Chapter 12

HAWKERS, PEDDLERS AND VENDORS[1]

Art. I. Peddlers
Art. II. Hawkers, Peddlers, and Vendors on Town Property

ARTICLE I. IN GENERAL

Section 12-1 Definitions

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

(a) ***Charitable*** means patriotic, philanthropic, social service, benevolent, educational, civic or fraternal.

(b) ***Contributions*** mean alms, food, clothing, money, subscription, property or donation.

(c) ***Hawker,*** *peddler* or *vendor* as used in this chapter means any person, whether principal or agent, who goes from town to town or from place to place or from house to house in the same town selling or bartering or carrying for sale or barter or exposing therefore any food, goods, wares or merchandise either on foot or from any vehicle.

(d) ***Person*** means any individual, partnership, corporation or association.

(e) *Religions* and *religion* shall not mean and include the word "charitable" as herein defined but shall be given their commonly accepted definitions.

(f) ***Solicit*** and ***solicitation*** means the request directly of money, credit, property, financial assistance or other items of value on the plea or representation that such money, credit, property, financial assistance or other items of value will be used for a charitable or religious purpose.

(Ord. No. 99-014, 8-10-99)

Section 12-2 Registration, license required, application; identification: investigation

(a) Except as provided in section 12-8, no person shall sell or expose or offer for sale or solicit orders for any articles of food or any goods, wares, merchandise, materials or services or solicit for any contracts within the town unless he shall have registered with the town clerk or some persons designated by him, made application for a license, and obtained identifying credentials as hereinafter provided.

(b) The applicant for the license shall complete an application form provided by the town clerk which shall contain the following information:

(1) The full name, home address and business address of the registrant, along with the telephone numbers at each address.

(2) A physical description of the registrant including sex, age, height, weight, physical build, color of hair and eyes, complexion and identifying scars, marks and characteristics, if any.

(3) The name, address and telephone number of his employer, principal or contract associates.

(4) The purpose for which the applicant desires to obtain credentials and particularly the type of food, goods, wares, merchandise, materials, services or contracts with or in which he intends to deal.

(5) Whether, when, where and on what charges he has ever been arrested, together with the disposition of such charges.

(6) Whether, when, where, in what court and by whom he or any present or former employer, principal or contract associate has ever been sued in a civil action alleging fraud or misrepresentation in connection with or as a result of the registrant's activities in soliciting for any contract or in selling, exposing or offering for sale or soliciting orders for any articles of food or any goods, wares, merchandise, materials or service.

(c) The applicant, at the time of executing such application form, shall also submit identification satisfactory to the town clerk. Each application shall be signed by the applicant and sworn to before a justice of the peace or other person authorized by the laws of the State of Connecticut to administer oaths.

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[1] Editor's note—Ord. No. 99-014, adopted Aug. 10, 1999, amended Ch. 12 in its entirety to read as herein set out. Prior to amendment, Ch. 12 pertained to peddlers and vendors and derived from ordinances of Sept. 9, 1980, §§ I—X; May 11, 1982, §§ 1—4; and March 16, 1994, §§ 1—5.

(d) The town clerk may defer the issuance of a license pending investigation for a period not to exceed seven (7) days.
(e) Pursuant to the provisions of section 21-37 of the Connecticut General Statutes, no permit shall be issued to any for-profit person or entity under this section unless such person or entity has obtained a permit to engage in or transact business as a seller within this state in accordance with section 12-409 of the Connecticut General Statutes.

(Ord. No. 99-014, 8-10-99)

Section 12-3 Registration fee

The fee for such registration and credentials, charged solely for the purpose of defraying the cost of administering this chapter shall be one hundred fifty dollars ($150.00) per person and shall be payable upon the filing of the registration form. (Ord. No. 99-914, 8-10-99)

Section 12-4 Registration expiration

Such registration and credentials shall expire on the thirty-first day of December, subsequent to the date on which they are filed and issued, unless sooner revoked as hereinafter provided. Except as provided in section 12-8, no person whose registration and credentials have expired shall engage in any of the activities named in section 12-2 until he shall again have registered with the town clerk, obtained current identifying credentials and paid a fee of one hundred fifty dollars ($150.00) per person as in the original registration. (Ord. No. 99-014, 8-10-99)

Section 12-5 Identifying credentials

The town clerk shall issue identifying credentials to each person filing a registration form in accordance with the provisions of section 12-2. Said credentials shall bear the same identifying number appearing on the holder's registration form and shall set forth the name, home address and business address of the registrant, the name and address of his employer, principal or contract associates, the type of contracts, food, goods, wares, merchandise, materials or services with or in which he has registered to sell, and the date of issuance and date of expiration of said credentials. Each person to whom credentials have been issued pursuant to this section shall carry them upon his person at all times while engaged in the activities in connection with which he has registered and shall exhibit them forthwith to any person who shall ask to see them. (Ord. No. 99-014, 8-10-99)

Section 12-6 Refusal or revocation of credentials

Such credentials shall be refused or, after issuance, revoked by the town clerk and immediately returned to him if the registrant has made any false statement or representation in any registration form filed by him pursuant of this chapter, has been convicted of any crime or misdemeanor involving moral turpitude or of any violation of this chapter, or in the case of the sale of food items, if the registrant has failed to obtain the necessary certification from the Northeast District Department of Health. In the event credentials are refused, no fee shall be charged. There shall be no refund when credentials, after being issued, are revoked. (Ord. No. 99-014, 8-10-99)

Section 12-7 Records of registration

It shall be the duty of the town clerk to keep a record of all licenses granted under the provisions of this chapter giving the number and date of all licenses, the name, age and residence of the person licensed the amount of licensee fee paid and also the dates of revocation of any licenses revoked. A record shall be kept of each complaint concerning the activities of the registrant. (Ord. No. 99-014, 8-10-99)

Section 12-8 Persons exempted

Sections 12-2 through 12-7 shall not apply to:
(a) Persons less than eighteen (18) years of age;
(b) Persons exempted under Connecticut General Statutes;
(c) Persons licensed by the State of Connecticut;
(d) Persons selling only to stores or other business establishments for resale;
(e) Charitable or religious organizations or their representatives;
(f) Persons acting pursuant to a license granted in accordance with Chapter 11, Article II, sections 11-39 and 11-40 of this Code of Ordinances shall be exempt from the provisions of this article during the time the outdoor event is being held.

