

# Killingly Code of Ordinances

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## **Chapter 2**

### **ADMINISTRATION<sup>1</sup>**

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(Ord. of 6-9-20)

### **ARTICLE I. IN GENERAL**

#### **Section 2-1    Board of Education; number<sup>2 3</sup>**

The board of education of the town shall consist of nine (9) members. (Ord. of 5-2-1898)

#### **Section 2-2    Town Seal**

The design shown in this section shall be the official Seal of the Town of Killingly.



(Ord. of 9-13-05)

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<sup>1</sup> Cross references -- Building official, § 4-2; building-board of appeals, § 4-3; courts, Chapter 5; elections, § 8.1-18 et seq.; library department created, § 9-1; taxation, Chapter 14; water pollution hearing board, § 15-23; inland wetlands regulations, App. A; subdivision regulations, App. B; zoning regulations, App. C.

<sup>5</sup> Charter reference—Board of education, § 401.

<sup>6</sup> State law reference—Authority to determine number, G.S. § 9-203.

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## **ARTICLE II. OFFICERS AND EMPLOYEES**

### **Section 2-3 Defense of town employees**

The town shall defend and save harmless from any judgments rendered against them all members of any town boards or commissions, its officers, servants, agents and employees who are sued or against whom a claim is made arising from the conduct of their official duties on behalf of the town, provided that such individual was acting in the performance of his duties and within the scope of his employment and that such claim does not arise as a result of any willful or wanton act of such employee.

Notwithstanding any of the foregoing, this section shall not in any way enlarge the liability of the Town of Killingly or the members of any boards or commissions, its officers, servants, agents and employees nor shall it obviate or lessen any defense available to the town or any of the aforementioned individuals; and the town expressly reserves the defense of governmental immunity and all other proper defenses to any such action.

This section shall not apply to physical injury to a person caused by an employee to a fellow employee while both employees are engaged in the scope of their employment for such municipality or for any other individual or office named in this section if the employee or other individual suffering such injury has a right to benefits of compensation under Chapter 568 by reason of such injury.

(Ord. of 3-11-86; Ord. of 6-9-20)

### **Sections 2-4 – 2-9 Reserved**

## **Article III KILLINGLY AGRICULTURE COMMISSION AND RIGHT TO FARM ORDINANCE**

### **Section 2-10 Agriculture Commission; Established; Composition**

- a) There shall be an Agriculture Commission composed of five (5) regular members and up to three (3) alternate members who shall be residents of the Town. Members shall be appointed in accordance with the Connecticut General Statutes by majority vote of the Town Council and shall be representative of all groups interested in the management, protection and regulation of agriculture as defined by Connecticut General Statutes 1-1(q), particularly those directly involved in agriculture. Members of the Commission may be removed in accordance with Section 811 of the Killingly Town Charter. In addition to the five (5) regular members and three (3) alternate members, the Town Manager, or a designated representative, shall be an ex-officio member of the Commission.
- b) To establish the commission, the Town Council shall initially appoint two (2) regular members to serve for three (3) years; two (2) regular members to serve for two (2) year terms; one (1) regular member to serve for one (1) year. Thereafter, members will be appointed for three (3) year terms or to fill an unexpired term in case of a vacancy. The alternate members shall be appointed for three (3) year terms.
- c) Within thirty (30) days after appointment of the original members, and annually thereafter, the regular members shall elect from its membership a chairperson, vice-chairperson and secretary. (Ord. of 6-9-20)

### **Section 2-11 Agriculture Commission Duties**

- a) The Agriculture Commission shall be an advisory commission to the Town Council and other Town officials on matters related to farming.
- b) The general duties of the Commission shall be to:
  1. Foster agricultural viability and preservation of agricultural land in Killingly.
  2. Serve as a conduit between local farmers and non-profit agencies, civic organizations, municipal boards, commissions and committees, elected officials, and non-farm residents.
  3. Advocate for agriculture before land use and other relevant boards, commissions and/or committees.
  4. Act as a resource for agricultural information.
  5. Promote keeping Town-owned farmland in agricultural production.
  6. Serve as a resource for information and non-binding advice for residents, established town committees and departments concerning the resolution of agriculture related issues.
- c) The Commission shall provide for education and outreach services as follows:
  1. To increase awareness of agricultural enterprises in the community.
  2. To promote the value of viable agriculture to the Town in the areas of employment, property taxes,

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environment and farmland preservation.

3. To provide information and guidance on agriculture-related issues such as zoning, inland wetlands, public works and others to town departments and other boards, committees and residents as necessary.
  4. To support young farmers by supporting local, regional, and state vocational agricultural education and 4-H programs.
  5. To recognize and support new farming operations.
  6. To act as a sounding board and provide review to Town departments, boards and committees concerning the impact of proposed Town policies on agricultural activities.
  7. To promote opportunities for Killingly's agricultural products and service providers to collaborate and coordinate activities with each other and with other product and service providers in the region.
  8. To encourage and promote generally accepted management practices for farming and celebrate successful ones.
- d) The Commission shall investigate educational opportunities as follows:
1. To identify opportunities to preserve and expand agriculture in Killingly.
  2. To promote opportunities for residents and local businesses to support agriculture.
  3. To provide information regarding available financial support related to agricultural viability.

## **Section 2-12 Right to Farm Policy; Preamble**

- a) Agriculture plays a significant role in Killingly's character and way of life. Killingly's Right to Farm ordinance has been adopted to encourage preservation of agriculture, promote agriculture-based economic opportunities, and seek to protect prime farmland within Killingly by allowing agricultural uses and related activities to function with minimal conflict from abutters and Town agencies.
- b) Killingly recognizes the importance of farming to its historical, cultural, social, scenic, and ecological value. It also recognizes the value it brings to its tax base, and economic development through food security and other agricultural products.
- c) Pursuant to the powers conferred by Connecticut General Statutes (CGS), Section 7-148 (c) (7) (e), (8), and (10) (A), and in furtherance of the goals of CGS Section 19a-341, the Town of Killingly adopts this ordinance to recognize the importance of protecting prime farmland, to identify those parcels for which preservation is a priority, and to foster farming as a way of life by declaring this municipality's support of the farmer's right to farm.
- d) The definitions applicable to this policy are defined by the Connecticut State Definition of Agriculture CGS 1-1 (q)

## **Section 2-13 Right to Farm Policy**

- a) Notwithstanding, any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable:
  1. Odor from livestock, manure, fertilizer or feed.
  2. Noise from livestock, or farm equipment used in normal, generally acceptable farming procedures.
  3. Dust created during plowing or cultivation operations.
  4. Use of herbicides and pesticides, provided such use and the method of their application conform to practices approved by the Commissioner of Energy and Environmental Protection, or, where applicable, Commissioner of Health Services or
  5. Water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Energy and Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more, and has not been substantially changed and such operation follows generally accepted agricultural practices.
- b) Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

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- c) The provisions of this ordinance shall not apply whenever a nuisance results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.
- d) Nothing contained in this ordinance shall restrict the power of the Killingly Planning and Zoning Commission under Chapter 124 of the General Statutes. The Commission is urged to adopt regulations consistent with this ordinance and to make the permanent preservation of farmland within this municipality, a criterion in its planning and policy decisions. (Ord. of 10-9-12; Effective: 10-26-12)

## **Sections 2-14 – 2-19** Reserved

## **ARTICLE IV. CONSERVATION COMMISSION<sup>4</sup>**

### **Section 2-20 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 2-21 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 2-22 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 2-23 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 2-24 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.
- (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)

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<sup>4</sup> Editor's note—An ordinance adopted Feb. 13, 1990, did not specifically amend this Code; hence, inclusion of said ordinance as §§ 2-20 to 2-29 was at the editor's discretion.

