

# TOWN OF WINCHENDON BOARD OF SELECTMEN POLICIES & PROCEDURES



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#### **400-01: PURPOSE:**

The Board of Selectmen of the Town of Winchendon, recognizing the need to codify the traditional and accepted working relationships among the members of the Board, between the Board and the Town Manager, the Support Staff and between the Board and other Town boards, committees, officials and citizens, and also recognizing the need to systemize and reduce to writing the Town's public policies and procedures, hereby undertake to create general policies and procedures for the Board of Selectmen.

#### **400-02: NATURE OF POLICIES & PROCEDURES:**

These policies and procedures shall contain items relating to topics that are not addressed elsewhere. Subjects that would more appropriately be addressed in a statute, by-law or regulation shall not be addressed in this format. These policies are not intended to be all-inclusive.

It should be understood that these policies and procedures represent the rules that govern the manner in which the members of the Winchendon Board of Selectmen and their staff shall perform their respective functions. Accordingly, any violation of these policies and procedures may constitute grounds for either sanction or disciplinary action, whichever is appropriate.

#### **400-03: PROCEDURE TO ESTABLISH POLICIES AND PROCEDURES:**

Draft policies and procedures shall be placed on the agenda for any regularly scheduled meeting of the Board. Drafts shall be in writing, and may be introduced only by a member of the Board or the Town Manager. Upon receipt of a draft, the Board may choose to discuss the policy immediately or schedule the discussion for a future meeting. The Board may schedule any hearings or meetings it deems necessary for discussion. The Board may distribute a draft for comment to appropriate officials as it deems necessary.

The Board shall not vote on a policy at the same meeting that it is first introduced. This rule may be waived if the Board unanimously votes that prompt action is necessary. A majority vote of the board is necessary for adoption.

The Town Manager shall ensure that the Policies and Procedures, as voted by the Board of Selectmen, will be kept up to date and inform the Board when not followed.

#### **400-04: AUTHORITY:**

The Board of Selectmen is an elected Board and derives its authority and responsibilities from the statutes of the Commonwealth of Massachusetts, the Winchendon Home Rule Charter and the By-Laws of the Town of Winchendon.

#### **400-05: ELECTION, QUALIFICATION AND RECALL:**

The Board shall consist of five duly elected members. Before assuming official duties, each newly elected member shall be sworn to faithful performance of official responsibilities by the Town Clerk. A duly elected member of the Board of Selectmen can be recalled from office in accordance with the provisions of the Town of Winchendon's Recall Petition in the Charter.

#### **400-06: VACANCIES:**

(Deleted 7/18/11 – Town Charter and Town Bylaws dictate this policy.)

#### **400-07: ROLE OF THE BOARD OF SELECTMEN:**

The executive powers of the Town shall be vested in the Board of Selectmen which shall be deemed to be the chief executive office in the Town. The Board of Selectmen shall have all of the executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of Selectmen shall serve as the chief policy making agency of the Town. It shall be responsible for the issuance of policy directives and guidelines to be followed by all Town agencies serving under it and, in conjunction with other elected Town officers to develop and to bring all agencies of the Town into harmony.

#### **400-08: ROLE OF THE TOWN MANAGER:**

The Board appoints a Town Manager who functions as the Town's Chief Administrative Officer and shall be responsible to the Board of Selectmen for the proper discharge of all duties of the office and for the proper administration of all Town affairs placed under his charge by Charter, Bylaw, Town Meeting, or Vote of the Select Board. The primary duties of the Town Manager shall be the day-to-day administration of the general government as outlined in the Charter. The Town Manager supports the Board on policy formulation and policy implementation.

Concerns and questions about the operation of departments, and suggestions for improvements should be addressed to the Town Manager, and the responsibility for addressing these issues is thus carried out through the Town Manager.

The Town Manager must strive to maintain a working relationship with all members of the Board. He/she shall regularly brief the Board on all relevant issues.

In order to provide the Town with continuity of management and the Town Manager with job security, the Selectmen are committed to maintaining an employment contract with the Town Manager, as permitted by statute.

#### **400-09: ROLE OF THE SUPPORT STAFF:**

The Support Staff is appointed by the Town Manager and offers support for the Board as approved by the Town Manager. The Support Staff must maintain a working relationship with all members of the Board and the Town Manager.

#### **400-10: COMMUNICATION BETWEEN BOARD OF SELECTMEN AND STAFF:**

When a member of the Board of Selectmen requests information from a department head or other staff member, the request shall be made through the Town Manager.

In addition, from time to time it may be necessary for the Board to speak with a department head or other staff member. To accommodate such need upon request to the Town Manager, the Town Manager will arrange an informal meeting or attendance at a Board of Selectmen posted meeting of the requested employees and members of the Board of Selectmen.

#### **400-11: BOARD RULES AND ETHICS:**

- A. Support all Board decisions once they are made.
- B. Be well informed concerning the duties of a board member on both local and state levels as detailed in the General Laws, the Charter and the By-Laws.
- C. Accept the office of Selectman as a means of unselfish service and not benefit personally or politically from his or her Board activities.
- D. In all appointments, judge all candidates only on merit, experience, and qualifications.
- E. Abide by all Federal, State, and Local ethics regulations.
- F. Recognize that action at official legal meetings is binding and that he or she alone cannot bind the Board outside of such meetings.
- G. Uphold the intent of executive session and respect the privileged communication that exists in executive session.
- H. Make decisions only after all facts on a question have been presented and discussed.
- I. Treat with respect all members of the Board despite differences of opinion.

#### **400-12: ORGANIZATION OF THE BOARD:**

The Chairman shall be elected annually at the first regular meeting following the Annual Town Election. The Board at any time may remove the Chairman by a majority vote. A majority vote shall constitute an election. Nominations require a second. The immediate past Chairman shall preside as Chairman pro tem until the Chairman is elected. If there is no immediate past Chairman, the senior member in terms of current service shall serve as Chairman pro tem. If a vacancy occurs in the office of Chairman, the Vice Chairman will assume the role of Chair until the Board elects a successor.

#### **400-13: RESPONSIBILITIES OF THE CHAIRMAN:**

The Chairman of the Board shall:

- 1) Preside at all meetings of the Board. In doing so he/she shall maintain order in the meeting room, recognize speakers, call for votes and preside over the discussion of agenda items.
- 2) Sign official documents that require the signature of the Chairman.
- 3) Call special meetings in accordance with the Open Meeting Law.
- 4) Prepare agendas with the Town Manager.
- 5) Arrange orientation for new members.
- 6) Represent the Board at meetings, conferences and other gatherings unless otherwise determined by the Board or delegated by the Chairman.
- 7) Serve as spokesman of the Board at Town Meetings and present the Board's position unless otherwise determined by the Board or delegated by the Chairman.
- 8) Make liaison assignments and assign overview responsibilities for project and tasks to Board members unless otherwise determined by the Board.

The Chairman shall have the same rights as other members to offer and second motions and resolutions, to discuss questions, and to vote thereon.

#### **400-14: RESPONSIBILITIES OF THE VICE CHAIRMAN:**

The Vice Chairman of the Board shall act in the place of the Chairman during his/her absence at meetings. Should the chairman leave office, the Vice Chairman shall assume the duties of Chairman until the Board elects a new Chairman. The Vice Chairman shall have any other such responsibilities of the Chair that the two may agree to be in the best interest of the board and the Town.

#### **400-15: REGULAR BOARD MEETINGS:**

Regular Board Meetings are held on a schedule voted by the Board. Unless in the case of an emergency, the Board shall not meet on days designated as legal holidays.

