§ 185-61. Fund established; purpose; appropriations.](#)

There is hereby established a revolving account to be held by the Financial Director separate from the Town General Fund to be known as the "Road Layout and Improvement Fund." All amounts received by the Town from the assessment of benefits for the layout and improvement of roads by the Commission pursuant to the powers vested in it by Section 8-29 of the General Statutes of Connecticut, as amended from time to time, shall be paid into such fund by the Tax Collector. Sums held in such fund shall be used solely for the engineering legal fees, construction costs, payment of damages and other expenses incurred in action taken or recommended pursuant to said Section 8-29. Expenditure of the money held in such fund shall be authorized in the same fashion as any annual or special appropriation, but such appropriation shall be only for the purposes specified in this section. Nothing herein shall be deemed to limit the power of the Town to make additional annual or special appropriations to pay for projects undertaken pursuant to said Section 8-29, nor shall this section be a limitation on any powers which the Town or its boards or commissions may have to acquire, lay out, maintain or improve streets and highways pursuant to sections of the General Statutes other than Section 8-29, or to make appropriations therefor.

§ 185-62. Disposition of funds upon repeal of chapter.

If by amendment or repeal of this chapter the Road Layout and Improvement Fund ceases to exist for the purposes for which it is created, then all sums held therein not lawfully appropriated shall be added to the General Fund.

Article XII. Miscellaneous Provisions

§ 185-63. Effect on other requirements.

It is not intended that the requirements of any other law or ordinance, except as herein stated, be repealed or otherwise made ineffective by this chapter, and in case of conflict the strictest of the relevant provisions of this and other laws and ordinances shall apply.

§ 185-64. Applicability.

A.

The provisions of this chapter shall not apply to any road, bridge, drainage structure or appurtenant facility for which a road construction permit, under bond, has been issued pursuant to any prior road ordinance, provided that construction of said road, bridge, drainage structure or appurtenant facility is substantially completed prior to January 1, 1990.

B.

The articles concerning discharge of water and damage to roads, sidewalks and driveways, and building on unaccepted streets shall apply to all persons as of the effective date of this chapter.

§ 185-65. Supersession of prior legislation.

The provisions of this chapter supersede and repeal the road ordinance adopted November 24, 1978, except that the provisions of said road ordinance which have been incorporated by reference into Chapter 460, Subdivision of Land, by the Commission shall remain in effect as part of said regulations until changed by the Commission.

[185-66 through 185-79 are reserved]

Article I. Town ~~Plowing of Private~~ Maintenance of Town Owned and Non-Town Owned Roads

§-185-80. Road Maintenance Policy.

The Board of Selectmen shall establish a policy governing maintenance practices of Town owned Roads. This policy shall, amongst other things, consider:

A.

A cost benefit analysis of paving currently unpaved roads, recognizing maintenance costs of unpaved roads do in some cases exceeded the cost of paving.

§ ~~204-1 185-81. Plowing~~ Maintenance and Snow Removal on Non-Town Owned Roads in order to provide emergency services.

A.

The Board of Selectmen is hereby empowered and directed to provide the following services on ~~private~~ non-town owned roads to the extent necessary to provide residents of the Town of Newtown wherever situated with police, fire, ambulance and other emergency protection in cases where such services are required to maintain suitable access to such residents by emergency vehicles. The foregoing shall not be construed as authorizing such services for any ~~private~~ non-town owned road on which there are fewer than three occupied residences or which is in such condition as to create a hazard to Town equipment; nor shall the Board of Selectmen be required to provide such services beyond the last inhabited house on any ~~private~~ non-town owned road. Such services shall in no way adversely affect the clearing of accepted Town roads and shall be performed on a schedule to be established by the Board of Selectmen in its discretion.

(1) Snow plowing and ice sanding;

(2) Sweeping;

(3) Surface patching;

(4) Oiling and incidental sanding;

(5) Installation and maintenance of any official traffic-control devices and street signs as defined in G.S. § 14-297, which are approved by the traffic authority.

B.

If the town considers it necessary to public safety or otherwise desirable to provide additional work, services or improvements to ~~private~~ non-town owned roads eligible for maintenance under §204-2 (A), such work, services or improvements may be provided by the town or its designees provided an agreement is executed between the town and the owners of the land upon which the road rests, or which the road benefits, concerning the work, services or improvements. The town may decline to provide additional work, service or improvements unless the agreement apportions costs among the parties.