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## **Section 2-25 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 2-26 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 2-27 Annual Report**

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

## **Section 2-28 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 2-29 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.

## **ARTICLE V. ECONOMIC DEVELOPMENT COMMISSION<sup>5</sup>**

### **Section 2-30 Statutory authority**

This article, establishing an economic development commission (hereinafter called the commission) for the Town of Killingly, is enacted pursuant to the provisions of section 7-136 of the General Statutes of Connecticut, and amendments thereto. (Ord. of 7-23-87, § 1)

### **Section 2-31 Purpose**

The purpose of this article is to promote and develop the economic resources of the town and other such purposes and objectives as set forth by state statute and this article. (Ord. of 7-23-87, § 2)

### **Section 2-32 Conformance to Statute**

The commission shall conform to and have such powers, purposes and objectives as set forth in chapter 97, section 7-136 of the general statutes and as provided in this article. (Ord. of 7-23-87, § 3)

### **Section 2-33 Terms of office; compensation; vacancies**

The commission created by this article shall consist of five (5) regular members and two (2) alternate members, all of whom shall be electors of the Town of Killingly 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 for five-year terms, except that the alternate members shall be appointed for three-year terms. The initial terms of appointment, except for the two (2) alternate member positions,

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<sup>5</sup> Editor's note -- Codification of §§ 1-11 of a non-amendatory ordinance adopted July 23, 1987, as Article V, §§ 2-30 -- 2-40, has been at the editor's discretion.

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shall be fixed so that the terms of one-fifth 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. (Ord. of 7-23-87, § 7; Ord. of 4-9-91, §§ 1 - 3)

## **Section 2-34 Appointment**

The members shall be appointed within thirty (30) days of the effective date of this article. (Ord. of 7-23-87, § 8)

## **Section 2-35 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 7-23-87, § 9)

## **Section 2-36 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. (Ord. of 7-23-87, § 10)

## **Section 2-37 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 of procedure not inconsistent with the provisions of said statutes and this article. The commission shall be empowered to conduct research into the economic conditions and trends of the town, shall make recommendations to appropriate officials and agencies of the town regarding action to improve the economic condition and development, shall seek to coordinate the activities of and cooperate with unofficial bodies organized to promote such economic development and may advertise and may prepare, print and distribute books, maps, charts and pamphlets which in its judgment will further official purposes. (Ord. of 7-23-87, § 4)

## **Section 2-38 Annual Report**

The commission shall make an annual report to the town manager and the town council summarizing the commission's activities and recommendations for improving economic conditions and development of the town. (Ord. of 7-23-87, § 5)

## **Section 2-39 Appropriations**

Acting through the town manager and pursuant to the town's personnel policies 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. The council may appropriate a sum to the commission not to exceed one-twentieth of one per cent of the last-completed grand list of taxable property. (Ord. of 7-23-87, § 6)

## **Section 2-40 Removal of members**

A member of the commission may be removed for cause by the town manager. 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 7-23-87, § 11)

## **Sections 2-41 – 2-49 Reserved**

## **ARTICLE VI. HISTORIC DISTRICT COMMISSION**

### **Section 2-50 Historic District Commission—Established; composition**

An historic district commission (hereinafter called "the commission") is hereby established to promote the purpose set forth in this article and to perform all functions as shall from time to time be prescribed under the General Statutes of Connecticut and as provided in this article. Said commission shall consist of five (5) regular members and three (3) alternate members, all of whom shall be electors of the town holding no salaried town office and all

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shall serve without compensation. The members shall be appointed within thirty (30) days of the effective date of this article by the town council. The historic district shall be represented on the commission by at least one (1) regular member who shall be a resident of the district.

(Ord. of 1-13-87, § 3; Ord. of 3-8-88, § 3; Ord. of 4-12-88, § 3; Ord. of 8-9-88, § 3)

## **Section 2-51 Terms**

The terms of the original members of the commission shall be arranged in such manner that the term of at least one (1) regular member and one (1) alternate member shall expire each year. Their successors shall be appointed by the town council for terms respectively of five (5) years for regular members and three (3) years for alternate members except that an appointment to fill a vacancy shall be for the duration of the unexpired term. (Ord. of 1-13-87, § 4; Ord. of 3-8-88, § 4; Ord. of 4-12-88, § 4; Ord. of 8-9-88, § 4)

## **Section 2-52 Election of Officers**

Within thirty (30) days after appointment of the original members of the commission, and annually thereafter, the regular members shall meet, and elect officers as specified in the Act. Alternate members shall not participate in the vote for election of officers of the commission.

(Ord. of 1-13-87, § 5; Ord. of 3-8-88, § 4; Ord. of 4-12-88, § 4; Ord. of 8-9-88, § 5)

## **Section 2-53 Powers and limitations**

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 be empowered specifically to determine the appropriateness or inappropriateness of the external, visual aspects only of all erection, alteration, restoration, movement, or razing of all buildings and structures within the historic district. The style, material, size, and location of outdoor advertising signs and bill posters within the historic district shall also be under the control of the commission. The commission shall adopt rules of procedure and regulations not inconsistent with the provisions of said statutes and this article. The commission may, subject to appropriation, employ clerical and technical assistance or consultants and may accept money gifts or expend the same for the purposes of the Act and this article. (Ord. of 1-13-87, § 6; Ord. of 3-8-88, § 6; Ord. of 4-12-88, § 6; Ord. of 8-9-88, § 6)

## **Section 2-54 Liaison with other town offices; furnishing Certificates of Appropriateness for properties within the district; Annual Reports**

Said commission and other town offices or officers whose areas of concern may overlap or affect each other should maintain liaison for information and coordination in matters with which the commission may be dealing. With particular regard to such liaison between the commission and the building inspector of the town, the latter official will require a certificate of appropriateness from the commission prior to the issuance of any building permit for properties within the historic district which might affect the exterior architectural or visual aspects of such properties.