#### **400-16: SPECIAL BOARD MEETINGS:**

A meeting that is called for any time other than the regular meetings shall be known as a "Special Meeting". The same rules as those established for regular meetings will apply. Special meetings may be called by any member provided that a majority of the members agree to meet, all Board members are notified and the meeting is posted in conformance with the Open Meeting Law.

#### **400-17: EMERGENCY BOARD MEETINGS:**

A meeting that is called for any time other than the regular meetings and that is called without the required forty-eight (48) hour posting shall be known as a "Special Emergency Meeting". The same rules as those established for regular meetings will apply. Special Emergency meetings may be called by any member provided that the subject matter is of an emergency nature, a majority of the members agree to meet, due diligence is used in notifying all Board members and the meeting is posted in conformance with the Open Meeting Law.

#### **400-18: WORKING & TRAINING BOARD MEETINGS:**

The Board may conduct informal "working/training sessions" from time to time as the situation warrants. At such meetings, which will be posted in conformance with the Open Meeting Law, no official action will be taken. A summary of topics discussed will be made a part of the minutes of the following regular meeting.

#### **400-19: MEETING PROCEDURES:**

Meetings are to be conducted in accordance with generally accepted rules of parliamentary procedure and the Open Meeting Law. It is the practice that application of such procedures will be on a relatively informal basis, due to the size of the group and the desirability of flexibility in the expression of opinion. Robert's Rule of Order is used in matters requiring clarification.

Although the public and the press have a right to be present at open meetings of the Board of Selectmen, they do not have the right to participate unless they are recognized by the Chair.

A quorum shall consist of three members of the Board. As a practical courtesy, action on critical or controversial matters, such as the adoption of policy or appointments, shall be taken, whenever practicable, with the full Board in attendance. Actions and decisions shall be by motion, second and vote. In split votes, if any, the members vote shall be identified by name.

If it appears that a Board member's participation in any particular matter may place that member in an illegal conflict of interest, the member shall publicly state that fact, and recuse himself or herself from consideration of the matter and temporarily leave the Board table. This action shall be recorded in the minutes.

The Town Manager is expected to be in attendance at all meetings of the Board. The Town Manager shall attend in order to keep the Board informed and advised on all matters that fall within the jurisdiction of his/her office. To the extent that they are policy matters and do not conflict with the laws or the Charter, he/she shall carry out the actions of the Board as they relate to the conduct and administration of Town affairs under his/her jurisdiction.

**400-20: EXECUTIVE SESSION:** (Effective 7/1/10)

Executive Sessions of the Board shall only be held in accordance with the provisions of Massachusetts General Law c 30A § 21.

(a) A public body may meet in executive session only for the following purposes:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
  - i. to be present at such executive session during deliberations which involve that individual;
  - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
  - iii. to speak on his own behalf; and
  - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
  5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
  6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
  7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
  8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
  9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
    - (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
    - (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or
  10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.
- (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:
1. the body has first convened in an open session pursuant to section 21;
  2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
  3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;

4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

The attached Executive Session Form shall be utilized for each such session

If practicable, Executive Sessions, other than a few minutes in duration, will be scheduled only at the end of the open meeting. Only items clearly allowed under the Open Meeting Law shall be included in Executive Session. The mover must specify the exemption under which the session is sought to enter Executive Session. A majority of the members present must vote to enter Executive Session by roll call vote. The motion must state whether or not the Board will reconvene into open session.

#### **400-21: REMOTE PARTICIPATION** *(Adopted 3/12/12)*

**Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:**

The Chief Executive Officer, as defined in [M.G.L. c. 4, sec. 7](#), must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

#### **Minimum Requirements for Remote Participation:**

- a. Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;
- b. A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by [M.G.L. c. 30A, sec 20\(d\)](#);
- c. Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of [M.G.L. c. 39, sec. 23D](#).
- d. With the exception of costs associated with the town owned equipment required to facilitate remote participation, there shall be no expense to the town as a result of the remote participation of a member of a public body.

**Permissible Reasons for Remote Participation:** If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:

- (a) Personal illness;

- (b) Personal disability;
- (c) Emergency;
- (d) Military service; or
- (e) Geographic distance.

**Technology:**

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- (i) telephone, internet, or satellite enabled audio or video conferencing;
- (ii) any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

**Procedures for Remote Participation:**

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at

the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If the remote participant wishes to introduce any new documents, they must be sent to the Board prior to the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with [M.G.L. c. 30A, sec. 22](#).

**Revocation of Remote Participation:** Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

#### **400-22: AGENDA PROCEDURES:**

The responsibility for coordinating and planning the meeting agenda is that of the Chairman in consultation with the Town Manager. Each of the Board Members and the Town Manager may place items on the agenda.

All items for the agenda are expected to be submitted to the Selectmen's Office no later than three business days before any regularly scheduled meeting. Items of emergency or strictly routine nature that develop after closing of the agenda may be considered under "new business".

Agenda items normally include:

1. Call Meeting to Order
2. *Pledge Alliance to the Flag of the United States*
3. *Disclosure of audio/video recording*
4. Selectmen Comments
5. Public Comments and Announcements
6. Boards/Commissions/Committees
7. Appointments/Resignations
8. Permit/License Applications/Hearings
9. New Business
10. *Old Business*
11. Town Manager Report
12. *Accept Minutes*
13. *Communications*
14. *Agenda Items*
15. Executive Sessions
16. Adjournment

Members of the Board, Town Manager, staff or others who prepare background material for the meeting should make an effort to have such material available no later than noon Wednesday before any regularly scheduled meeting. Copies of the minutes of the previous meeting and all

important correspondence, reports and other pertinent background materials shall be included. If background information is insufficient or complicated or if complex memos or motions are presented at the meeting which were not in the Board's meeting packet, any member should feel free to request the tabling of the item to allow careful study of the material presented or the motion proposed.

The agenda shall be available to the public and the press at the Selectmen's office on the Wednesday before the meeting date and shall be posted at the Town office bulletin board and/or Town of Winchendon Web-site, and Police Dispatch.

#### **400-23: MINUTES:**

The Support Staff shall record open meetings of the Board. The Support Staff shall draft minutes of the meetings.

Minutes shall be in order for approval at the next regular meeting of the Board.

Minutes of Executive Sessions shall be processed in the same manner as above and kept in a separate binder. Executive session minutes shall first be voted to be approved and then in a separate vote they shall be voted to be released but shall only be voted to be released after the matter of the executive session is no longer entitled to the executive session privilege under which the session was held.

Minutes are open for public inspection as provided for by law.

#### **400-24: APPOINTMENTS:**

(Amended July 18, 2011)

Committee Appointments: Whenever possible, the Board will strive to assure committees represent a true cross section of the community. In order to attract qualified and interested persons, vacancies will be made public as far in advance of appointment as practicable. Appointments should be based on merit and qualifications rather than political merit.

Appointments are generally made for one or three years in length. In no case may appointments be made for more than three years unless specifically allowed by state law. Annual renewal appointments generally are made as close to June 3rd of each year. In the case of appointments, a second to the nomination or motion will be required prior to Board action.

For Annual Renewal Appointments, the Support Staff shall:

- a. Provide by May 1<sup>st</sup> a list of the appointment renewals to be considered by the Board.
- b. Notify the chairman of the appropriate board or committee requesting recommendations regarding reappointment.

- c. Notify incumbents and request their statements of availability regarding reappointment.

The Board of Selectmen shall take a vote on the renewals and inform the incumbents if they have been reappointed. Any positions not reappointed will become vacant immediately and the Town Charter and Bylaws will be followed to then fill those vacancies.