(Ord. No. 99-014, 8-10-99)

Section 12-9 Hours of operation

(a) The town manager or his designee shall have the right to suspend the rights of all persons licensed or permitted pursuant to this chapter [article] to engage in permitted or licensed activities on public sidewalks or roadways for specific limited periods of time during which an actual special event may be conducted. Such actions by the town manager shall be posted on the town sign post at least forty-eight (48) hours prior to the conducting of any such event. The suspension shall be limited to such times and places as the town manager shall determine are necessary to provide for free access on the public roads and sidewalks and to avoid nuisances and congestion dangerous to either pedestrians, onlookers, or motor vehicle traffic during the actual event. No persons shall be guilty of violation of this section unless and until they have refused to relocate after being informed that they are in a restricted area at a restricted time by an appropriate municipal officer.

(b) No person, whether exempt or not from the provisions of this chapter under any circumstance, may sell, barter or carry for sale or barter or expose any food, wares or merchandise either on foot or from any vehicle, or solicit contributions for any charitable or religious cause before the hours of 8:00 a.m. or after 9:00 p.m.

(c) No vendor's license or other conveyance or stand shall stop or be set up at a location that is not in the public interest or that constitutes a hazard or compromise of public safety. No vendor shall operate on a public highway and within twenty-five (25) feet of any intersecting driveway, bus stop or crosswalk, or within fifty (50) feet of any intersection.

(d) No vendor's vehicle or other conveyance or stand is permitted to locate on private property without written consent from the owner thereof, which consent must state the specified time of permission. Vending from a fixed location is prohibited in all residential zoning districts. (Ord. No. 989-014, 8-10-99)

Section 12-10 Violations and penalties

Any person who shall violate any provision of this chapter or shall make any false statement or misrepresentation on an application form filed pursuant to this chapter shall be subject to a fine of not more than one hundred dollars ($100.00) for each offense and the license of such person shall be revoked immediately for the balance of the year. No new license shall be issued to that person during said license year. Each day of selling, offering for sale or soliciting without credentials as required by the chapter shall be considered a separate offense.
(Ord. No. 99-014, 8-10-99)

Sections 12-11 - 12-20. Reserved.

ARTICLE II. HAWKERS, PEDDLERS, AND VENDORS ON TOWN PROPERTY

Section 12-21 Purpose

It is the intention of this article to provide for the protection of the health, welfare, property and safety of the public in general through the registration and licensing of vendors on municipally.

Section 12-22 Registration

(a) No person on municipally-owned property shall expose or offer for sale any article of food, nor shall cause to station or place any stand, cart or vehicle for the transportation, sale or display of any such article or food unless registered with the town with necessary health department permits.

(b) The town manager or his designee is hereby empowered to adopt and establish such regulations concerning the manner of registration, number of vendors, schedule of fees, hours of operation, duration of permit and all other requirements to protect the public welfare. (Ord. No. 99-014, 8-10-99)

Section 12-23 Liability of permittee

Any person to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person or property by reason of negligence on the part of the person engaged in the activity being sponsored under the permit, and shall agree to hold the town and any of its agents and employees harmless from any and all losses caused by the permittee or any person engaged in activity being sponsored under the permit.
(Ord. No. 99-014, 8-10-99)

Section 12-24 Permit revocation

(a) Responsibility for the proper regulation and licensing of vendors on municipally-owned property shall be vested in the director of parks and recreation under the direction of the town manager.

(b) The vendor's permit issued under this article may be revoked by the town manager at any time during the life of such permit for any violation by the permittee, or of any violation of the Code of the town or any other applicable state law.

(Ord. No. 99-014, 8-10-99)

Chapter 12.5

PLANNING AND DEVELOPMENT[2]

Art. I **In General**
Art. II. **Conservation Commissions**
Art. III. **Housing Partnership,**
Art. IV. **Scenic Roads,**
Division 1 Generally
Division 2 Alterations or Improvements to a Designated Scenic Road
Art. V. **Land Use Application Processing Fees**
Art. VI. **Noise Ordinance**

ARTICLE I. IN GENERAL

Sections 12.5-1 - 112.5-20 Reserved

ARTICLE II. CONSERVATION COMMISSION[3]

Section 12.5-21 Statutory Authority

This article, establishing a conservation commission (hereinafter called "the commission") for the town is enacted pursuant to the provisions of Section 7-131A of the General Statutes of Connecticut, and amendments thereto. (Ord. of 2-13-90)

Section 12.5-22 Purpose

The purpose of this article is to promote the development, conservation, supervision and regulation of natural resources, including water resources within the town, and other such purposes and objectives as set forth by the state statute and this article. (Ord. of 2-13-90)

Section 12.5-23 Conformance to Statute

The commission shall conform to and have such powers, purposes and objectives as set forth in Chapter 97, Section 7-131A of the general statutes and as provided in this article. (Ord. of 2-13-90)

Section 12.5-24 Terms of office; compensation; vacancies

The commission created by this article shall consist of five (5) regular members, all of whom shall be electors of the town holding no salaried town office. All members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of official duties. The members are to be appointed by the town manager with the advice and consent of the town council for five-year terms. The initial terms of appointment shall be fixed so that the terms of one-fifth (1/5) of the members shall expire each year. Any vacancy shall be filled for the unexpired portion of the term by appointment of the town manager with the advice and consent of the town council. There shall be two (2) alternate members appointed for three- year terms. (Ord. of 2-13-90)

Section 12.5-25 Appointment; election of officers; removal of members

The members shall be appointed within thirty (30) days of the effective date, March 1, 1990, of this article.
(a) Appointment.