The commission should make reports at least annually. Such reports may be included in the annual town report and should be issued to all owners of real property in the district. The report should also be available to any other residents of the town. (Ord. of 1-13-87, § 7; Ord. of 3-8-88, § 7; Ord. of 4-12-88, § 7; Ord. of 8-9-88, § 7)

## **Section 2-55 Standards of appropriateness**

Anticipating future new construction and change in the historic district, the exterior architectural aspect of which may require the approval of the commission under certain conditions specified in the Act and which the commission may in accordance with the Act decide to be detrimental and inappropriate to the interest of said historic district, the commission shall make known the standards of appropriateness or inappropriateness which it proposes to follow in passing upon proposals for new construction or change. Such standards of criteria shall not be such as to bind the historic district to any uniform or necessarily traditional style in new construction but shall look both to the protection of the old and to the interest and distinctiveness of those communities in the future when other generations will view styles and developments of the present day also as history.

(Ord. of 1-13-87, § 8; Ord. of 3-8-88, § 8; Ord. of 4-12-88, § 8; Ord. of 8-9-88, § 8)

## **Section 2-56 Meetings with residents**

For the purpose of encouraging the responsiveness, securing the support, and drawing on the resources of interested residents of the historic district who are not members of the historic district commission, and apart from the provision in the Act for formal appeals from the commission decisions by aggrieved parties, and other than the

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required public hearings by the commission upon applications for certificates of appropriateness, the commission shall hold meetings with residents of the historic district if and when at least fifty (50) per cent of the owners of real property in the district make written petition for such meeting to discuss matters of policy or other matters that may be at issue between property owners and the commission. The commission shall call meetings so requested, shall not be bound by the meetings, but in formulating policy shall be responsive to the sentiments of the community insofar as its best judgment suggests and the powers and limitations derived from the General Statutes permit. (Ord. of 1-13-87, § 9; Ord. of 3-8-88, § 9; Ord. of 4-12-88, § 9; Ord. of 8-9-88, § 9)

**Sections 2-57 – 2-59** Reserved

## **ARTICLE VII. HOUSING AUTHORITY**

### **Section 2-60 Established**

There shall be a Housing Authority established in accordance with general statutes Chapter 128.

### **Section 2-61 Responsibilities**

Said Authority shall have all the powers and duties relating to housing imposed upon housing authorities by Chapter 128 of the General Statutes, as amended. It shall further be the duty of the Housing Authority to investigate and to conduct research on the condition of housing within the Town, and to coordinate the activities of the various other municipal departments, agencies, and authorities as they pertain to housing. Said Authority shall serve as a liaison and coordinating body between the Town and federal and state agencies and private enterprise in order to provide adequate housing within the Town and shall have such other powers and duties as the Council may prescribe. In the event of any conflict between the specific provisions of this Ordinance and the several federal governmental laws and regulations imposed upon local agencies with regard to housing such federal laws and regulations shall prevail.

### **Section 2-62 Membership**

- (a) The authority created by this article shall be composed of five (5) members appointed by the town council and shall consist of members drawn from citizens at large. Members shall serve for overlapping terms of three (3) years.

**Sections 2-63 – 2-69** Reserved

## **ARTICLE VIII. INLAND WETLANDS AND WATERCOURSES COMMISSION<sup>6 7</sup>**

### **Section 2-70 Established**

There shall be an inland wetlands and watercourses commission established in accordance with general statutes sections 22a-36 through 22a-45. (Ord. of 3-14-74, § 1)

### **Section 2-71 Responsibilities**

*The commission established by this article shall have all the powers and responsibilities authorized under sections 22a-36 through 22a-45 of the general statutes. (Ord. of 3-14-74, § 2)*

### **Section 2-72 Membership**

- (a) *The commission created by this article shall be composed of five (5) members appointed by the town council and shall consist of members drawn from citizens at large or from applicable town boards and commissions. (Ord of 4-11-23)*
- (b) *Following the expiration of the original terms of appointment, all appointments or reappointments shall be for a period of three (3) years. In addition, the town council shall appoint two (2) alternate members to the inland wetlands and watercourses commission. Such alternates shall serve for terms of two (2) years and shall have those powers and responsibilities of regular members at those times when a regular member is absent or unable to act for any reason. (Ord. of 3-14-74, § 3; Ord. of 6-28-77)*

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<sup>6</sup> Cross references – Regulations for the protection and preservation of inland wetlands and watercourses, App. A.

<sup>7</sup> State law reference -- Authority to establish, G.S. 22a-42(c).



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## **Section 2-73 Vacancies**

*Any vacancy in the membership of the commission created by this article which may occur through death, resignation or otherwise shall be filled for the unexpired term of such member by the town council. In the event that a commission member misses three (3) consecutive meetings, the town council may remove the member and fill the vacancy thus created.* (Ord. of 3-14-74, § 4)

## **Section 2-74 Aquifer Protection**

### **(1) Designation and membership**

- (a) *In accordance with the provisions of Conn. Gen. Stat. §22a-354a, et seq. as amended, the Inland Wetlands and Watercourses Commission is designated as the Aquifer Protection Agency (hereinafter the "Agency") of the Town of Killingly to replace the Planning and Zoning Commission following the registration of all applications related to the Elmville Well Field. The staff of the Planning and Development Department shall serve as the staff of the Agency.*
- (b) *Members of the Inland Wetlands and Watercourses Commission shall serve coexisting terms on the Agency. The membership requirements of the Agency shall be the same as those of the Inland Wetlands and Watercourses Commission including, but not limited to the number of members, terms, method of selection and removal of members, and filling of vacancies.*
- (c) *At least one member of the Agency and/or staff of the Agency shall complete the course in technical training formulated by the Commissioner of Environmental Protection of the State of Connecticut, pursuant to Conn. Gen. Stat. § 22a-354v.*

### **(2) Regulations to be adopted**

- (a) *The Agency shall adopt regulations in accordance with Conn. Gen. Stat. § 22a- 354p and R.C.S.A. § 22a- 354i-3. Said regulations shall provide for:*
  - i. *The manner in which boundaries of aquifer protection areas shall be established and amended or changed.*
  - ii. *Procedures for the regulation of activity within the area.*
  - iii. *The form for an application to conduct regulated activities within the area.*
  - iv. *Notice and publication requirements.*
  - v. *Criteria and procedures for the review of applications.*
  - vi. *Administration and enforcement.*

### **(3) Inventory of Land Use**

- (a) *In order to carry out the purposes of the Aquifer Protection Program, the Agency will conduct an inventory of land use within the area to assess potential contamination sources.*
- (b) *Not later than three months after approval by the Commissioner of the Connecticut Department of Environmental Protection of Level B Mapping of aquifers, the Agency will inventory land uses overlying the mapped zone of contribution and recharge areas of such aquifers in accordance with guidelines established by the Commissioner pursuant to Conn. Gen. Stat. § 22a-354f. Such inventory shall be completed not more than one year after authorization of the Agency. [Conn. Gen. Stat. § 22a-354e] (Ord. of 5-11-10)*

## **Sections 2-75 – 2-79 Reserved**

## **ARTICLE IX. PERMANENT COMMISSION ON PUBLIC BUILDINGS<sup>8\*</sup>**

### **Section 2-80 Purpose**

*There is hereby established a Killingly Permanent Commission on Public Buildings for the purpose of consolidating the design and construction of all public buildings and building projects with a projected total cost of twenty-five thousand dollars (\$25,000.00) or more under one commission in order to provide the town with the best possible buildings and facilities at the lowest possible cost through the increased cooperation of all town officers, boards, commissions, and agencies.* (Ord. of 8-8-95)

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<sup>8</sup> Cross reference – Buildings and building regulations, Ch. 4; regulations for the protection and preservation of inland wetlands and watercourses, App. A.