#### **400-25: ADVISORY COMMITTEES OF THE BOARD OF SELECTMEN:**

The Board may appoint standing or ad hoc advisory committees to aid on matters under the Board's jurisdiction. The use of such advisory committees provides greater expertise and more widespread citizen participation in the operation of government.

Charges to advisory committees shall be in writing and shall include the work to be undertaken, the time in which it is to be accomplished and the procedures for reporting to the Selectmen.

Each committee shall give a written report to the Board of Selectmen upon request. The Selectmen's Office shall be sent copies of all committee agendas and minutes. The Board will discharge committees upon the completion of their work or discretion of the Board. In addition, each Committee shall be provided with a Committee Handbook addressing issues such as conduct and law.

The charges and membership of standing advisory committees shall be reviewed periodically—at least annually—to assess the necessity and desirability of continuing the committee. Reappointments will be based on an evaluation of the member's contribution, the desirability of widespread citizen involvement and the changing needs of the committee and the town.

It is the policy of the Selectmen to appoint qualified citizens representing all sections of the town to all such advisory committees. The Board will normally appoint no individual to more than one standing advisory committee at any one time. The Board shall not restrict an individual from appointment to an advisory committee even though the individual may serve on another advisory committee.

#### **400-26: RELATIONS WITH OTHER TOWN BOARDS, COMMITTEES AND COMMISSIONS:**

The Board of Selectmen is aware that coordination and cooperation is needed among the town's boards, committees and commissions. The Selectmen encourages all boards, committees, and commissions to request joint meetings with the Select Board.

#### **400-27: RELATIONS WITH CITIZENS:**

The Board recognizes that it both represents and is accountable to all the citizens of the town. It is the Board's policy to make every effort to strengthen communications with citizens. Measures

will be instituted to increase citizen participation, encourage citizen input into governmental decisions and to keep citizens informed of all actions contemplated or taken by the Board at the town meeting which will affect them. To this end the following steps will be taken:

1. An individual citizen or group of citizens may request an appointment before the Board by contacting a Board member or the Town Manager, stating precisely the reason for the appearance and the action desired and naming a spokesman for the group. With a place on the agenda the participants shall be given the opportunity to make a reasonable presentation through the spokesman and to express opinions and ask for pertinent information. Background data shall be prepared by the boards and departments concerned prior to the appointment insofar as possible so that all parties involved can have a reasonable understanding of the subject matter. Citizens are encouraged to have written materials submitted for the Board's meeting packet.
2. Persons who will be directly affected by proposed Board discussion and/or action will be notified by the Support Staff of the date and time of meeting at which the matter will be discussed or acted upon by the Board.
3. In considering matters of citizen concern at a regular meeting, the public will be allowed to ask questions or make statements relative to the matter under consideration at the discretion of the Chairman or upon request of any member of the Board.
4. All citizen questions are to be answered promptly. Questions and concerns relating solely to the Office of Selectmen shall be answered promptly by the Chairman, after consulting with the Board. Those needing prompt attention by the Board should be referred to the Chairman for inclusion in the next meeting agenda.

Complaints about day to day operations are to be reduced to writing and referred to the Town Manager's Office for review and action. Said complaints, if not resolved to the complaining party's satisfaction, shall be reduced to writing and presented to the Board of Selectmen as a complaint against the Town Manager in accordance with the terms of this section.

#### **400-28: HEARINGS BEFORE THE BOARD:**

Hearings before the Board of Selectmen generally shall be conducted in accordance with the following procedures. Variations may be necessary to comply with statutory requirements applicable to particular matters. The procedure for conducting dog and utility hearings are hereinafter outlined:

1. Notice: The Support Staff will advertise the hearing and notify interested persons, such as abutters, as required by statute or as directed by the Chairman in the absence of statutory requirements.
2. Hearings will be held in open session unless otherwise voted by the Board in compliance with the Open Meeting Law.

3. The Chairman will announce the nature and purpose of the hearing, identify the particular matter, and recite the notice given. Where appropriate, the Chairman will outline the procedure to be followed. All questions shall be addressed to the Chair.
4. The order of presentation will be:
  - a. Presentation by the party requesting the hearing
  - b. Recommendations from Town entities
  - c. Statements by proponents
  - d. Statements of opponents
  - e. Rebuttal statements by proponents and opponents
  - f. Where appropriate, questions may be asked of any person making a statement after the statement is finished. Questions will be accepted first from members of the Board.
5. The Board may permit persons not desiring to speak to record themselves as in favor or against the proposal. In the discretion of the Board a show of hands may be taken.
6. At the conclusion of the hearing, the Board may render its decision or take the matter under advisement, announcing the intended date of decision.

#### **400-29: PROCEDURE FOR CONDUCTING DOG HEARINGS:**

When a problem is unable to be resolved with the Animal Control Officer and the Town Manager, a written complaint must be filed with Board of Selectmen. The complaint should describe and name the dog and fully identify the owner. The complaint should further specify why and how the dog is considered to be vicious. Specify all times, dates and reasons.

Upon receipt of a request for a hearing, the hearing will be included in the agenda for a regular meeting. The Support Staff will notify the Animal Control Officer and all involved persons. Hearings will be held in open session. The procedure for conducting a hearing is as follows:

1. Read complaint - fully identify and describe dog, present picture when available. Note: the hearing is being conducted under Chapter 140 of the Massachusetts General Laws.
2. Swear in the parties.
3. Hear reports from Animal Control Officer and/or health officer or interested town agent—make sure dog is fully identified here.
4. Take testimony from complainants - directly question as to why dog is considered vicious or dangerous. Are they fearful of dog? Is there excessive barking, etc.?
5. Take testimony from owner and/or others speaking on his behalf.
6. At the conclusion of the hearing the Board may render its decision or take the matter under advisement, announcing the intended date of decision.
7. Unless requested by the Board, the dog shall not attend the hearing.

#### **400-30: ORIGINAL & RENEWED LICENSE:**

##### Section 1 – Schedule

- 1.1 The Town Manager shall ensure that all license applications for Original issue or Renewal will not be placed on the Selectmen’s Meeting Agenda until all required departmental inspections have been performed, unless otherwise noted in the agenda material.
- 1.2 Inspections will be performed in accordance with the attached schedule.
- 1.3 The license inspection schedule will be reviewed at least annually by the Board of Selectmen
- 1.4 All license fees shall be reviewed at least annually by the Board of Selectmen.

##### Section 2 – Forms

- 1.1 Approximately forty-five (45) calendar days before license expiration, the support staff shall cause notice to be sent to all license holders notifying them of the pending expiration of their licenses(s).
- 1.2 Said notice shall be in a form substantially in conformance with the “License Renewal Notice” which is a part of this policy.
- 1.3 The Town Manager shall cause the departments indicated to perform inspections as required by the Board and to return their recommendations to the Board of Selectmen in a timely manner.
- 1.4 Said inspection requests and recommendations shall be in a form substantially in conformance with the “Request for License Recommendations” which is a part of this policy.

#### **400-31: BUSINESS CERTIFICATES**

It shall be the policy of the Board of Selectmen that no permit or license shall be issued by the Board unless the applicant is in compliance with MGL Chapter 110; Section 5, as it may be further amended, regarding business certificates.

#### **400-32: LIQUOR LICENSE HEARINGS:**

- A. Upon receipt of applications for an original alcoholic beverage license, or any transfer of same, the Secretary of the Board shall be instructed to prepare and publish the necessary notice of meeting without further action by this Board.
- B. Before the application can be forwarded to the Alcoholic Beverage Control Commission (ABCC), the Board must be in receipt of a certified check in accordance with the fee schedule made out to the ABCC to be forwarded with same.