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[2] Cross references—Administration, Ch. 2; buildings and building regulations, Ch. 4; streets and sidewalks, Ch: 13; water generally, § 15-128 et seq.; inland wetlands and watercourses regulations, App. A; subdivisions, App. B.

[3] Editor's note—An ordinance adopted Feb. 13, 1990, did not specifically amend this Code; hence, inclusion of said ordinance as §§ 12.5-21—12.5-30 was at the editor's discretion.

(b) ***Election of officers.*** Within thirty (30) days after appointment of the original members, and annually thereafter, the regular members shall meet and elect from its membership a chairman, secretary and other necessary officers.

(c) ***Removal of members.*** A member of the commission may be removed for cause by the town manager with advice and consent of the town council. If the member requests a public hearing, that member shall be removed only after a public hearing is held. The public hearing will give the member an opportunity to be heard in person or by counsel before the town manager. At least ten (10) days prior to the public hearing, the member shall have been given a copy of the charges against him/her. In the event of removal, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the town clerk.

(Ord. of 2-13-90)

Section 12.5-26 Quorum

The presence of three (3) members of the commission shall constitute a quorum to conduct business and no action shall become valid unless authorized by a vote of the majority of the total membership present and voting.
(Ord. of 2-13-90)

Section 12.5-27 Powers and Duties

The commission shall have such powers and shall be subject to such limitations as shall from time to time be prescribed under the General Statutes of Connecticut. The commission shall adopt rules and procedure not inconsistent with the provisions of said statutes and this article. The commission shall be empowered to conduct researches into the utilization and possible utilization of land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare and distribute books, maps, charts, plans and pamphlets as necessary for its purposes. It shall keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information on the proper use of such areas, and may from time to time recommend to the planning and zoning commission, the inland wetlands and watercourses commission, the board of recreation and the town council plans and programs for the development and use of such areas. (Ord. of 2-13-90)

Section 12.5-28 Annual Report

The commission shall make an annual report to the town council summarizing the commission's activities.
(Ord. of 2-13-90)

Section 12.5-29 Appropriations

Acting through the town manager and pursuant to the town's personnel rules and procedures and subject to town council appropriation, the commission may utilize staff and clerical assistance and employ consultants, and may accept money gifts or expend the same for the purposes provided for under state statute and this article.
(Ord. of 2-13-90)

Section 12.5-30 Meeting Attendance

Three (3) consecutive unexcused absences shall require notification to the member that he shall be recommended to the town manager for removal unless a proper explanation acceptable to the commission is received within twenty-one (21) days from notification.

Sections 12.5-31 - 12.5-40 Reserved

ARTICLE III. HOUSING PARTNERSHIP[4]

Section 12.5-41 Created

There is hereby created the town housing partnership; appointment to such shall be made by the chief elected official of the municipality. The partnership shall consist of the following members:

(1) The chief elected official of the town or his designee.

[4] Editor's note—An ordinance adopted May 18, 1990, did not specifically amend this Code; hence, inclusion of §§ 1—6 as §§ 12.5-41—12.5-46 herein was at the discretion of the editor.

(2) Representatives of the planning commission, zoning commission, inland wetlands commission, housing authority and any local community development agency, not to exceed two (2) in number.
(3) Representatives of the local business community, such as local bankers, realtors and developers, not to exceed three (3) in number.
(4) Representatives of public interest groups, such as housing advocates, members of the clergy, members of local civic groups and representatives of local nonprofit corporations, not to exceed three (3) in number.
(5) Local urban planning, land use and housing professionals, not to exceed two (2) in number.
(Ord. of 5-18-90, § 1)

Section 12.5-42 Initial Designation

The responsibilities of the municipality of the Town of Killingly, in order to receive initial designation under the Connecticut Housing Partnership Program, shall include the following:
(1) Submit evidence to the commissioner of housing that the town housing partnership has been formed in accordance with P.A. 88-305.
(2) Submit evidence to the commissioner of housing that sufficient local resources have been committed to the town housing partnership. (Ord. of 5-18-90, § 2)

Section 12.5-43 Development Designation

The duties of the town housing partnership, in order to receive development designation under the Connecticut Housing Partnership Program shall include the following:
(1) To examine and identify housing needs and opportunities in the community.
(2) To explore the availability of any state, municipal or other land that is suitable for the development of affordable housing.
(3) To review applicable zoning regulations to determine whether such regulations restrict the development of affordable housing in the community.
(4) To identify any necessary changes to such regulations.
(5) To establish priorities and develop a long-range plan to meet identified housing needs in the community consistent with regional housing needs.
(6) To establish procedures for the development of a written proposal to achieve such priorities in accordance with said plan.
(7) To start an activity, development or project designed to create additional affordable housing in the town.
(Ord. of 5-18-90, § 3)

Section 12.5-44 Conflicting resolutions, orders, rules, and regulations suspended