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## **Section 2-81 Membership**

The Commission shall be composed of five (5) permanent members who are electors of the town to be appointed by majority vote of the town council, not more than three (3) of whom shall be members of the same political party. All of said permanent members of the Commission shall hold office as follows:

- (1) Within thirty (30) days from the effective date of this article, three (3) members shall be appointed to serve until December 15, 1997; and two (2) members shall be appointed to serve a term until December 15, 1999. The terms of each member shall commence on the day following their appointment, and each existing member of said Commission shall hold office until a successor is appointed and duly qualified.
- (2) As each term shall expire, the Town Council, by majority vote, shall appoint an elector of the Town to serve a four-year term running from December 16<sup>th</sup> of the odd number year until December 15<sup>th</sup> four (4) years later.
- (3) Any vacancy shall be filled by a majority vote of the Council to complete the unexpired term of the vacating member.
- (4) The then Chairman of the Town Council or a Council member designated in writing by the Chairman, the Town Manager or his written designee on the Town staff, and the Superintendent of Schools or his designee shall be ex-officio members of the Commission without the power to vote.
- (5)
  - a. The Council may, by majority vote, appoint up to four (4) temporary members to the Commission to represent the "user's interest" and/or general citizens' interest in the project. Such temporary members shall serve until final completion and approval of the project by the Council and shall serve with vote only on matters relating to the specific assignment for which they were appointed. No more than two (2) members of such temporary members shall be of the same political party.
  - b. The Council may, upon the same terms and conditions as aforesaid, appoint such additional temporary members in multiples of two (2) to the Commission as it deems expedient and proper. All such temporary members shall be electors of the Town.
- (6) Each permanent member appointed by the Council shall be qualified by experience or training to contribute to the overall knowledge and ability of the Commission to carry out its mission.
- (7) The Council shall also appoint two (2) alternate members, no more than one (1) of whom shall be of the same political party, who shall serve for a term of four (4) years from the effective date of this Article to December 15, 1999. The alternates shall have the same qualifications as the permanent members, and whenever a permanent or temporary member is absent, the Chairman of the Commission shall designate an alternate to act. Vacancies and appointment of successor alternates shall be as set forth for the permanent members.
- (8) Avoidance of conflicts of interest. The provisions of section 1203 of the Town Charter regarding conflicts of interest shall apply to all members, whether permanent or temporary, of the Commission on Public Buildings. It is expressly found by the Town Council that for the purposes of this Article, participation by an employee of a contractor or subcontractor who has no direct financial interest in the business shall not be a violation of said Section, provided no such individual shall have participated or have voted, or shall participate or vote on any aspect of the contract which directly affects his or her employer, but shall be free to participate and vote on contractual or general matters even if he or she is employed by a contractor or subcontractor, who is working on a Town project, provided that the contract on said project was awarded as part of a public bid. (Ord. of 8-8-95)

## **Section 2-82 Powers and duties**

- (a) *Officers; rules and regulations.* The Commission shall appoint its own Chairman and Secretary and establish its own rules and regulations for the conduct of its meetings. A copy of said rules and regulations shall be filed with the Town Clerk.
- (b) *Responsibility; limitation.* The Commission shall be responsible for the design and construction of only such public buildings or building projects as may be specifically authorized by resolution of the Council. A building project shall be defined as a project that involves the construction or renovation of a building requiring an architectural design and construction by the building trades. Building projects shall not include maintenance work such as the routine upkeep of plant or equipment; repair or replacement of equipment based on technical specifications such as boilers, chillers, other HVAC equipment, security and other similar equipment or repair or replacement of roofs except when required by Connecticut General Statutes. Building projects proposed in the capital improvement program and approved with an appropriation in the annual Capital Budget shall be presented to the Town Council prior to any expenditure of the appropriation for consideration of a resolution to specifically authorize responsibility for the design and construction of such public building or building projects to the Commission. The Commission may decline jurisdiction over any project if it feels that its assistance and oversight is unnecessary as to that particular project. It shall not decline jurisdiction over any project which

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requires as a matter of law a building commission to oversee it, and it shall give ten (10) days' prior notice to the Council of any proposed declination of jurisdiction.

**Additional Duties** The commission will assume the following additional duties:

- (1) The commission shall assure that the provisions of Section 2-206 of the Code of Ordinances are complied with. Prior to commencement of performance, and at any time after commencement of performance of the contract by the contractor, the commission may require submission of relevant documents and other relevant information related to the employment of tradesmen and laborers in performance of any specific contract with the town. The commission shall submit to the Town Manager its requests for documents and other information and the Town Manager shall obtain such documents and other information from the contractor and transmit the same to the commission. If the commission determines that a contractor is not in compliance with Section 2-206 O of the Code of Ordinances, it shall make a report of its findings to the Town Manager for transmittal to the Town Council with its recommendations as to whether corrective action should be required of the contractor, or whether the contract should be terminated.
  - (2) If called by the commission, there will be a pre-bid conference with the Purchasing Agent, the architect of the project and/or, if applicable, the project engineer, to ensure that the procurement regulations of the Town are included in the bid document.
  - (3) Prior to the monthly meeting of the commission, each contractor shall submit a copy of his monthly payroll and list of work force composition to the Town Manager or his designee for transmittal to the commission for the purpose of checking that the payroll is in compliance with area prevailing wages or rates and that residents of the Town are employed as tradesmen and laborers.
  - (4) If the commission so decides, the apparent successful bidder and his major subcontractors shall attend a pre-award conference and submit a list of key personnel prior to award of the contract.
  - (5) The commission shall hold a pre-construction conference with the designated contractor or subcontractor, at which time any contractor or subcontractor claiming to have key personnel must present a list of those key personnel.
  - (6) If during construction, there is a dispute between the commission and the contractor or the subcontractor as to key personnel, there shall be a meeting to resolve said dispute with the commission and the contractor or subcontractor.
  - (7) It shall be the duty of the Purchasing Agent to report to the commission all contracts pertaining to tradesmen and laborers. (Ord. of 12-11-07)
- (c) Feasibility studies.
- (1) Upon the request of any other Town board, officer, agency, or Commission, the Commission may assist, without prior Council approval, such other town officer, board, agency, or commission in the development of feasibility studies of buildings or building projects which are a part of the Town's Capital Improvement Program. Any cost to be incurred, in excess of monies previously allocated by the Council for such studies, must be approved by the Council prior to making the study. All contracts for such studies must be in writing and approved by the Council prior to execution by the Town Manager.
  - (2) Reserved.
- (d) Design phase.
- (1) The Commission shall study sites and building locations for such public buildings or building projects as may be assigned by the Council. In considering such sites and locations, the Commission shall coordinate and review its study with the Planning and Zoning Commission, the Inland Wetlands Commission, and other appropriate municipal land use agencies.
  - (2) Any appropriation needed for architectural or other professional services shall be requested of the Council and no expenditure shall be made unless and until said appropriation has been approved.
  - (3) The Commission shall select an architect, where necessary, for each public building or building project and for such other professional service as may be required. Except as may otherwise be provided by State statutes, comparative selection shall be made by inviting firms or individuals through adequate public notice of interviews for determination of their qualifications for the specific building or building project. The comparative selection process may be altered or waived by the Public Building Commission with the approval of the Town Council. The Commission shall recommend any proposed contract with architects or other third parties to the Town Council. All such contracts shall be subject to review by the Town Manager's office and the Town Attorney.
  - (4) The Commission shall prepare schematic design and reasonable cost estimates for each building or building project. The Commission shall also obtain the written approval of the schematic design from State