#### **Information to Applicants for Liquor Licenses:**

The following procedure must be followed on all applications for original licenses whether the same are for package stores or for restaurants or bars in which liquors are sold to be consumed on the premises.

1. An application furnished by the Board of Selectmen must be completed in every detail.
2. Within ten (10) days after the receipt of this application, the secretary to the Board of Selectmen shall cause a notice thereof to be published in a local newspaper. This publication must contain the name of the applicant, the kind of license applied for and a description of the location where the license is intended to be exercised.
3. This application may not be acted upon by the Board of Selectmen except after the hearing.
4. The hearing shall not be held sooner than ten (10) calendar days after the publication of the notice.
5. The applicant for the license must, within three (3) days after publication in the newspaper, send a copy of such published notice by registered mail to each person appearing upon the Assessor's records.
6. An affidavit of the applicant mailing such notice, together with an attested copy of the Notice, shall be filed with the Board of Selectmen.
7. If any abutter shall complain in writing that such license was granted without such notice having been mailed to him or them, and if after hearing by the Board it appears that such notice was not mailed, the license may be cancelled.
8. The expenses of the advertisement and of the mailing must be borne by the applicant.

The Board of Selectmen, aka the Local Licensing Authority, may consider for the granting of a new liquor license the assessment of public want and the appropriateness of a liquor license at a particular location. (See *Ballarin, Inc v. Licensing Board of Boston*, 49 Mass. App. Ct. 506, 730 N.E. 2d 904 (2000)). The "7 Ballarin Factors" to aid in the determination of granting a license are:

1. Consideration of the number of existing dispensaries in a locality is a proper concern.
2. Views of the inhabitants of the locality in which a license is sought.
3. Traffic.
4. Noise.
5. Size.
6. The sort of operation that carries the license.
7. The reputation of the applicant may also be taken into consideration.

C. Pro – Rating Licenses. Upon the issuance of any new license with an annual fee of \$100 or greater, the initial fee, where permissible, shall be pro-rated on a calendar-quarterly basis. (i.e.: a

license with an annual fee of \$100 issued in May shall be assessed at \$75 for the remainder of the calendar year of issuance.)

#### **400-32-01: SERVER TRAINING REQUIREMENTS FOR LIQUOR LICENSE**

**HOLDERS** (Approved October 25, 2012; Adopted December 1, 2012)

1. **Purpose:** To require all liquor license holders, managers, sellers and servers to complete server training.

2. **Policy Guidelines:**

**A. Mandatory Training Requirements**

All liquor license holders, including but not limited to, licensees holding an all alcohol, including seasonal or one-day license, beer and wine license, private club license or retail package store license shall participate in a program designed to train management and bartender employees in methods of observation and detection to avoid selling or serving to intoxicated persons and/or minors. The manager shall have successfully completed such program no later than three months of his/her appointment and such training and successful completion shall also be required for all bartenders at all establishments with a bar, and for all sellers of alcohol at package store establishments.

**B. Programs Available**

Listed below are programs that are currently available that meet the requirement of this policy:

1. Training for Intervention Procedures by Servers of Alcohol (TIPS)
2. Techniques of Alcohol Management (T.A.M.) sponsored by the Massachusetts Package Store Association
3. Any insurance industry-approved or qualified program offered by a certified trainer and approved by the Board of Selectmen
4. Any web-based approved or qualified program that meets the approval of the Board of Selectmen.

**C. Verification of Server Training**

All Establishments must maintain during operating hours, in an accessible place, a roster or certificate of trained personnel, which shall be maintained for each employee and shall be available for inspection by the licensing authority, or any authorized agent thereof, upon demand at all times. An updated roster shall be submitted with the annual application for the renewal of the license. The roster shall include: (1) employee name; (2) employee date of birth; (3) date of hire; (4) type of training; (5) training certificate date; and (6) date of expiration.

**D. Re-Certification**

All management, bar personnel and sellers shall be required to be re-certified prior to the expiration of the certification granted by an approved program listed in

Paragraph 2. (You must be re-certified every three years regardless of the training program).

### **E. Implementation**

All employees required to receive training hereunder must complete such training within ninety (90) days from the date of employment. In the event any such license holder is unable to meet these requirements, such license holder must request an extension in writing from the Board of Selectmen on or before the ninety day deadline and for good cause, the Board may grant a further extension not to exceed sixty (60) days in order to allow the license holder to comply with the provisions hereof. Any violation of this paragraph may result in a suspension of the license or such other action deemed appropriate by the Licensing Authority until such license holder complies with the provisions hereof.

### **F. Penalty Guidelines**

Licenses in violations of the training requirements set forth hereunder shall be subject to the following range of discipline:

1. First Offense - Warning to seven (7) days suspension.
2. Second Offense within a twenty-four (24) month rolling period – Eight (8) to thirty (30) days suspension.
3. Third or Subsequent Offense within a twenty-four (24) month rolling period – Thirty-one (31) days suspension to revocation.

The penalty guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines. The penalty guidelines shall not be construed so as to limit the Licensing Authorities' power to consider alternative dispositions, or further conditions on a license or even alternate penalties including, but not limited to, reduction and/or rolling back of operating hours.

## **400-32-02: LIQUOR LICENSE VIOLATION PENALTY GUIDELINES**

*(Adopted January 14, 2013- Amended April 8, 2013)*

By virtue of the authority contained in Chapter 138 of the Massachusetts General laws, the Board of Selectmen for the Town of Winchendon, (the Board), serving as the Town's Liquor Licensing Authority, hereby promulgates these Regulations governing Liquor License Violation Penalties. These regulations shall supersede any previous regulations or policies issued by the Town of Winchendon. The Board has the power to amend these regulations periodically from time to time as it sees fit, upon the provision of advance notice.

All licenses issued for the sale in any manner of any alcoholic beverage shall be issued on the condition of full compliance with Massachusetts General Law Chapter 138. The failure to comply shall constitute sufficient grounds for suspension, cancellation or revocation of a license.

The Board will impose penalties for offenses consistent with this policy including but not limiting to:

- Sales to minors
  - Sales of alcoholic beverages to person(s) under 21
  - Permitting person(s) under 21 to consume
  - Furnishing or causing to be furnished alcoholic beverages to person(s) under 21
- Unsupervised sales by person(s) under 18
- Sales to obviously intoxicated person(s)
- Sale and/or Consumption after hours by public, by employees and friends or by employees only
- Illegal Solicitation of Alcoholic Beverages
- Employees accepting alcoholic drinks
- Refilling: With different/With same brand/Contaminated Bottles (insects, etc.)
- Substitution of Brands
- Club Licenses, Sale to Non-Guest and Non-Invitee
- Sale to Purchase Between Retailers
- Licensee or Bartender Working In Premises While Intoxicated
- Licensee or Employee Resisting Arrest or Interfering With Investigation on The Premises
- Licensee or Employee Not Permitting Inspection of premises or records
- Alcoholic Beverage Not Permitted By License: Sale/Possession
- Illegal/Unlicensed Gambling:
  - Organized (bookmaking, football cards, etc.)
  - Local (cards, dice, football & baseball pools, etc.)
  - Unlicensed Electronic/video games (slot machines, Poker, 21, etc.) – possession
  - Electronic/video with payoffs
- Disorderly House, Prostitution, Lewd Conduct :
- Occasional or isolated offenses
- Recurring/aggravated offenses
- Nudity
- Narcotics:
  - Transactions on licensed premise
  - Paraphernalia, possession for sale
- Undisclosed Ownership :Hidden owner qualified
- Hidden owner not qualified
- Commission of Crime Involving Moral Turpitude<sup>1</sup>:
  - Committed on premises , away from premises (petty theft/shoplifting), committed