Article II. Burning on Public Highways

[Adopted by the Board of Selectmen 11-4-1969 (Ord. No. 31)]

§ ~~185-82~~ 204-2. Burning on highways prohibited.

No person, partnership or corporation shall burn or cause to be burned any substance whatsoever on the paved portion of any public highway maintained by the Town of Newtown, whether or not said paved portion is part of the traveled portion, or upon the traveled portion of any highway maintained by the Town of Newtown, whether or not said traveled portion is paved.

§ 185-83 204-3. Penalties for offenses.

A.

Any person, partnership or corporation which violates this article shall be fined not more than \$100.

B.

Any person, partnership or corporation having violated this article shall be liable to the Town of Newtown for the cost of repairing any damage caused as a result of said violation.

C.

Notwithstanding any language above to the contrary, the maximum fine for each violation under this article shall be \$90 or the amount set forth above, whichever is less. Each violation subject to a fine shall be considered an infraction which, in the discretion of the issuing violation, may be enforceable by citation. The fine(s) imposed shall be payable to the Town of Newtown. Any individual fined for a violation of this article may appeal that fine to the Town hearing officer following the procedures set forth in the ordinance authorizing said officer and herein setting forth the appeals process.

[Added 9-17-2003]

§ 185-84 204-4. Citation hearing officer.

[Added 9-17-2003]

The First Selectman, with the approval of the Board of Selectmen, shall appoint one citation hearing officer, other than police officers or employees or persons who issue citations, to conduct the hearing authorized by § 204-5.

§ 185-85 204-5. Appeals procedure.

[Added 9-17-2003]

A.

Newtown, at any time within 12 months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance adopted pursuant to C.G.S. § 7-148 or 22a-226d, for an alleged violation thereof, shall send notice to the person cited.

Such notice shall inform the person cited:

(1)

Of the allegations against him and the amount of the fines, penalties, costs or fees due;

(2)

That he may contest his liability before a citation hearing officer by delivering in person or by mail written notice within 10 days of the date thereof;

(3)

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

(4)

That such judgment may issue without further notice.

B.

If the person who is sent notice pursuant to Subsection [A](#) of this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by such municipality. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 days of the date of the first notice provided for in Subsection [A](#) of this section shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The hearing officer 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 Subsection [D](#) of this section.

[C.](#)

Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice, provided the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. The presence of the issuing official or policeman shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he 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. The hearing officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

[D.](#)

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of \$8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same 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 of \$8, against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer'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.

[E.](#)

A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with any entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, at a Superior Court facility designated

by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

Article III. Excavations and Openings

[Adopted 5-20-1981 (Ord. No. 58A); amended 11-16-1991]

§ ~~185-86~~ 204-6. Title and purpose.

A.

This article shall be known and may be cited as "Newtown Road Excavation Ordinance."

B.

This article shall be liberally construed and applied to promote its underlying purposes and policies which are:

(1)

To ensure that all Town roads, streets and highways will be restored to their former condition, in proper and orderly fashion, immediately following any excavation therein:

(2)

To protect the Town of Newtown against expenses which might be incurred in such restoration in the event of failure or improper performance of such restoration; and

(3)

To ensure that the proper agents of the Town will have knowledge of all such excavations and the scope and extent thereof.

§ ~~185-87~~ 204-7. Permit required; fee; bond; insurance.

A.

Before making any opening, aperture, or excavation for any purpose in any Town road, street or highway, the person making such excavation shall obtain a permit therefor from the First Selectman. The form of application for the permit and the permit shall be in such style as the First Selectman or his designee shall designate. A fee, as may be established from time to time by the Board of Selectmen, shall be paid to the Town of Newtown for each permit issued hereunder.

B.

Before any such permit may be issued by the First Selectman, the person making such excavation shall file with said First Selectman a bond, consisting of either a certified check or a letter of credit. Said letter of credit shall be in a form satisfactory to the Town Attorney, issued by a recognized financial institution authorized to do business in the State of Connecticut. The amount of the guarantee will be equal to 100% of the cost of the work to be performed and shall secure to the Town of Newtown the actual cost of the work to be performed necessary to restore the subject road, street or highway to a condition the equivalent of that prior to any such excavation; provided, however, that no bond shall be accepted in an amount less than \$500. The cost of the excavation work shall be estimated by the professional engineer of the applicant for a road excavation permit. Estimates shall be prepared in detail for all phases of the work, and where there is a difference between the professional opinions of the engineer of the applicant and the Town Engineer as to the cost estimate, the opinion of the Town Engineer shall prevail. Said bond shall continue to be held by the Town of Newtown for a period of six months following the restoration of any such road, street or highway, during which time all or any part of said bond shall be paid over to the Town of Newtown in the event that said restoration be not properly and completely performed; provided, however, that no greater amount shall be paid over than as necessary for such

Town to expend for such restoration. For the purpose of this section, the aforesaid six-month period shall begin to run upon notification in writing to the First Selectman of completed restoration.