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and Federal agencies, commissions, boards, etc. where they are required by law. Written site plan review comments of the Planning and Zoning Commission, Inland Wetlands Commission, Water Pollution Control Authority and other applicable Town boards, commissions, agencies, officers, and committees shall also be obtained. The schematic design with reasonable cost estimates, together with the written approvals where required and written comments of the various town boards, commissions, and committees, shall be submitted to the council for its approval before proceeding with the design development phase of the building or building project.

- (5) "Schematic design" is defined as the phase at which drawings graphically describe the scale and relationship of project components of the building or building project. It also shall represent the point at which no greater than fifteen (15) per cent of the estimated total fee for professional services for the building or building project shall be incurred.
  - (6) The Commission shall consider the necessary appropriations required for each public building or building project in whole or in part and make recommendations to the Council so that the necessary appropriations may be made by the Council. The Commission shall also advise the Council of any and all possibilities of available reimbursement of monies to the Town for the building or building project.
  - (7) Design development is defined as the point at which the documents fix and illustrate the size, arrangement and character of the project, stipulate the kinds of materials to be used, the type of structural system, mechanical and electrical systems and equipment, site development, and other information essential to a more detailed description of the building or building project. It also shall represent the point at which no greater than thirty-five (35) per cent of the estimated total fee for professional services for the building or building project shall be incurred.
  - (8) Upon completion of the design development phase of any building or building project, the Commission shall review it with the Council before proceeding with the construction phase.
- (e) Construction phase:
- (1) The Commission (subject to the applicable provisions of the Charter) shall prepare construction documents and seek competitive bids for construction of each building project. All bids obtained shall be referred to the Council with recommendations for its acceptance or rejection.
  - (2) The Commission shall arrange for supervision of each project during construction. Such supervision shall include, but is not necessarily limited to, observing the work and materials as often as may be necessary with respect to the quality, suitability and adherence to the contract drawings, specifications and other contract documents so as to protect the Town against defects and deficiencies in the work of the contractor and materials supplied by the contractor.
  - (3) The Commission shall make application for State or Federal funds for each project that may be eligible for such funds. In those cases where another agency, officer, board, or commission of the Town government is required by law to or in good practice should make such application, the commission shall request such action be taken and said appropriate agency, officer, board or commission shall make such application. All applications for State or Federal funds shall be coordinated through the Town Manager.
  - (4) During the construction of each building project, the Commission shall make, in coordination with the Town Manager's office, a quarterly accounting to the Council of the financial receipts, commitments, and expenditures to date. The Commission shall notify the Council in writing during the initial 95% of construction of any building project when the remaining contingency on said project shall be reduced to less than one percent (1%) of the balance of construction and shall recommend procedures to address use of the remaining contingency.
  - (5) Subsequent to substantial completion of each building project, the commission shall render to the council a written report concerning said project and an accounting to date of all income and expenses made under the related appropriation.
  - (6) Upon approval of the commission's final accounting by the council at the final completion of each building project, the commission shall turn the project over to the appropriate town body and shall notify such body and the council of such acts in writing.
  - (7) This article shall take effect on August 25, 1995 but shall not affect the continuing existence or validity of any previously established building committees. (Ord. of 8-8-95, Amending Ord. 2-9-2010)

**Sections 2-83 – 2-89**    Reserved

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## **ARTICLE X. PLANNING AND ZONING COMMISSION<sup>9</sup>**

### **Section 2-90 Created**

Chapter 124 of the General Statutes of the state, 1958 Revision as amended, is hereby adopted and a combined planning and zoning commission is hereby created in and for the town. (Ord. of 9-13-73, § 1)

### **Section 2-91 Powers**

The commission created by this article, in addition to those powers granted to the town planning commission in section 804 of the town charter shall exercise the powers of chapter 124 of the general statutes of the state and shall have jurisdiction over all areas of the town. (Ord. of 9-13-73, § 2; Ord. of 7-14-87)

### **Section 2-92 Composition; terms; officers; rules; record of proceedings**

The planning and zoning commission shall consist of five (5) members whose appointments shall be made pursuant to the provisions of chapter 124 of the general statutes of the state and the town charter. Three (3) alternates shall be designated in accordance with chapter 124 of the general statutes of the state and each shall serve for a three (3) year term. The commission shall elect a chairman, vice-chairman and secretary from its members, shall adopt rules for the transaction of business and shall keep a public record of its activities. (Ord. of 9-13-73, § 3)

### **Section 2-93 Vacancies**

Vacancies on the planning and zoning commission arising from resignation or dismissal shall be filled by the town council for the unexpired portion of the term. (Ord. of 9-13-73, § 4)

### **Section 2-94 Alternate members<sup>10</sup>**

- (a) There shall be named to the planning commission of the town three (3) alternate members.
- (b) Such alternates shall be appointed by the town council and shall serve for terms of three (3) years.
- (c) Such alternates shall be eligible to act if a regular member of the planning commission is absent or disqualified in accordance with sections 8-19a and 8-21 of the general statutes, 1958 Revision, as amended.
- (d) Should any vacancy occur among the alternate members of the planning commission, the town council shall fill such vacancy. (Ord. of 7-12-73, §§ I – IV)

### **Sections 2-95–2-99 Reserved**

## **ARTICLE XI. PUBLIC SAFETY COMMISSION**

### **Section 2-100 Established; composition**

- (a) There shall be a commission on public safety, composed of five (5) residents of the town to serve as an advisory commission to the town council on matters relating to public safety. Said five (5) members shall be persons who have expressed a concern and interest for and/or demonstrated expertise in public safety and issues related thereto. They shall be appointed by majority vote of the council subject to the rules of minority representation as set forth in the General Statutes of the State of Connecticut.
- (b) In addition to the five (5) regular members of the commission, the chairman of the town council, or designated representative, and the town manager, or a designated representative, shall be ex officio members of the commission. (Ord. No. 96-004, 4-9-96)

### **Section 2-101 Terms of members; filling of vacancies; removal**

- (a) Within forty-five (45) days after adoption of this article, three (3) members shall be appointed to serve until April 30, 2000, and two (2) members to serve until April 30, 1998. Thereafter, all members shall be appointed for a term of four (4) years.