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<sup>1</sup> Crime involving moral turpitude means a crime involving fraud, misrepresentation or deceit, including but not limited to fraud, misrepresentation or deceit in conducting business or obtaining a license or permit as well as any other crime that adversely reflects on the applicant or licensee.

away from premises (other than petty theft)

- Conviction of a crime involving moral turpitude
- Violation Of License Conditions
- Sale of alcoholic beverages while under suspension
- Receiving Stolen Property either by licensee on premises or by employee on premises
- EBT Card Violations either by Licensee or by employee with premises involvement:
  - Allowing purchases of alcoholic beverages
  - Trafficking (i.e. purchasing EBT cards at discount):
- Keg Registration violations
- Misrepresenting Material Fact on Application

Offenders may expect one or more of the following consequences as appropriate in the judgment of the Board:

Licensees are advised that the following chart represents guidelines for use by the Board when making their respective recommendation and decision in response to a liquor license violation. The Board, after a hearing with the licensee, and in accordance with mitigating and aggravating factors presented, retains the authority to deviate from these penalty guidelines where the circumstances are appropriate.

1. First Violation within Five (5) Years: a letter to a five (5) day suspension, regardless of amount of penalty suspended, if any;
2. Second Violation within Five (5) Years: Three (3) to fourteen (14) day suspension, regardless if amount of penalty suspended, if any;
3. Third Violation within Five (5) Years: Seven (7) day suspension up to revocation of license.

While the Board will endeavor to impose penalties upon licensees in a manner consistent with these regulations, where exigent or special circumstances warrant, such as a violation of the regulations resulting in serious personal injury or death, the Board retains the authority in such circumstances to immediately order a full hearing, provide a licensee an opportunity to present evidence, and to revoke a license where the evidence so warrants a revocation.

#### **400-32-03: BYOB (Bring Your Own Bottle) POLICY**

*(Adopted February 25, 2013- Amended March 25, 2013)*

##### **A. Policy Statement**

It shall be the policy of the Town of Winchendon to allow a patron, customer, or other person to bring alcoholic beverages on to the premises of a restaurant establishment operating with a Common Victualler License or to a location having sought and received a Town of Winchendon Entertainment Permit or Amusement License, solely for the purpose of personal consumption thereon, provided that the establishment has been

issued a “BYOB Permit” in accordance with this policy. The principle goal of this policy is to promote responsible alcohol consumption at “BYOB” establishments.

The Town recognizes that an establishment operating under a BYOB Permit issued by the Board of Selectmen, acting as the Local Liquor Licensing Authority, differs from establishments serving alcoholic beverages pursuant to a license issued under Chapter 138 of the Massachusetts General Laws. Establishments licensed under Chapter 138 are subject to specific statutory requirements, and are further subject to the rules and regulations of the Alcoholic Beverages Control Commission (ABCC). Establishments operating under a “BYOB Permit” are not subject to Chapter 138. The intent of this policy is to ensure that “BYOB” establishments that do not operate under the rules and regulations of the ABCC will be subject to the same level of responsibility as licensed establishments with respect to the consumption of alcohol by their patrons.

The issuance of a BYOB Permit is permissive and shall be at the sole discretion of the Board of Selectmen.

## **B. General Provisions**

1. An establishment that wishes to apply for a BYOB Permit must have a Common Victualler License or an Entertainment Permit or Amusement License in good standing. Action on permit applications shall be taken at an open meeting held by the Board of Selectmen, following submission of a complete application.
2. All establishments that allow BYOB consumption are subject to this policy and must have an active BYOB Permit in order to allow consumption of alcoholic beverages on the premises. An establishment holding a permit shall post a sign at the entry area indicating that it is a BYOB establishment and is subject to all applicable Town and State laws and regulations.
3. Alcoholic beverages consumed on site shall be limited to those alcoholic beverages allowed under an alcohol License for establishments issued under Chapter 138 of the Massachusetts General Laws.
4. The hours in which alcoholic beverages may be consumed by patrons shall follow the ABCC rules and regulations and may be further reduced by the Board of Selectmen. The Board may take into consideration recommendations from the Fire and Police Departments.
5. In accordance with Massachusetts General Laws, Chapter 138, Section 34, no BYOB beverages shall be consumed by any person under the age of 21. It will be the responsibility of the appointed manager to ensure that patrons who consume alcoholic beverages on the premises are 21 years of age or older.
6. BYOB beverages shall not be consumed by intoxicated persons. The establishment shall immediately report to the Winchendon Police Department any situation in which patrons consuming alcohol in the restaurant appear to present a danger to themselves

or others, either in the restaurant or on the public ways, by virtue of the consumption of alcoholic beverages.

7. In the case of establishments with a Common Victualler license, only patrons who are seated in a designated supervised area and who have ordered food for consumption on the premises shall be allowed to consume alcoholic beverages. No alcoholic beverages shall be consumed by patrons in a waiting area.
8. No alcoholic beverages may be served or handled by employees. This includes opening, pouring, storing or refrigerating BYOB beverages. The establishment's employees may provide bottle openers and glassware.
9. Patrons may take with them from the establishment bottles of alcohol which have not been totally consumed on the premises, provided that the bottle(s) have been properly sealed and bagged in accordance with the method designated in the regulations of the ABCC at 204 CMR 2.18 or successor regulation. Partially consumed malt beverage bottles or cans may not be taken from the premises by patrons. Remaining unused wine and malt beverages not removed by patrons must be disposed of by the establishment's staff in an acceptable manner that meets all applicable state laws and regulations. Unused alcoholic beverages may not be consumed by any other party, including the establishment's staff.
10. All BYOB establishments shall comply with Winchendon's inspection process for "*Alcoholic, Beer, Wine, Common Victualler, Entertainment and Amusement Licenses*".
11. Managers of establishments shall participate in a program designed to train in methods of observation and detection to avoid underage drinking and patrons of legal age becoming intoxicated and provide the Board of Selectmen a copy of their Certificate within three months of receiving their permit.
12. BYOB Permits shall not be transferable between persons, establishments or locations, except with the approval of the Board of Selectmen given at a public meeting; and then only if consistent with the public interest.
13. BYOB Permits shall expire on December thirty-first of the year of issue, and may, upon written request of the permit holder, be renewed for the following calendar year by vote of the Board of Selectmen. Without exception, all annual BYOB Permit holders are required to request renewal of their permits by November 30<sup>th</sup> of each year.

**C. Enforcement**

1. Establishments operating with a BYOB Permit may be monitored for compliance with this policy, with and without notice, by agents of the Town of Winchendon.

2. If an establishment operating with a BYOB Permit is not doing so in a manner consistent with this policy, the Board of Selectmen may, after written notice to the permit holder and reasonable opportunity for a hearing, suspend, revoke, or refuse to renew a BYOB Permit.
3. The Board of Selectmen may suspend, revoke, or refuse to renew a BYOB Permit and/or the Common Victualler, Entertainment or Amusement Licenses held by the permit holder in the event the permit holder has committed multiple, willful, or repeated violations of this policy or any regulation promulgated by the Board of Selectmen pursuant to this policy.
4. In case of suspension, revocation, or refusal to renew a BYOB Permit, no abatement or refund of any part of the fee paid therefore shall be made.
5. If an establishment with a Common Victualler, Entertainment or Amusement License allows patrons to carry in alcoholic beverages without a permit, allowing such activity will be considered to be a violation of their licenses.