C.

Before any such permit may be issued by the First Selectman, the applicant shall also provide the First Selectman with a certificate of insurance showing minimum liability coverage of \$500,000; provided, however, that the above requirements shall be waived for public utility companies who have filed with the Secretary of State a certificate of solvency. The Town shall be named as a co-insured on the certificate of insurance.

§ 185-88 204-8. Protection of excavations; restoration of highway.

A.

Whenever any person shall make any excavation in any Town road, street, or highway, such person shall erect such signs, signals, guard rails and other devices which the First Selectman shall deem necessary to protect the users of such road, street, or highway from the danger occasioned by the existence of such excavation. During the course of such excavation, no person shall cause any road to be closed to traffic without prior permission in writing from the First Selectman.

[Amended 10-16-2002]

B.

Whenever any excavation shall be made in any road, street or highway, the person making such excavation shall, as soon thereafter as practicable, fill in such excavation and stamp and puddle the earth therein so that the same shall not settle, restore the portion of the street so excavated to the condition in which it existed before such excavation was made, and from time to time for a period of six months thereafter make such repairs as may be necessary to maintain the portion of the street so excavated at the level of the roadway. If the excavation is made in a paved road, street or highway, the person making such excavation shall, after filling in such excavation as hereinbefore provided to a point within six inches of the surface of the street, fill in the remaining portion thereof with such paving materials as shall result in a paved surface for such excavation of the same quality and type as theretofore existed, and shall from time to time thereafter make such repairs as may be necessary to maintain the portion of the street so excavated at the level of the roadway for a period of six months. If any such excavation shall not be so repaired and maintained in repair. It shall be the duty of the First Selectman to cause such repairs to be made and to charge the expense thereof against the person making such excavation, which expense shall be collected from the bond posted and filed as aforesaid.

§ 185-89 204-9. Enforcement; penalties for offenses.

A.

This article shall be enforced by the First Selectman or his agent. Any person violating any provision of this article shall be fined \$100 for each day that such violation shall continue.

B.

The imposition of a fine shall not be a bar to the enforcement of such other legal or equitable remedies as might exist to enforce compliance with this article.

C.

Notwithstanding any language above to the contrary, the maximum fine for each violation under this article shall be \$90 or the amount set forth above, whichever is less. Each violation subject to a fine shall be considered an infraction which, in the discretion of the issuing violation, may be enforceable by citation. The fine(s) imposed shall be payable to the Town of Newtown. Any individual fined for a

violation of this article may appeal that fine to the Town Hearing Officer following the procedures set forth in the ordinance authorizing said officer and herein setting forth the appeals process.

[Added 9-17-2003]

§ 185-90 204-10. Citation hearing officer.

[Added 9-17-2003]

The First Selectman, with the approval of the Board of Selectmen, shall appoint one citation hearing officer, other than police officers or employees or persons who issue citations, to conduct the hearing authorized by § 204-11.

§ 185-91 204-11. Appeals procedure.

[Added 9-17-2003]

A.

Newtown, at any time within 12 months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance adopted pursuant to C.G.S. § 7-148 or 22a-226d, for an alleged violation thereof, shall send notice to the person cited. Such notice shall inform the person cited:

(1)

Of the allegations against him and the amount of the fines, penalties, costs or fees due;

(2)

That he may contest his liability before a citation hearing officer by delivering in person or by mail written notice within 10 days of the date thereof;

(3)

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

(4)

That such judgment may issue without further notice.

B.

If the person who is sent notice pursuant to Subsection A of this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by such municipality. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 days of the date of the first notice provided for in Subsection A of this section shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The hearing officer 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 Subsection D of this section.

C.

Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice, provided the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. The presence of the issuing official or policeman shall be

required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he 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. The hearing officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the municipality.

D.

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of \$8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same 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 of \$8, against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer'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.

E.

A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with any entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, at a Superior Court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

Article IV. Liability for Ice and Snow on Public Sidewalks

[Adopted by the Legislative Council 12-19-1990 (Ord. No. 70)]

§ 185-92 204-12. Purpose.