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<sup>9</sup> Cross references -- Subdivision regulations, App. B; zoning regulations, App. C.

<sup>10</sup> State law reference -- Authority to provide for alternate members, G.S. § 8-19a

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- (b) In the event of any vacancy, the council shall appoint, by majority vote, a successor to fill the unexpired portion of the vacant term.
- (c) Members of the commission may be removed or suspended by the town council in accordance with the provisions of the town charter.
- (d) There shall be two (2) alternate members appointed for two-year terms. Said members shall be appointed within forty-five (45) days following the adoption of this Ordinance No. 96-004. (Ord. No. 96-004, 4-9-96)

## **Section 2-102 Compensation**

The members of the commission shall receive no compensation for their services as such but shall be reimbursed for their necessary expenses incurred in the performance of their duties with approval of the majority of the commission and provided for within their budget appropriation. (Ord. No. 96-004, 4-9-96)

## **Section 2-103 Duties**

- (a) The commission shall appoint its own chairperson and secretary and establish its own rules and procedures for the conduct of its meetings. A copy of said rules and procedures shall be filed annually with the town clerk and the town council as defined in the Charter of the Town of Killingly.
- (b) The commission may make an annual budgetary appropriation request of the town council for the purpose of effectively carrying out its official duties.
- (c) The commission may interact as necessary with other town boards and commissions having an impact on public safety issues and may seek to coordinate the activities of and cooperate with responsible organizations concerned with promoting public safety. The commission may utilize the facilities of the Connecticut Safety Commission and the National Safety Council in promoting the objective of a community safety program.
- (d) The commission shall be responsible to the council on matters relating to public safety and, as such, shall:
  - (1) Research and evaluate all public safety issues referred to them from the town council, the town manager or from other such municipal officials such as the police chief and the fire marshal;
  - (2) Research and evaluate current and future public safety needs;
  - (3) Define and report on policies which establish a standard to be used in addressing and remediating public safety hazards;
  - (4) Make recommendations to the town council regarding measures to be taken to address identified hazards within the community;
  - (5) Support, supplement and conduct public safety education programs, support, stimulate and assist citizen groups in understanding and cooperating with municipal programs for public safety and stimulate public interest and support for official programs of safety and accident prevention.
- (e) Neither the commission nor any of its members shall give directives to the town manager or any of his administrative staff either publicly or privately.
- (f) The commission shall provide the council with an annual written report on or before September first of each fiscal year concerning commission activities and shall present short- and long-range recommendations for action to the town council and other appropriate officials of the town.
- (g) The commission shall assume any other matters relating to public safety as may be assigned to it by the council in such areas, but not limited to, vehicular safety, pedestrian safety, fire safety, water safety, and safety within public buildings. (Ord. No. 96-004, 4-9-96)

## **Section 2-104 – 2-119 Reserved**

## **ARTICLE XII. BOARD OF RECREATION**

### **Section 2-120 Created**

There shall be a Board of Recreation. (Referendums of 11-6-73 and 11-3-81)

### **Section 2-121 Powers**

The Board shall have all the powers and duties conferred or implied by the Town Council on recreation commissions and park commissions

### **Section 2-122 Composition; terms; officers; rules; record of proceedings**

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The Board of Recreation shall consist of five (5) members the town charter and shall serve for terms of two (2) years. Thereafter, the Council shall appoint, alternately, members to such Board. In addition to those members appointed by the Council, one member of the Council and one member of the Board of Education shall be appointed by such respective bodies to the Board of Recreation. Said appointees to serve indefinite terms at the pleasure of the Council and Board of Education respectively and to have voting powers. The Town Manager shall also serve but shall have no power to vote under any circumstances.

## **Sections 2-123 – 2-129** Reserved

## **ARTICLE XIII. REGIONAL PLANNING.<sup>11</sup>**

### **DIVISION 1 GENERALLY**

#### **Section 2-130 Regional Council of Governments**

The town hereby adopts sections 4-124i through 4-124p of the Connecticut General Statutes as amended, providing for the formation of a regional council of governments, and does hereby join such regional council of governments when and as such council is duly established in accordance with said statutes, upon the adoption of said statutes by not less than sixty (60) per cent of all municipalities within the Northeastern Connecticut Planning Region as defined by the secretary of the office of policy and management or his designee and upon certification by the secretary of the office of policy and management or his designee that a regional council of governments has been duly established.

In the absence of the chairman of the town council as the town's representative to the regional council of governments, the town council shall by majority vote designate one of its members as the chairman's alternate.<sup>12</sup> (Ord. of 4-14-87; Ord. of 1-12-88)

#### **Section 2-131 Adoption of State Law**

Pursuant to the provisions of chapter 127 of the general statutes, the town hereby adopts the provisions of such chapter and elects to participate in the regional planning agency now or henceforth existing under authority of such chapter in the Northeast Regional Planning Agency as defined by the Connecticut Development Commission pursuant to the provisions of such chapter.<sup>13</sup> (Ord. of 4-23-68, § 1)

#### **Section 2-132 Appointment of representatives**

- (a) The Town of Killingly, having a population of sixteen thousand one hundred twenty-seven (16,127), according to the federal census of 2000, shall have two (2) representatives of the agency.
- (b) The town council shall appoint to the agency one elector of the town who shall serve for a term of two (2) years. The planning commission of the town, duly constituted, shall appoint one elector to the agency for a term of two (2) years.
- (c) Appointees shall serve for the term of their office and until their successors shall have been appointed. Appointees may be reappointed. Terms of office shall commence when the appointment is made or from the first organization meeting of the agency, whichever is later.<sup>14</sup> (Ord. of 4-23-68, § 2; Ord. of 6-26-74)

#### **Section 2-133 Vacancies**

Vacancies created by resignation or inability to serve shall be filled by the town council for the remainder of the unexpired term, any representative who is absent from three (3) consecutive regular meetings of the regional planning agency and any intervening duly called special meetings thereof shall be considered to have resigned

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<sup>11</sup> State law reference -- Regional planning, G.S. § 8-31a et seq.