**D. Application Procedure**

1. The applicant shall complete a Town of Winchendon BYOB Permit Application Form.
2. The application must include the name and qualifications of the person who will be the on-site manager of the establishment. The appointed manager must be at least 21 years of age.
3. A copy of the BYOB Permit Application shall be forwarded to the Town of Winchendon various Departments including Police, Fire and Building for review and recommendation.
4. The Board of Selectmen will conduct a public hearing on the application, after advertising the hearing in a local newspaper and notifying by certified mail the direct abutters, as well as churches and schools within 500 feet of the premises, at least 10 days prior to the date of the hearing.
5. At the public hearing, the Board of Selectmen will consider the input of any interested members of the public, as well as the recommendations of the Police, Fire and Building Departments. The Board of Selectmen may continue the public hearing if it determines that additional information is necessary to act on the application.
6. The applicant shall be responsible for the payment of all mailed notices to abutters as well as the Public Hearing Notice in a local paper prior to the scheduled hearing. An annual fee of \$50.00 will be due upon issuance of the license. Annual permits shall be issued for the period January 1 – December 31.

#### **400-33: PARADE AND DEMONSTRATION PERMITS:**

The Board of Selectmen shall, before issuing a parade and or demonstration permit to anyone, be furnished with written details of such Parade, showing the starting site, staging areas, streets to be used, time of assembly and length of parade, time wise. This written detail must be submitted to the Board at least thirty (30) days prior to the Parade date. This will enable the Police Department to coordinate plans for alternate traffic routes, crowd control, etc.

Any application for a permit may be changed by the Board before final approval of permit.

#### **400-34: TOLL BOOTH/VOLUNTARY BOOT DRIVE POLICY** *(Adopted 3/26/12)*

##### Policy Regarding “Boot Drives” or other Fundraising Events on Public Ways

Any group or organization who wishes to obstruct a public way for any amount of time for the purposes of fundraising in any manner must obtain permission from the board of Selectmen. The request must be made in writing on the approved form not less than 30 days prior to the event to allow the Board a satisfactory amount of time to take action on the request.

The organization shall be a charitable or non-profit group and the proceeds of the boot drive must be used exclusively for charitable purposes.

Organizations conducting such activity **must** adhere to the following requirements:

- 1) NO inappropriate coercion during the collection of donations.
- 2) Persons in the road must be at least 18 years of age and all persons under 18 are to remain on the sidewalk.
- 3) Activities shall be conducted no earlier than ½ hour after sunrise and end no later than ½ hour before sunset.
- 4) All persons in the road must wear DOT (ANSI 107 compliant Class II vest, Class III Highway Safety garment, or ANSI 207 Public Safety vest) approved reflective clothing to minimize danger while they are in the roadway.
- 5) Appropriate signage, providing notice of the upcoming boot drive and identifying the name of the charitable organization, must be employed at least 100 yards in advance of the collection location.
- 6) Orange highway cones must be co-located with the signage and at the collection location.
- 7) If public safety vehicles are to approach, the collectors are to expeditiously but safely move out of the way.
- 8) Submit a completed permit application for the event to the Board of Selectmen’s Office at least 30 days prior to the event.
- 9) Submit a completed hold harmless/waiver of liability form for **each** participant to the Town Manager no later than the Thursday prior to the event.

Failure to comply with these requirements may be grounds for denial of a permit, immediate suspension of fundraising activity, and potential denial of permit for future events. The Chief of Police and all other police officers of Winchendon Police Department are authorized by law, and hereby appointed as agents of the Board for purposes of enforcing this policy.

#### **400-35: BLOCK PARTY RULES AND CONDITIONS**

1. The closure of a street for block parties should pertain only to local residential streets.
2. Length not to exceed lesser of one block or 300 feet.
3. Street and sidewalks must be clear and clean by 1 (one) hour after sunset.
4. No street shall be closed for a block party more than once a year.
5. You must provide your own barricade cones for the event. You may use green or orange cones, 24 inches or higher placed every four feet across the street. You may not use vehicles, picnic benches and chairs.
6. The closure point of intersections and cul-de-sacs must be kept clear of tables or anything other than the barricades in order to allow easy access for emergency vehicles, if necessary.
7. Nothing shall be placed in the street(s).
8. Adult supervision must be provided at all times.
9. All activities and games are to be conducted at your own risk.
10. Noise levels to be kept within Town of Winchendon code limits or party will be shut down.
11. There will be no alcohol on public property (see current by-law).
12. There will be no hydrant use.
13. Clean-up shall be the responsibility of the applicant. A \$200.00 deposit is required payable by check to the Town of Winchendon.
14. The Town of Winchendon encourages the use of recycling receptacles for cans/bottles, paper and cardboard.
15. Approval will be subject to all other Town ordinances and governmental restrictions and any violation(s) may result in stopping the party.
16. Applicants and all event participants must comply with all other applicable town, county, state and federal regulations.
17. Applications may be obtained from and submitted to: Town of Winchendon, Town Manager, 109 Front Street, Dept. 1, Winchendon, MA 01475, Phone (978) 297-0085. It can also be found on our web-site at [www.townofwinchendon.com](http://www.townofwinchendon.com).
18. Signatures from 100% of all households within the party area indicating their consent must be submitted with the application along with the liability waiver (use attached Page 3 Signature Authorization Form and Page 4 Waiver Release of Liability Form – make additional copies as needed).

19. Applications must be **submitted at least 45 calendar days prior to the event and in time for the Board of Selectmen to review at their next meeting.**
20. A non-refundable \$50.00 Block Party Application Fee must be paid at the time of the application submittal. Applicant shall pay by check payable to the “Town of Winchendon.” Please write “Block Party” and the applicant’s last name in the memo section of your check, i.e. “Block” Party – Smith.”
21. Incomplete or improperly completed applications will not be processed.
22. Applications will be routed to various Departments for comment.
23. You should plan on attending the Board of Selectmen’s meeting to discuss your application. You will receive approval/denial notification via U.S. mail within one week of the Board of Selectmen’s meeting where it was considered.
24. Please keep a copy of this application for your records.

#### **400-36: CITATIONS AND PROCLAMATIONS:**

*(Replaced Congratulatory Messages: Approved June 6, 2011)*

- a) Citations - Any member of the Board of Selectmen shall have a citation issued as a congratulatory message to any person or business in Winchendon upon request to the support staff. Citations will be signed by the member requesting the citation or by the Chairman upon request of the member.
- b) Proclamations may be made on behalf of the Town of Winchendon by majority vote of the Board of Selectman in accordance with the following guidelines:

Proclamations are ceremonial documents signed by the Board of Selectman and issued for:

- Public awareness
- Charitable fundraising campaigns
- Arts and cultural celebrations
- Special honors

Proclamations will not be issued for:

- Matters of political controversy, ideological or religious beliefs, or individual conviction
- Events or organizations with no direct relationship to the Town of Winchendon

Other:

- The Board of Selectmen reserves the right to modify or deny any proclamation request.
- More than one cause can be proclaimed simultaneously.
- A person/organization does not have exclusive rights to the day, week or month of their proclamation.
- A citation is an alternative where proclamation criteria are not met.

Who can make a proclamation request?

- Request must be made by a Town of Winchendon resident to the Office of the Board of Selectmen.

How should a proclamation request be made?