At all times when any orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede all existing resolutions, orders, rules and regulations insofar as the latter may be inconsistent therewith. (Ord. of 5-18-90, § 4)

Section 12.5-45 Conflicting State or Federal Statutes

This article shall not be construed so as to conflict with state or federal statute, rule or regulation.
(Ord. of 5-18-90)

Section 12.5-46 Expenses

No person shall have the right to expend any public funds of the municipality in carrying out any partnership activities authorized by this article without prior approval by the legislative body, nor shall any person have any right to bind the municipality by contract, agreement, or otherwise without prior and specific approval of the legislative body. (Ord. of 5-18-90, § 6)

Sections 12.5-47 - 12.5-60 Reserved

ARTICLE IV. SCENIC ROADS[5]

DIVISION 1 GENERALLY

Section 12.5-61 Short title

This ordinance shall be known and may be cited as the "Town of Killingly Scenic Road Ordinance." (Ord. of 9-1-90)

Section 12.5-62 Authority

Pursuant to the provisions of Section 7-149(a) of the Connecticut General Statutes, the Town of Killingly is providing for the designation of town roads ("highways") or portions thereof as scenic roads, so as to preserve the scenic characteristics of the road. (Ord. of 9-1-90)

Section 12.5-63 Purpose

The purpose of this article is that upon designation of a road or a portion of a road as scenic, the town, through the planning and zoning commission, shall regulate future alterations and improvements on such designated roads, including, but not limited to, widening of the right-of-way or of the traveled portion of the road, paving, changes of grade, straightening, removal of stone walls and removal of mature trees. (Ord. of 9-1-90)

Section 12.5-64 Designation of roads

To be designated as a scenic road, the road or portion of road shall be free of existing or potential intensive commercial development, shall be free of intensive vehicular traffic and shall meet at least one (1) of the following criteria:

(1) It is unpaved.
(2) It is bordered immediately by stone walls, or by trees in excess of sixteen (16) inches DBH along a majority of the road lengths considered for designation.
(3) The traveled portion is no more than twenty (20) feet wide along the lengths considered for designation.
(4) It offers vistas or scenic views of unique land forms or natural landscapes.
(5) It blends naturally into the surrounding terrain.
(6) It parallels or crosses over brooks, streams, lakes or ponds.
(7) It is bordered by historic farmhouses or land uses. (Ord. of 9-1-90)

Section 12.5-65 Delegation of authority

The authority to designate a town road or any portion of any town road as a scenic road and regulate alterations and improvements pursuant to Section 7-149(a) of the Connecticut General Statutes is hereby delegated to the planning and zoning commission of the town. (Ord. of 9-1-90)

Section 12.5-66 Designation procedure

(a) ***Application.*** To be considered for scenic road designation, one (1) or more resident(s) owning or occupying land abutting the proposed length of a scenic road shall submit to the commission a written request and a map including: Key map at one (1) inch equals one thousand (1,000) feet, sketch map at one (1) inch equals two hundred (200) feet (approximately), showing: Limits of proposed designation, structures, driveways, stone walls, utility poles, width of driving surfaces, drainage structures, abutting property owners and properties and trees less than sixteen (16) inches DBH. Such a request shall describe the road or portions of the road requested for designation and any characteristics which may be worthy of preserving through the designation of the road as a scenic road.
   (1) All requests to conduct regulated work on a scenic road shall be in writing to the planning and zoning commission, and shall be accompanied by a map, specifying the section of the scenic road to be improved or altered, a description of the proposed regulated activity, and a projection of the time period in which the work will be completed.
   (2) The planning and zoning commission shall receive such requests at a regularly scheduled meeting, and shall schedule a public hearing to occur within thirty-five (35) days of the date of receipt.

[5] Editor's note—An ordinance adopted Sept. 1, 1990, did not specifically amend this Code; hence, designation of the substantive provisions of such ordinance as §§12.5-61—12.5-68 and 12.5-81—12.5-85 was at the editors discretion.

(3) Hearing notices and time lines shall be in accordance with Section 8-7(a) of the Connecticut General Statutes, as amended.
(4) Written notice of a scheduled public hearing on a scenic road request and a copy of the plan shall be provided by the planning and zoning commission to the town council and the owners of lot frontage abutting the portion of the road proposed for designation.

(b) ***Review of testimony.*** At such public hearing, the commission shall receive testimony and evidence relating to the road or portions of the road, and why it should or should not be designated as a scenic road. At or prior to the public hearing the director of public works shall submit a report describing highway engineering concerns for public safety and maintenance liability. The commission shall give due consideration to all testimony and evidence presented before and during the public hearing, and shall consider the report of the town director of public works. The commission shall also give consideration to the plan of development.

(c) ***Decision.*** No road shall be designated as scenic until such time as the commission has provided proper notice and held a public hearing on the proposed road designations. Further, no road or portion thereof may be designated as a scenic road unless the owners of majority of lot frontage abutting the road or portions of the road agree to the designation by filing a written statement of approval with the town clerk prior to the close of the public hearing.

(d) ***Effective date.*** Designation of a road as a scenic road shall become effective upon such date as the commission shall determine. (Ord. of 9-1-90)

Section 12.5-67 Appeals

Any person aggrieved by a designation of a road as "scenic" pursuant to this article may appeal such designation in the manner and utilizing the same standards of review provided in Section 8-28 of the Connecticut General Statutes. (Ord. of 9-1-90)

Section 12.5-68 Rescindment

The scenic road designation may be rescinded by the planning and zoning commission using the same procedures contained herein, and provided the written concurrence of the owners of a majority of the road frontage abutting the portion of the road so designated is obtained and placed on file in the office of the Town Clerk prior to the close of the public hearing. (Ord. of 9-1-90)

Sections 12.5-69 - 12.5-80 Reserved

DIVISION 2 ALTERATIONS OR IMPROVEMENTS TO A DESIGNATED SCENIC ROAD

Section 12.5-81 Authorized work

(a) Emergency repairs and routine maintenance shall be performed by the public works department on scenic roads, as necessary, provided such procedures are intended only to maintain the safe and passable condition of the road and do not violate the spirit or purpose of this article as stated herein.