The purpose of this article is to assure safe public sidewalks, clear of ice and snow.

§ 185-93 204-13. Statutory authority.

The provisions of Connecticut General Statutes § 7-163a are hereby adopted as an ordinance of the Town of Newtown as set forth below.

§ 185-94 204-14. Limitations on Town liability.

Notwithstanding the provisions of § 13a-149 of the Connecticut General Statutes or any other General Statute or special act, the Town of Newtown shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk unless the Town of Newtown is the owner or in possession and control of land abutting such sidewalk, other than land used as a highway or street, provided the Town of Newtown shall be liable for its affirmative acts with respect to such sidewalk.

§ 185-95 204-15. Owner's responsibilities.

The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his/her property as the Town of Newtown had prior to the effective date of this article and shall be liable to persons injured in person or property where a breach of said duty is the proximate cause of said injury.

§ 185-96 204-16. Statute of limitations.

No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

[185-97 to 185-100 are reserved]

DESIGNATION OF SENIC ROADS

§ 185-101 191-1. Findings.

A.

Connecticut General Statutes § 7-149a, enacted in 1981, states that the protection of scenic and historic resources is essential to the welfare of the people of Connecticut.

B.

The scenic and rural roads of the Town of Newtown are irreplaceable resources. The natural landscape and visual quality of a community provide it with a sense of pride and individuality, setting it apart from other places. The protection and preservation of these resources is of immeasurable benefit to the people of the Town of Newtown. It is the purpose of this chapter to provide a balance between the need to provide safe and convenient public transportation as well as other public safety needs along with preserving the scenic and rural values.

§ 185-102 191-2. Authority to designate; applicability.

The authority to designate Town roads as scenic roads rests with the Legislative Council. This chapter does not apply to private **non-town owned**, state or federal roads.

§ 185-103 191-3. Designation criteria.

A.

In order to apply for this designation, a road must be free of intensive commercial development or an area with intensive vehicular traffic. It also must meet at least one of the next six criteria:

(1)

The road is unpaved.

(2)

The road is bordered by mature trees and stone walls.

(3)

The road is no more than 20 feet in width.

(4)

The road offers scenic views.

(5)

The road blends naturally into its surrounding terrain.

(6)

The road parallels or crosses lakes, ponds, rivers or streams.

B.

Other criteria to consider include whether:

(1)

The section to be designated should have a minimal length of at least 30% of the length of the entire road.

(2)

The road fronts areas designated as parks, forests or conservation areas.

(3)

The road fronts farmland.

C.

The owners of a majority of lot frontage and driveway access abutting the road to be designated must petition for designation of the road as scenic This petition must be filed with the Town Clerk. The petitioners must prove to the Legislative Council that they do in fact constitute such a majority. Such proof may include information already maintained by the Town of Newtown, but also may require new information such as surveys. The total responsibility and expense rests with the owners filing the petition.

D.

Meeting one of these six criteria is a threshold requirement to be eligible for scenic road status but does not mean that scenic road status will automatically or necessarily be conferred by the Legislative Council. Further, note that only three of the six criteria are totally objective, and therefore it is possible that the Council may not agree with the petitioner's contention as to which criteria are met.

E.

The Legislative Council shall consider the petition, application, comments received at public hearing, and recommendations of Town agencies in deciding whether to designate a road as scenic. The Council shall be guided by the best interests of the Town.

§185-104 191-4. Designation procedure.

A.

Once a petition has been filed with and validated by the Town Clerk, the petitioning group must provide an application in duplicate to the Board of Selectmen that includes the following:

(1)

Signatures and addresses of the abutting landowners and landowners with driveway access abutting the road.

(2)

The name and description of the road.

(3)

A written statement providing and describing facts about the road.

(4)

A written statement providing those characteristics of the road that qualify it for scenic road status.

(5)

Pictures of the road.

(6)

The name and address of the circulator of the application, along with a date of application.

(7)

Written proof, i.e., return receipt, of notification to all owners of land abutting the road and landowners with driveway access abutting the road of the intention to designate the road as scenic.

B.