- All requests must be made in writing. Requests can be mailed, faxed or hand-delivered or emailed. If mailed or faxed, please call to verify receipt by our office.
- Requests should be made at least thirty days in advance of the date the document is needed. Exceptions to this rule may be made when required.

What must the request include?

- Contact person's first and last name, address, and telephone number
- A brief summary and/or background of the event or organization
- The name and date(s) of the day, week, month or event to be proclaimed
- Draft text for the proclamation, including 4-6 "whereas" clauses
- An indication of whether the proclamation should be mailed or will be picked up and the date
- A date when the proclamation is needed (should be at least 45 days after the date of request.)

#### **400-37: ADJUSTMENTS AND ABATEMENTS: WATER/SEWER USER ACCOUNTS**

*(Adopted 10-12-11 / Amended 3/12/12)*

The intent of this document is to set the policy for adjustments and abatements to users Water/Sewer accounts.

1. Adjustments - the water personnel to make needed adjustments to water/sewer bills for the following reasons:
  - a. Obvious clerical error in the bill (i.e. 10,000cf vs. 1,000cf)
  - b. Historical estimated bill amount that is no longer accurate (i.e. estimate based upon family of 6 and proof is offered to show that the kids have grown and move out)
  - c. When the town requires that a user run a trickle to prevent freezing of a line. (a meter at a trickle runs 1cf/hr or 24cf/day)
  - d. To adjust the sewer component of the bill on a pool fill.
2. Abatements – the Board of Selectman acting as Water/Sewer commissioners may abate charges for water use due to circumstances beyond the control of the rate payer:
  - a. Rate payer should apply for the abatement through the Town Dept. of Public Works. The DPW will forward the request to the Water/Sewer Commissioners with their recommendation.

#### **400-38: TOWN MEETINGS:**

##### 1) Annual Town Meetings

The Town Meeting warrant is the Selectmen's warrant by Statute. Articles for the warrant may be submitted as per the Winchendon Home Rule Charter and the General Laws. It has been the practice of the Town of Winchendon to hold its Annual Town Meeting on the third Monday in May. The Selectmen may, however, call the Annual Town Meeting for any time allowed by the Massachusetts General Laws and By-Laws. The warrant for the Annual Town Meeting shall be either printed in a newspaper of local circulation or mailed to every house with a registered voter at least one (1) week prior to the Annual Town Meeting.

##### 2) Special Town Meetings

The Selectmen will call a Special Town Meeting when deferment of the particular matter(s) proposed for inclusion on the warrant for the Annual Town Meeting will not serve the interest of the Town. The Selectmen must call a Special Town Meeting if they receive a written request, signed by the number of voters called out in the General Laws. It is the practice of the Town of Winchendon to address major issues at the Annual versus a Special Town Meeting.

| Articles for the warrant may be submitted as per the Winchendon Home Rule Charter and the General Laws.

Notwithstanding the above, in the interest of economy of operations and imposition on the voters, the Selectmen shall strive to limit the calling of Special Town Meetings to the minimum necessary as is otherwise in the Town's best interest. In determining whether to call a Special Town Meeting, the Selectmen may consult with other town committees, officials, and staff as appropriate. It is strongly recommended that the Moderator and Town Clerk be consulted before the calling of any Town Meeting.

#### **400-39: OPEN SPACE PRESERVATION APPRAISAL AND/OR SURVEY FUND POLICY:**

1. There shall be a fund in the Town of Winchendon known as the Open Space Preservation Appraisal Revolving Fund ( the "Fund") and the following shall serve as the policy framework detailing its use.
2. There shall be an Open Space Preservation Appraisal and/or Survey Revolving Fund Advisory Committee (the "Committee") seated to consider and make recommendations to the Board of Selectmen regarding applications for assistance from the fund in accordance with this policy.
3. The Committee shall be comprised of one (1) member of the Agricultural Commission, one (1) member of the Conservation Commission, one (1) member of the Planning Board and two (2) citizen at large appointees made by the Board of Selectmen.
4. The Fund is hereby established with a principal balance of \$10,000 from a gracious gift made by the Robinson Broadhurst Foundation and the Girouard/Morlock families for this purpose.

5. The purpose of the Fund is to provide temporary financial assistance to the owners of Winchendon property(ies) that have been identified as having a particular community value relating to forest preservation, agricultural preservation, wetlands protection and or general open space preservation (the "properties").
6. Owners of such properties, at their request, will be considered for an interest free loan from the Fund for the purpose of conducting real estate appraisals of the properties but only if the appraisal is being conducted as a part of a process under which the appraised land will become preserved in perpetuity as deed restricted forest, agricultural or open space land.
7. Loans from the fund shall be made in accordance with the following guidelines:
  - a. Landowner must fill out Fund application including written proof of intended deed restriction and/or preservation program being used.
  - b. Landowner must submit letters of support from participating stakeholders (i.e. Mount Grace, DCR, Mass Fish and Game, Forest legacy, etc.)
  - c. Land Owner must submit three cost estimates for the appraisal
  - d. If approved, the interest free loan must be paid back within eighteen months of disbursement.

#### **400-40: SELECTMEN'S FILES:**

It shall be the policy of the Board of Selectmen that no materials (no files, law books etc.) shall be removed from the Town Hall. Members are encouraged to make copies.

#### **400-41: SELECTMEN STATIONARY**

##### **SECTION 1. POLICY OBJECTIVE**

**Section 1.1** This policy is to insure that Selectmen's stationery is used only for the official business of the Town.

##### **SECTION 2. DEFINITIONS**

**Section 2.1 Definitions** Unless the context clearly requires otherwise, the following words shall have the following meanings:

*Board:* The Board of Selectmen

*Chairman:* The Chairman of the Board of Selectmen

*Business Day:* A day when the Town Hall is open to the public.

*Letters:* Letters or memos issued on behalf of the Board

*Required by Law:* The action is required either by federal or state law or regulation, by town charter, bylaw, Board policy, or town regulation.

*Secretary:* The secretary of the Board, an assistant secretary or an employee in the Town Manager's office.

*Selectmen's Stationery:* Selectmen's stationery shall include letterheads, memo forms and forms used with electronic mail that indicate the message is of an official nature originating with the Board. Regular stationery shall include the words "Office of Board of Selectmen" and the facsimile of town seal.

## **SECTION 3. PROCEDURES**

### **Section 3.1 Preparation of Letters**

Any Board member may prepare a letter to be transmitted on Selectmen's stationery. Such letter shall be submitted to the Board for its approval at a meeting by a vote prior to being signed or transmitted to other than Board members or the secretary.

## **SECTION 4. GENERAL APPLICABILITY**

### **Section 4.1 Use of Selectmen's stationery**

The use of Selectmen's stationery shall be limited to official correspondence and notices by or on behalf of the Board. It may not be used by individual members except as herein authorized.

### **Section 4.2 Use by Individual Members**

A Board member who has been duly designated to carry out a special Board function may use Selectmen's stationery for communications necessary for the conduct of his/her assigned duties.

### **Section 4.3 Use by the Secretary**

Selectmen's stationery may be used by the secretary in the ordinary conduct of the Selectmen's business.

## **SECTION 5 RESPONSIBILITIES**

### **Section 5.1 Responsibility of persons using Selectmen's stationery**

It shall be the responsibility of every member and the secretary to provide each member of the Board with a copy of each document issued on Selectmen's stationery.

## **400-42: POLICY ADOPTION REVIEW AND REPEAL:**

### **SECTION 1. POLICY OBJECTIVE**

Section 1.1 The objective of this policy is to provide a mechanism for the careful consideration, adoption or repeal of policies by the Board of Selectmen.