(b) Emergency repairs and routine maintenance include correction of drainage problems, graveling, filling, retreatment and repair of existing roadway surfaces, grading, snowplowing, sanding, installation, replacement or repairs of traffic control signs and guardrails as necessary. (Ord. of 9-1-90)

Section 12.5-82 Regulated work

(a) Any road or portion of a road which has been designated as a scenic road under the provisions of this article may be altered or improved, including, but not limited to, installation of guardrails, widening of the right-of-way or traveled portion of the road, paving, changes of grade, straightening, removal or breaching of stone walls, and removal of mature trees, provided the planning and zoning commission finds that such proposed alterations or improvements are necessary to protect and promote public safety.

(b) No commission action shall be required for the development of a pre-existing lot having frontage on a scenic road.

(c) The commission shall issue no findings until after a public hearing is properly noticed and held on the request in accordance with the requirements of Section 8-7(d) of the Connecticut General Statutes to alter or improve, and due consideration has been given to the following:
(1) A thorough review of alterative solutions to minimize impacts of the scenic road criteria.

(2) Scenic values often are correlated with the existence of curves which allow a constant unfolding of new and changing views. Curves shall not be eliminated unless necessary for traffic safety.
(3) Hills and valleys often are correlated with scenic values. They shall not be destroyed by cuts and fills unless necessary for traffic safety.
(4) A narrow road often is correlated with scenic beauty. Designated highways shall not be widened unless necessary for traffic safety.
(5) Existing steepness of side-slopes often is preferable to reduction of gradient by extensive removal of soil and rock. This is especially true where the slope is fully stabilized and where it is rich with existing ground cover, shrubs and trees.
(6) Vistas of distant landscapes shall be preserved by suitable vegetation management techniques.
(7) Where possible, utility lines should be put underground. Where they are overhead, the utility corporations should be encouraged to cooperate by implementing suitable vegetation management techniques which preserve the wildflowers and the shrubs.
(8) Vegetation on the side of the road shall be considered so as to preserve wildflowers, shrubs of ornamental wildlife values, and trees. Overarching isolated trees and the canopy of a closed forest can have extremely high scenic value.
(9) Where possible, scenic and preservation easements should be acquired from adjacent owners to ensure the continuance of natural relief, desirable features, and scenic and historic values in the public interest.
(10) Anticipated traffic volumes, use and patterns.

(d) Scenic road improvement or alterations to be conducted in conjunction with an application for the subdivision of land or new roads or other land-use development shall be regulated in accordance with the above provisions, except that no commission action shall be required for the development of a pre-existing lot having frontage on a scenic road.
(e) All requests to conduct regulated work on a scenic road shall be in writing to the planning and zoning commission and shall be accompanied by a map, specifying the section of the scenic road to be improved or altered, a description of the proposed regulated activity, and a projection of the time period in which the work will be completed.
(f) Applications for the subdivision of land fronting on a scenic road shall notice such frontage, and provide a description of proposed alterations or improvements that may affect the scenic road. (Ord. of 9-1-90)

Section 12.5-83 Waiver of subdivision requirement

To further the purpose of this article, the commission may waive the requirements of sections 310.41, 310.42 and 310.43 of the subdivision regulations. (Ord. of 9-1-90)

Section 12.5-84 Municipal improvements

Nothing in this scenic road article shall abrogate the need for 8-24 municipal improvement or the procedures established therein. (Ord. of 9-1-90)

Section 12.5-85 Enforcement

This article shall be administered and enforced by the planning and zoning commission. (Ord. of 9-1-90)

Sections 12.5-86 - 12.5-100 Reserved

ARTICLE V. LAND USE APPLICATION PROCESSING FEES

Section 12.5-101 Established

Pursuant to Section 8-1c of the Connecticut General Statutes, there is hereby established a schedule of fees for services provided by the Department of Planning and Development and the processing of land use applications received by the Planning and Zoning Commission, Zoning Board of Appeals and Inland Wetlands and Watercourses Commission. The schedule of fees established shall supersede those fees presently charged by the land use commissions and board as previously established pursuant to a provision of the General Statutes or any Special (Ord. of 7-11-89; Amending Ord. of 6-13-06)

Section 12.5-102 Definitions

For the purposes of this article, the following definitions shall apply:

Commission(s): One of all of the land use regulatory agencies of the Town of Killingly known as the planning and zoning commission, zoning board of appeals and inland wetlands commission.

Processing of a land use application(s): The act of a commission in receiving, reviewing and acting on an application to conduct an activity regulated by said commission and including the control of work and inspection of activities permitted. (Ord. of 7-11-89)

Section 12.5-103 Fee schedule

The Planning and Zoning Commission, Zoning Board of Appeals and Inland Wetlands and Watercourses Commission are hereby authorized to collect fees for the processing of land use applications in accordance with the following schedule:

(1) Subdivision: Three hundred dollars ($300.00) plus three hundred fifty dollars ($350.00) per lot, with any lot proposed to contain an existing house or labeled "remaining land", to be considered a lot for fee purposes; plus $200 and $1 per linear foot of new road construction review; plus 5% estimated cost of work (road, storm drainage) to be computed by the Town Engineer.