<sup>12</sup> Editor's note -- Inclusion of certain substantive provisions of an ordinance adopted April 14, 1987, as § 2-105 was at the editor's discretion. Said ordinance further provided that: "When the regional council of governments is duly established and the transition period called for in section 4-124-1c of the Connecticut General Statutes as amended has been completed, then the town does hereby rescind sections 2-106 thru 2-108 of the Killingly Code of Ordinances which created the town's participation in the Northeastern Connecticut Regional Planning Agency.

<sup>13</sup> Note -- See the editor's note following § 2-105.

<sup>14</sup> Note -- See the editor's note following § 2-105.

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from such body, except that the requirements of this section may be waived by the town council for good cause.<sup>15</sup>  
(Ord. of 4-23-68, § 3; Ord. of 6-26-74)

## **Sections 2-134 - 2-139** Reserved

## **DIVISION 2 REGIONAL RESOURCE RECOVERY AUTHORITY<sup>16</sup>**

### **Section 2-140 Created**

There is hereby created a regional resources recovery authority pursuant to section 7-273aa of the Connecticut General Statutes, to be known as the Northeastern Connecticut Regional Resource Recovery Authority, principal office address being P.O. Box 198, Brooklyn, Connecticut 06234, subject to the modifications and limitations set forth in this division. The Northeastern Connecticut Regional Resource Recovery Authority shall have all the powers and duties of a municipal authority and of a regional authority pursuant to chapters 103b, 446d (formerly 361a) and 446e (formerly 351b) of the Connecticut General Statutes. The first members of the authority are: The Town of Canterbury, Canterbury Town Hall, P.O. Box 26, Canterbury, Connecticut 06331, whose initial representative's term of office shall be one (1) year; the Town of Killingly, Killingly Town Hall, 127 Main Street, Danielson, Connecticut 06239, whose initial representative's term of office shall be two (2) years; the Town of Plainfield,

Plainfield Town Hall, 8 Community Avenue, Plainfield, Connecticut 06374, whose initial representative's term of office shall be three (3) years; the Town of Pomfret, Pomfret Town Office Building, R.F.D. #1, Pomfret Center, Connecticut 06259, whose initial representative's term of office shall be one (1) year; the Town of Putnam, Putnam Town Hall, 126 Church Street, whose initial representative's term of office shall be two (2) years; and the Town of Thompson, Thompson Municipal Building, North Grosvenordale, Connecticut 06255, whose initial Representative's term of office shall be three (3) years. In the event that any of the above named municipalities do not adopt this ordinance [this division], the terms of office of the initial representatives as shown above shall be redefined according to section 2-142 of this division for any of the above named municipalities which adopt this ordinance [this division]. (Ord. of 10-14-86, § 1; Ord. of 2-10-87, §§ 1, 2; Ord. of 6-9-20)

### **Section 2-141 Appointment of representatives**

Membership in the authority shall consist of those municipalities that adopt this joint ordinance [this division] as set forth in section 2-145. The representative to the authority from each member town shall be appointed by the board of selectmen of each municipality except for the representative of the Town of Killingly which shall be appointed by the town council. The board of selectmen or town council of each member town shall be authorized to appoint an alternate representative who shall be authorized to attend meetings and vote in the place of an absent representative. Representatives shall serve without compensation but may be reimbursed by the authority for necessary expenses incurred in conducting authority business. Any representative may be removed with or without cause by a majority vote of the board of selectmen or town council of the town which appointed the representative. (Ord. of 10-14-86, § 2; Ord. of 2-10-87, § 3; Ord. of 6-9-20)

### **Section 2-142 Number of representatives**

Each member municipality shall be entitled to one (1) representative on the authority and to one (1) alternate, who may vote only in the absence of the regular representative. Representatives and alternates shall serve for three-year terms, except that the initial appointments shall be for one-, two- or three-year terms based on alphabetical assignment of those municipalities comprising the authority. Thereafter, initial terms for representatives of new municipal members shall rotate among one (1), two (2) and three (3) years in the order of adoption of the joint ordinance. All initial terms shall be deemed to begin on the day the authority is created. (Ord. of 10-14-86, § 3)

### **Section 2-143 Voting and quorum**

The Northeastern Connecticut Resource Recovery Authority shall operate with one hundred (100) voting units which shall be assigned to member municipalities in proportion to each municipality's share of the total population of all members of the authority as determined by the votes. Each municipality shall have a minimum of one (1) vote. The distribution of voting units among members shall be recomputed following each decennial federal census and upon

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<sup>15</sup> Note -- See the editor's note following § 2-105.

<sup>16</sup> Editor's note -- A nonamendatory ordinance of Oct. 14, 1986, §§ 1 -- 7, has been codified as division 2, §§ 2-111 -- 2-117, at the discretion of the editor.



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the withdrawal or termination of any member municipality or the admission of a new member. Action by the authority shall require the affirmative action of at least sixty (60) per cent of the total voting units present and voting at a duly called meeting of the authority at which a quorum is present. The presence, at a meeting, of representatives from a majority of the member municipalities shall be necessary for a quorum. (Ord. of 10-14-86, § 4)

## **Section 2-144 Liabilities of member towns**

A member municipality shall not assume any liabilities or responsibilities of the Northeastern Connecticut Regional Resource Recovery Authority or created by the action of said authority, or be responsible for payment of any expenses of said authority unless an appropriation for the municipality's proportionate share of such expenses has been approved by the municipality or a contract setting forth such liabilities and responsibilities for expenses has been approved by the municipality. (Ord. of 10-14-86, §5)

## **Section 2-145 Effective date**

This ordinance [this division] shall take effect when it has been adopted by five (5) or more towns in the Northeastern Connecticut Planning Region. (Ord. of 10-14-86, § 6)

## **Section 2-146 Withdrawal from Authority**

No municipality may withdraw its membership in the authority without a vote of its legislative body to withdraw from the authority and giving at least six (6) month's notice to each of the other participating municipalities and to the Northeastern Connecticut Regional Resource Recovery Authority. Such withdrawal of membership will not in any manner relieve the municipality of liabilities or responsibilities assumed prior to withdrawal, including, without limitation, contracts and agreements to supply municipal solid waste, to pay tipping fees or other charges, and to make landfill space available. (Ord. of 10-14-86, § 7; Ord. of 2-10-87, § 4)

## **Sections 2-147 – 2-149 Reserved**

## **ARTICLE XV. ZONING BOARD OF APPEALS<sup>17</sup>**

### **Section 2-150 Created**

The provisions of chapter 124 of the general statutes of the state, 1958 Revision as amended, are hereby adopted and a zoning board of appeals is hereby created in and for the town. (Ord. of 9-13-73, § I; Ord. of 7-14-87)

### **Section 2-151 Composition**

The board created by this article shall consist of five (5) regular members and three (3) alternates who shall be electors of the town and shall not be members of any other board or commission. (Ord. of 9-13-73, § II)

### **Section 2-152 Terms--Regular members**

Regular members of the board created by this article shall be appointed to serve by the town council for terms of five (5) years. Annually the council shall appoint one member to such board. (Ord. of 9-13-73, § III)

### **Section 2-153 Alternate members**

Alternate members of the board created by this article shall be appointed to terms of three (3) years. (Ord. of 9-13-73, § IV)

### **Section 2-154 Vacancies**

Any vacancy on the board created by this article shall be filled by the town council. (Ord. of 9-13-73, § V)

### **Section 2-155 Power and duties**

The board created by this article shall have all powers and duties of chapter 124 of the general statutes of the state, as amended, and all of its actions and proceedings, all appeals there from shall be subject to and in accordance with the provisions of such chapter 124 as amended. (Ord. of 9-13-73, § 6)

## **Sections 2-157 – 2-159 Reserved**

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<sup>17</sup> Cross reference -- Zoning regulations, App. C.