### **SECTION 2. DEFINITIONS**

Section 2.1 Unless the context clearly requires otherwise, the following words shall have the following meanings:

**Policy:** A town policy is a carefully considered and definitive statement of the methods and procedures to be followed in the conduct of the town business.

**Emergency:** The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action. [Town charter, section 7-7 (c)]

## **SECTION 3. POLICY ADOPTION PROCEDURES**

### **Section 3.1 Conformity**

All policies of the town shall conform to the provisions of the federal constitution and laws. They shall also conform to the provisions of the Massachusetts Constitution, Massachusetts statutes and regulations and to the Winchendon Home Rule Charter and the town bylaws.

### **Section 3.2 Policy Proposals**

All proposals for adoption or repeal of a policy shall be placed on a regular agenda under the heading of new business. A complete draft of a proposed policy shall be included in the regular member packet for the meeting at which it is to be considered.

### **Section 3.3 First consideration of the proposal**

At the first meeting at which the policy proposal is considered, the proposal may be debated, amended, referred for study or comment, postponed, withdrawn, defeated or any other usual parliamentary action except adoption. At the end of such consideration it may be ordered placed on the next or any subsequent agenda. The date for such consideration shall be not less than seven days thereafter. The proposed policy, in the form then existing, shall be posted on a town hall bulletin board and copies shall be available to citizens in the office of the Town Manager. The Board may also request the opinion of the Town Manager, of town counsel, and other persons affected be submitted for the scheduled second consideration.

### **Section 3.4 Second consideration of the proposal**

At the second meeting at which the policy is considered it may again be subject to any usual parliamentary treatment and may be adopted or repealed, as the case may be, by majority vote provided all members are in attendance. If, however, there have been substantive changes to the language of the proposal; it shall be treated as a first consideration. It shall only be placed on a subsequent agenda as provided in section 3.2. The official copy of an adopted policy shall be signed by a majority of the members of the Board.

### **Section 3.5 Effective Date**

Unless a specific effective date is included in the policy, policies shall become effective immediately upon adoption.

## **SECTION 4. PUBLICATION OF ADOPTED POLICIES**

### **Section 4.1 Codification**

Upon adoption of a policy, the support staff shall codify the policy according to its subject matter so that the policy may be easily accessed.

#### **Section 4.2 Official Policy Manual**

The support staff shall maintain in the office of the Town Manager an official policy manual which shall contain all policies currently in effect. This shall be available during normal business hours as a public record to all persons as required by law. Copies of specific policies shall be available on the Town's web-site ([www.townofwinchendon.com](http://www.townofwinchendon.com)) and provided for review without charge to any person requesting the same.

#### **Section 4.3 Board Member Manuals**

Each member of the Board of Selectmen shall be provided with a copy of the policy manual which copies shall include all the policies then in effect. Each Board member shall be provided with a copy of each new or amended policy to include in the manual and shall be responsible for keeping the manual up to date.

#### **Section 4.4 Filing, Posting and Dissemination**

Upon adoption of a policy, the support staff shall file copies thereof in the office of the Town Clerk and at the Beals Memorial Library. The policy shall be posted on the town hall bulletin board for at least seven days, and on the Town's Website at [www.townofwinchendon.com](http://www.townofwinchendon.com), and shall further provide copies to all officers and agencies that may be affected thereby.

### **SECTION 5. GENERAL APPLICABILITY**

#### **Section 5.1 Regulations**

**Regulations** and other actions of general application shall be proposed, considered, and adopted by the Board only under the same procedure as is required for policy adoption.

### **SECTION 6. ANNUAL POLICY REVIEW**

#### **Section 6.1 Annual Policy Review**

The Policies of the Winchendon Board of Selectmen shall be reviewed annually in the month of October.

### **SECTION 7. EMERGENCY CLAUSE**

#### **Section 7.1 Adoption of Emergency Policies**

Emergency circumstances may arise that require immediate policy action. In those cases the Board of Selectmen may adopt an emergency policy. This action may be taken without advance notice but shall require the affirmative vote of all members present for adoption.

#### **Section 7.2 Duration of an Emergency Policy**

Any policy that has been adopted under section 6.1, supra, shall expire thirty days after its adoption unless it is readopted.

**400-43: SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this policy, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Policy or any part thereof.

# END OF BOARD OF SELECTMEN POLICIES & PROCEDURES

## Authorization of Policies and Procedures:

The forgoing policies shall take full force and effect on April 8, 2013.

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Robert M. O’Keefe, Chairman

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Elizabeth R. Hunt, Vice-Chairman

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Keith R. Barrows, Selectman

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C. Jackson Blair, Selectman

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Guy Corbosiero, Selectman

## **Board Member or Employee Acknowledgement:**

I acknowledge that I have received a copy of the Town of Winchendon Board of Selectmen General Policies and Procedures. I further acknowledge that it is my responsibility to become familiar with them and to abide by them.

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Board Member or Employee’s Name

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Date

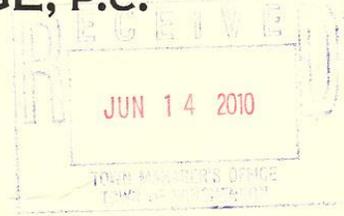


**Reasons for Convening Executive Session  
(M.G.L. c.30A, Sec. 21 – Effective July 1, 2010)**

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual. (*See Rights of Individuals on reverse.*)
2. To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel.
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
4. To discuss the deployment of or strategy regarding security personnel or devices, e.g., a sting operation.
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
6. To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
8. To consider or interview applicants for employment by a preliminary screening committee, if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants. This shall not apply to any meeting regarding applicants who have passed a prior preliminary screening.
9. To meet with a mediator regarding any litigation or decision; provided that (i) any decision to participate in mediation shall be made in open session and the parties disclosed and (ii) no action shall be taken with respect to the issues involved without deliberation and approval of the action at an open session.
10. To discuss trade secrets or confidential or proprietary information regarding activities by a governmental body as energy supplier, municipal aggregator or energy cooperative, if an open session will adversely affect conducting business relative to other entities making, selling or distributing energy.

*For more information please contact Len Kopelman at 800-548-3522, ext. 1701 or [lkopelman@k-plm.com](mailto:lkopelman@k-plm.com).*

*(over)*



## Procedures for Convening Executive Session

1. The meeting must be convened in an open posted session, with executive session listed on the agenda when reasonably anticipated by the chair.
2. The chair states the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose of the executive session.
3. A majority must vote in a recorded roll call to go into executive session.
4. The chair announces whether the meeting will reconvene in open session.
5. Accurate minutes and other records of the executive session must be maintained and all votes recorded by roll call.

## Rights of Individuals

1. When a governmental body wishes to discuss: (a) the reputation, character, physical or mental health of an individual; or (b) the discipline or dismissal of or complaints or charges brought against a public officer, employee, staff member or individual, it must notify that person in writing at least 48 hours in advance of the meeting, not including Saturdays, Sundays or holidays.
2. Written notice may be waived by the individual.
3. The individual may request that the meeting be held in open session.
4. If an executive session is held, the individual has the right to be present for deliberations and to speak, and to have counsel or a representative of choice present for the purpose of giving advice but not for active participation.
5. The individual may have an independent record of the executive session created by audio recording or transcription, at the individual's expense.

*For more information please contact Len Kopelman at 800-548-3522, ext. 1701 or [lkopelman@k-plaw.com](mailto:lkopelman@k-plaw.com).*