(2) Resubdivision: Five hundred and twenty five dollars ($525.00) per application plus three hundred fifty dollars ($350.00) per newly created lot (Required public hearing costs are included)

(3) Zone district change (Map): Five hundred and twenty five dollars ($525) (Required public hearing costs are included)

(4) Zone or subdivision regulation change: Five hundred and twenty five dollars ($525) (Required public hearing costs are included)

(5) a. Special permit: Five hundred and twenty five dollars ($525.00) per application (Required public hearing costs are included).

b. Amendments, modifications or additions to an approved special permit if property boundaries remain unchanged: Four hundred twenty five dollars per application (Required public hearing costs are included)

(6) a. Site plan review and/or review of site plans submitted as part of a special permit:
$200 base fee plus:
Commercial, Industrial and multi residential use plus:
$400 up to 15,000sf of new impervious coverage;

15,001 – 50,000sf of new impervious coverage:
$400 and $5/thousand sf (or any part there of) of new impervious coverage in excess of 15,000 sf;
over 50,000sf: $600 and $2/thousand sf (or any part there of) of new impervious coverage in excess of 50,000sf;

Site plan review associated with single or two family residential use: $200 base fee only;
Site plan review associated with earth filling/excavation/regrading: $200 base fee up to five acres; plus $50 each additional five acres (or part there of) in excess of five acres

b. Amendments, modifications or additions to an approved site plan if property boundaries remain unchanged: Two hundred dollars ($200.00).

(7) Variance: Three hundred seventy-five dollars ($375.00) (Required public hearing costs are included)

(8) Inland wetlands: One hundred dollars ($100.00) base application fee, plus one hundred ($100.00) per subdivision lot, with any lot proposed to contain an existing house or labeled "remaining land", to be considered a lot for fee purposes

(9) Authorized wetlands agent action: One hundred fifty dollars ($150.00) (Includes the decision legal publication fee)

(10) Public hearing fee: $225.00 required in addition to the above fees if a public hearing is required by the commission(s) and not already included

(11) Notification certified mailing costs: to be borne by the applicant

(12) Letter of zoning compliance: $75.00

(13) Zoning permit for new principle use construction: $100

The above application fees do not include the mandated State of Connecticut land use fee which is also required to be submitted at the time of application.

In addition to the fixed fees set forth, the commissions may collect payment for direct costs of materials and services performed by other than town employees including, but not limited to, specialized inspection, third party professional certifications, legal, stenographic, and transcription services associated with a type of land use application, or require an applicant to provide certifications, inspections or professional consultant reports at the applicant's expense. The payment of fees shall not prohibit commissions from requiring performance or forfeiture bonds to ensure the successful completion of all work as may be prescribed in the respective land use regulations. (Ord. of 7-11-89; Ord. No. 99-007, 5-11-99; Amending Ord. of 6-13-06)

Section 12.5-104 Exemptions

All boards and agencies of the Town of Killingly, including the use of fire company properties for fire protection purposes and ambulance corps shall be exempt from the payment of fees established pursuant to this article. Each board may in whole or in part exempt an application from the payment of any or all fees if said application is for low or moderate income housing or special needs housing. Each board exempting an application from payment of a fee shall state in the minutes of the meeting at which the plan was received the fee type exempted, the percentage exempt, and reason for granting the exemption. This exemption shall not prohibit a commission from requiring consultant reports, professional certifications, or conducting inspections to ensure conformance with land use regulations. (Ord. of 7-11-89; Amending Ord. of 6-13-06)

Section 12.5-105 Payment of fees

(a) The payment of a fee established in accordance with the provisions of this article shall not relieve the applicant, owner, or their agent from the payment of other fees that may be prescribed for a different type of land-use application, or by another ordinance of the Town of Killingly.
(b) All fees received by a commission or board as part of a formal land use application submission shall be non-refundable.
(c) All fixed fees shall be paid by cash, check or money order made payable to the Town of Killingly. Fees shall be paid at the time of application submission. All direct costs shall be similarly paid prior to the release of the final plans and permits for filing or the initiation of work except for payments for services to be rendered during construction which shall be paid prior to the issuance of a final certificate of zoning compliance on the project.

(Ord. of 7-11-89; Amending Ord. of 6-13-06)

Section 12.5-106-119 RESERVED

ARTICLE VI. NOISE ORDINANCE

Section 12.5-120 Declaration of policy

It is recognized that people have a right to and should be ensured an environment free from excessive noise or sound and vibration that may jeopardize their health, safety or welfare or degrade the quality of their lives. This chapter is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of the town through the reduction, control and prevention of noise.

Section 12.5-121 Definitions

As used in this chapter, the following words and terms shall have the meanings hereinafter set forth:

ANSI. The American National Standards Institute or its successor body. Any ANSI standard referred to in this ordinance shall be deemed to incorporate further revisions by reference.

Background noise shall mean noise which exists at a point as a result of the combination of many distant sources, individually indistinguishable. In statistical terms, it is the level which is exceeded ninety per cent (90%) of the time (L_{90}) in which the measurement is taken.

Business zone. Those areas so designated for commercial use under the zoning regulations of the town, including the Business Park District.

Construction means any, and all, physical activity at a site necessary or incidental to the erection, placement, demolition, assembling, altering, blasting, cleaning, repairing, installing, or equipping of buildings or other structures, public or private highways, roads, premises, parks, utility lines, or other property, and shall include, but not be limited to, land clearing, grading, excavating, filling and paving.