The following procedure shall take place after the application has been accepted:

(1)

The Board of Selectmen or First Selectman's office shall notify the Chairman of the Legislative Council and the Chairman of its Ordinance Committee of the date on which it receives any complete application, within three business days of that date. The Board of Selectmen will review any application at one of its next two regular meetings following the date of submission of the application and will notify the applicant of the date, time, and place of that meeting. In addition, within three business days of receiving the application, the Board of Selectmen or First Selectman's office shall submit copies of the application and petition to the Conservation Commission, Planning and Zoning Commission, Police Department and Fire Department and request it be provided with comments or recommendations from each on the application within 45 days of receipt. It is not expected that the applicant make formal presentations to any of these agencies; rather, each agency should provide any comments or recommendations based upon its particular area of expertise.

(2)

The Legislative Council shall hold a public hearing, which shall take place within 65 days from the date the application has been received by the Board of Selectmen. Legal notice shall be published in a newspaper having substantial circulation in the Town of Newtown at least 10 days prior to the public hearing.

(3)

The Legislative Council shall render a decision within 45 days of the hearing. Notice of the decision shall be posted in a newspaper having substantial circulation in the Town of Newtown. The Legislative Council is the final authoritative body.

§ 185-105-191-5. Rescission of designation.

The designation of a Town road or portion of a Town road as a scenic road may be rescinded by the Legislative Council using the same procedure required for designation, i.e., written application by owners of a majority of lot frontage and driveway access abutting the roadway, proof of majority, notification of proof, reports from Town agencies, public hearing and Legislative Council vote.

§ 185-106 191-6. Scenic Road maintenance, repair or alterations.

A.

Maintenance, repair and routine alterations of Scenic Roads.

(1)

The Town shall maintain the road, or any portion of the road, in good and sufficient repair and in passable condition within the requirements of maintaining public safety.

(2)

The Town shall maintain the road, or any portion of the road, without alteration, to ensure public safety and preserve the highest degree of scenic characteristics.

(3)

The Town, in the case of a natural disaster, shall repair the road to its original, pre-emergency condition.

(4)

Routine care and alterations, to be carried out by the Town, shall include trimming vegetation, removal of dead or diseased trees, correcting drainage problems, minimal widening so the road does not exceed 20 feet, plowing, sanding, sweeping and catch basin cleaning.

B.

Nonroutine alterations.

(1)

The Public Works Department must seek advance approval from the Legislative Council for any nonroutine alterations. The Board of Selectmen shall review nonroutine alterations to determine if they are in the best interest of the Town and shall pass on its recommendation to the Legislative Council. Improvements or nonroutine alterations such as paving of dirt or gravel roads, widening, change of grade, straightening, removal of structures or mature trees require approval of the Legislative Council. Upon receipt of a request by the Public Works Department to perform nonroutine alterations, the Board of Selectmen shall notify the owners of land with frontage and driveways abutting the road that alterations have been proposed and schedule a public hearing to discuss the alterations. Notification of the hearing also shall be published in a newspaper having a substantial circulation in the Town of Newtown. The Council shall grant such approval if it finds that such alterations are necessary to maintain public safety. Any work performed shall, to the extent possible, be done in a manner to ensure the preservation of the original rural and scenic values.

(2)

Insofar as any alterations are performed, they shall be designed to conform to the following:

(a)

Speed limits shall be low and posted.

(b)

Curves shall be correlated with existing curves and would allow for a constant unfolding of new and change in views. Curves should not be eliminated unless unsafe.

(c)

Grades shall be maintained and only changed if absolutely necessary for safety. The change in grade should not exceed 2°.

(d)

Widths shall be narrow and preserved. Turnouts and wide sections shall be implemented instead of complete widening to maximize preservation.

(e)

Side slopes shall be preserved. Existing steep slopes and naturally occurring rock formations are characteristic with scenic roads and are preferable to extensive removal of soil and rock.

(f)

Vistas shall be preserved and maintained.

(g)

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Rock walls shall be preserved.

(h)

Vegetation shall be preserved and managed to preserve the character. Overhanging or overarched trees are characteristic of scenic roads.

(i)

Nonscenic uses and structures, such as billboards and other unsightly visions, shall be prohibited.

§ ~~185-107-191-7~~. Rights of landowners.

A.

Nothing in this chapter shall be deemed to prohibit a person owning or occupying land abutting or owners with driveway access abutting a scenic road from maintaining or repairing the land which abuts the scenic road if the repair or maintenance occurs on the land not within the right-of-way, paved or unpaved, of the scenic road.

B.

Nothing in this chapter shall be deemed to prohibit a person owning land abutting a scenic road from improving his or her land or gaining access to his or her property in accordance with all other Town regulations and ordinances.