Day-time hours shall mean the hours between 7:00 a.m. and 9:00 p.m., Monday through Saturday, and the hours between 9:00 a.m. and 9:00 p.m. on Sunday.

Decibel shall mean a unit of measurement of the sound level, the symbol for which is dB.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Excessive noise shall mean any sound, the intensity of which exceeds the standards set forth in section 12.5-125 of this chapter.

Impulse noise shall mean sound of short duration, usually less than one (1) second, with an abrupt onset and rapid delay, the level of which is measured with a sound-level meter, which shall conform with ANSI S2.7-1986 (R1993).

Intrusion alarm shall mean a device with an audible signal which, when activated, indicates intrusion by an unauthorized person.

Industrial *zone* shall mean those areas so designated under the zoning regulations of the town, including the Mixed Use Interchange district

L_{90} shall mean the A-weighted sound pressure level exceeded ninety per cent (90%) of the time period during which measurement was made.

Motor vehicle shall mean a vehicle as defined in Connecticut General Statutes §14-1(47), Revision of 1958, as amended.

Nighttime hours shall mean the hours between 9:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and between 9:00 p.m. and 9:00 a.m. Saturday evening through Sunday morning.

Noise level shall mean a frequency weighted sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated dBA.

Person shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political or administrative subdivision of the state or other legal entity of any kind.

Premises shall mean any building, structure, land, or portion thereof, including all appurtenances, owned or controlled by a person.

Property maintenance equipment shall mean all engine or motor-powered tools and equipment used occasionally in the repair and upkeep of exterior property and including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, leaf blowers.

Public emergency sound signal shall mean a device either stationary or mobile, producing audible signal associated with a set of circumstances involving actual or imminent danger to persons or damage to property which demands immediate action.

Public facility maintenance shall mean all activity related to the clearing, cleaning, repair and upkeep of public roads, sidewalks, sewers, water mains, utilities, and publicly owned property.

Residential zone shall mean those areas so designated under the zoning regulations of the town.

Sound shall mean a transmission of energy through solid, liquid or gaseous media in the form of vibrations which constitute alterations in pressure or position of the particles in the medium and which, in air, evoke physiological sensations, including, but not limited to, an auditory response when impinging on the ear.

Sound level meter shall mean an instrument used to measure sound pressure levels. A sound level meter shall conform, as a minimum, to the American National Standards Institute's operational specifications for sound level meters ANSI S1.4-1983 (R 1997) (Type 1).

Sound pressure level shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of 0.00002 Newtons per square meter (N/M^2) or twenty (20) microPascals, expressed in decibel (dB) units.

Town manager shall mean the duly appointed town manager of the town or his or her designee.

Section 12.5-122 Exclusions

This chapter shall not apply to noise emitted by or related to:

(a) Natural phenomena.
(b) The unamplified sound made by any wild or domestic animal.
(c) A bell or chime from any building clock, school or church.
(d) A public emergency sound signal.
(e) Warning devices required by OSHA or other state or federal safety regulations.
(f) Farming equipment or farming activity.
(g) An emergency.

Section 12.5-123 Exemptions

The following shall be exempt from this chapter subject to the special conditions noted:

(a) Noise generated by the operation of engine-powered or motor-driven lawn care or maintenance equipment during daytime hours provided that noise discharged from exhausts is adequately muffled to prevent loud and/or explosive noises there from.

(b) Noise generated by any construction equipment operated during day-time hours.

(c) Noise created by any recreational activities which are sanctioned by the town, including, but not limited to, parades, sporting events, concerts and firework displays. Any equipment related to such recreational activities shall be properly maintained and properly functioning.

(d) Noise created by blasting provided that the blasting is conducted between 8:00 a.m. and 5:00 p.m. local time and provided that a permit for such blasting has been obtained from state or local authorities.

(e) Noise created by refuse and solid waste collection, provided that such activity is conducted between 6:00 a.m. and 10:00 p.m.

(f) Noise created by a properly maintained and properly functioning fire or intrusion alarm which, from time of activation of the audible signal, emits noise for a period of time not exceeding ten (10) minutes when such alarm is attached to a vehicle or thirty (30) minutes when attached to any building or structure.

(g) Noise created by public facility maintenance during day-time hours.

(h) Noise that originates at airports that is directly caused by aircraft flight operations specifically preempted by the Federal Aviation Administration.

(i) Noise created by snow removal equipment at any time provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.

Section 12.5-124 Noise level measurement procedures

For the purpose of determining noise levels as set forth in this chapter, and as set forth in Connecticut Regulations §22a-69-4, the following procedures shall be applicable:

(a) A person conducting sound measurements shall have been trained in the techniques and principles of sound measuring equipment and instrumentation.

(b) Instruments used to determine sound level measurements shall be sound level meters as defined in this chapter.

(c) The following steps shall be taken when preparing to take sound level measurements:

(1) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.

(2) Measurements to determine compliance with Section 12.5-125 of this chapter, in those cases where a receptor is an abutter to the emitter, shall be taken at a point that is located about one foot beyond the boundary of the emitter's premises and at a point within the receptor's premise. In those cases where the receptor is not an abutter to the emitter, measurements to determine compliance with Section 12.5-125 of this chapter shall be taken at a point that is located about one foot within the boundary of the receptor's premises.

(3) The person conducting the testing shall prepare a written report to include, but not necessarily be limited to, such information as date, time, location, observation of conditions of the environment such as identification of noise source, weather, traffic and other pertinent data.

(d) The Zoning Enforcement Officer is charged with assisting in training efforts and with assisting emitters in their efforts to comply with the standards set forth herein.

(e) The Director of Planning and Development and the Zoning Enforcement Officer are charged with the review of development proposals during the administrative review process to determine the potential for violation of this chapter and to assist potential emitters in their efforts to comply with the standards set forth herein.

Section 12.5-125 Noise levels

(a) ***Noise levels.*** It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his premises in excess of the noise levels established in this chapter.

(b) ***Noise level standards.*** No person shall emit or cause to be emitted noise exceeding the levels stated herein. Levels emitted in excess of the values listed below shall be considered excessive noise.

ZONE IN WHICH RECEPTOR IS LOCATED

Zone in Which Emitter is locate:	*Industrial (dBA)*	*Business (Commercial) (dBA)*	*Resi-dential Day-time hours (dBA)*	*Resi-dential night-time hours (dBA)*
Industrial	70	66	61	51
Business (Commercial)	62	62	55	45
Residential	62	55	55	45

Where multiple uses exist within a given Zone District, the least restrictive land use category for the Emitter and Receptor shall apply regarding the noise standards specified in Section 12.5-125 of this chapter unless provided for elsewhere in this ordinance.

(c) ***Background noise and impulse noise.***

(1) In those individual cases where the background noise levels caused by sources not subject to this chapter exceed the standards contained herein, a source shall be considered to cause excessive noise if the noise emitted by such source exceeds the background noise levels by five (5) dBA. provided that no source subject to this chapter shall emit noise in excess of eighty (80) dBA at any time, and provided that this subsection shall not be interpreted as decreasing the noise level standards of this chapter.

(2) No person shall cause or allow the emission of impulse noise in excess of eighty (80) dB peak sound pressure level during night-time hours.

(3) No person shall cause or allow the emission of impulse noise in excess of one hundred (100) dB peak sound pressure level at any time.

(d) ***Short Term Noise.*** In measuring compliance with the Noise Level Standards, the following short term noise level excursions over the noise level standards established by this chapter shall be allowed, and measurements within these ranges of established standards shall constitute compliance therewith:

Allowable levels above standards (dBA)	Time period of such levels (minutes)
3	15
6	7
8	5

(e) ***Existing Noise Sources.*** Existing noise sources constructed between January 1, 1960 and the effective date of this ordinance shall be provided a permanent five (5) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source. Existing noise sources constructed prior to 1960 shall be provided a permanent ten (10) dBA maximum noise level allowance over levels otherwise herein required regardless of subsequent changes in ownership or facility utilization processes at the location of the existing noise source.

(f) ***Motor vehicle noise.***

(1) All motor vehicles operated within the limits of the town shall be subject to the noise standards and decibel levels as set forth in the regulations of the State of Connecticut Department of Motor Vehicles, Section 14-80a-4a entitled "Maximum Permissible Noise Levels For Vehicles."

(2) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this chapter.

(g) ***Existing state law.*** Nothing in this chapter shall be construed to limit the powers of the police to enforce applicable state laws, including, but not limited to, breach of the peace, motor vehicle noise, or recreational vehicle noise.

Section 12.5-126 Enforcement

Violations of this chapter shall be enforced by the Town Manager or his or her designee. The Town Manager may develop procedures consistent with this chapter, including, but not limited to: metering, training, and issuance of violation notices.

Section 12.5-127 Violations and penalties

(a) Any person found to be in violation of any sections of this chapter for the first time, who is willing to correct the violation, shall be given a two-week grace period in which to correct the violation. The Town Manager or his or her designee shall, where appropriate, refer the person found to be in violation to the Director of Planning and Development and the Zoning Enforcement Officer to receive direction for corrective action. Provided all necessary applications related to the corrective action are filed with the relevant land use agency within the two-week grace period, the Town Manager may extend the grace period pending the review of the applications.

(b) Enforcement of the provisions of this ordinance shall be by the town's citation and hearing procedure as contained in Section 1-10 of Killingly Code of Ordinances. The citation hearing procedure will serve as the appeals procedure.

Section 12.5-128 Variance

(a) Any person residing or doing business in Killingly may apply to the town manager for a variance from one or more of the provisions of this chapter which are more stringent than the Connecticut Department of Environmental Protection's regulations for the control of noise, provided that the applicant supplies all of the following information to the town manager at least twenty (20) days prior to the start of said activity:
   (1) The location and nature of activity.
   (2) The time period and hours of operation of said activity.
   (3) The nature and intensity of the noise that will be generated.
   (4) The reasons for which the variance is requested, including the economic and technical justifications
   (5) A description of noise control measures to be taken by the applicant to minimize noise and the impacts occurring there from.
   (6) Any other information required by the town manager.

(b) No variance from this ordinance shall be issued unless it has been demonstrated that:
   (1) The proposed activity will not violate any provisions of the Connecticut Department of Environmental Protection regulations.
   (2) The noise levels generated by the proposed activity will not constitute a danger to the public health.
   (3) Compliance with this chapter constitutes an unreasonable hardship on the applicant.

(c) The application for variance shall be reviewed and either approved or rejected at least five (5) days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.

Section 12.5-129 Compliance with regulations no defense to nuisance claim

Nothing in any portion of this ordinance shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance of a source with this ordinance is not a bar to a claim of nuisance by any person. A violation of any portion of this ordinance shall not be deemed to create a nuisance per se.

Section 12.5-130 Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this ordinance which can be given effect without the invalid provisions or application; and to this end, the provisions of this ordinance and the various applications thereof are declared to be severable.

Section 12.5-131 Effective date

This ordinance shall take effect on publication according to law provided that publication shall not occur unless the Connecticut Department of Environmental Protection has approved the ordinance as required under C.G.S. 22a-73.
(Ord. of 9-13-05)