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## **ARTICLE XIV. WATER POLLUTION CONTROL AUTHORITY**

### **Section 2-160 Created**

Pursuant to the general statutes of the state, chapter 103, section 7-246, as amended, and the Killingly Town Charter, Section 810, there is created an authority, to be known as the Water Pollution Control Authority of the Town of Killingly. Said Water Pollution Control Authority shall be an operating department of the Town, and the Superintendent of the Water Pollution Control Authority shall be appointed by the Town Manager with the advice and consent of the Water Pollution Control Authority and shall report to the Town Manager or his/her designee as to the day to day operation of the department. For purposes of employment and personnel policies, the employees of the Water Pollution Control Authority shall be employees of the Town of Killingly.

### **Section 2-161 Composition; terms; vacancies**

The Authority created by this section shall consist of five (5) regular members to be appointed by the town council for terms of three (3) years and two (2) alternate members to be appointed by the town council for terms of two (2) years. Any vacancy shall be filled for the unexpired portion of the term by appointment by the town council.

### **Section 2-162 Officers; Compensation; Quorum**

The Authority created by this section shall elect from its membership a chairman and secretary and shall appoint legal counsel, and other necessary personnel. The members of the authority shall serve without compensation but shall be reimbursed for necessary expenses. The presence of three (3) members of the authority will constitute a quorum to conduct business and not action of such authority shall be valid unless authorized by a vote of the majority of the members of the authority.

### **Section 2-163 Powers**

The Authority created by this section shall conform to and have such powers, purposes and objectives as set forth in chapter 103 of the general statutes, as amend, except as specifically otherwise set forth herein.

### **Section 2-164 Records; annual report**

The Authority shall maintain accurate accounting and financial records and shall make an annual report to the Town Manager and Council. Provided further that all functions regarding the issuance of bills and collection of revenues shall be performed by the Town Manager or his/her designee, and all funds shall be accounted for separately to the Authority in accordance with generally accepted municipal accounting principles.

### **Section 2-165 Annual Budget**

- (a) The Authority shall file its budget with the Town Manager for submission to the Town Council no later than the first day of April, which budget shall include a detailed estimate of the expenditures to be made by the Authority and the revenue to be collected thereby in the ensuing fiscal year and such other information as may be required by the Council or the Manager.
- (b) The Council shall by resolution approve or reject such budget within fifty (50) days of receipt of the same. Should the budget be rejected by the Council, it shall be returned to the Authority together with a statement of the reason for the rejection. The Authority shall review the budget in light of the comments of the Council and shall resubmit the budget to the Council no later than five (5) days prior to the June meeting of the Council. The Council shall then approve the Authority's budget or amend and approve said budget. Should the Council fail to approve or amend and approve the last submitted budget by the close of the fiscal year, the last submitted budget shall be deemed to be approved by the Council.

### **Section 2-166 Removal of Members**

A member of the authority may be removed in accordance with the provisions of Section 811 of the Killingly Town Charter.

### **Sections 2-167 – 2-169 Reserved**

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## **ARTICLE XV. ZONING BOARD OF APPEALS<sup>18</sup>**

### **Section 2-160 Created**

The provisions of chapter 124 of the general statutes of the state, 1958 Revision as amended, are hereby adopted and a zoning board of appeals is hereby created in and for the town. (Ord. of 9-13-73, § I; Ord. of 7-14-87)

### **Section 2-161 Composition**

The board created by this article shall consist of five (5) regular members and three (3) alternates who shall be electors of the town and shall not be members of any other board or commission. (Ord. of 9-13-73, § II)

### **Section 2-162 Terms—Regular members**

Regular members of the board created by this article shall be appointed to serve by the town council for terms of five (5) years. Annually the council shall appoint one member to such board. (Ord. of 9-13-73, § III)

### **Section 2-163 Alternate members**

Alternate members of the board created by this article shall be appointed to terms of three (3) years. (Ord. of 9-13-73, § IV)

### **Section 2-164 Vacancies**

Any vacancy on the board created by this article shall be filled by the town council. (Ord. of 9-13-73, § V)

### **Section 2-165 Power and duties**

The board created by this article shall have all powers and duties of chapter 124 of the general statutes of the state, as amended, and all of its actions and proceedings, all appeals therefrom shall be subject to and in accordance with the provisions of such chapter 124 as amended. (Ord. of 9-13-73, § 6)

### **Section 2-166-2-169 Reserved**

## **ARTICLE XVI. Open Space Land Acquisition Fund**

### **Section 2-170**

Pursuant to the authority of Connecticut General Statute § 7-131r, there is hereby established the Killingly Open Space Land Acquisition Fund to be used solely for the purposes of the preservation of open space, the acquisition of land (or any interest in land, including but not limited to easements and development rights, associated surveying and legal fees) to be used for open space, natural resource protection, recreational or agricultural purposes. This fund is continuous and shall not lapse at the close of the municipal fiscal year.

### **Section 2-171**

There shall be deposited into the Open Space Land Acquisition Fund such sums as the town may from time to time appropriate for that purpose. There shall also be deposited into the fund all payments in lieu of the provision of open space made pursuant to any regulations adopted by the Planning and Zoning Commission under the authority of Connecticut General Statutes §§ 8-25a and 8-25b and any other funds acquired by the town, whether by gift, bequest, grant or otherwise, for the purposes to be served by the fund. By separate action annually, Council may also transfer unexpended funds from any Conservation, Inland Wetlands and Watercourses Commission and Agriculture Commissions budgeted funds remaining at the end of the fiscal year. (Ord. No. C14-05; 5-13-14; Effec. 5-28-14)

### **Section 2-172**

The Town Manager shall appoint an Open Space Land Acquisition Committee to consist of two citizens at large and one member of each of the following: Inland Wetlands and Watercourses Commission, Planning and Zoning Commission, Economic Development Commission, Board of Recreation, Conservation Commission, and

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<sup>18</sup> Cross reference -- Zoning regulations, App. C.

# Killingly Code of Ordinances

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Agriculture Commission. The persons appointed shall serve at the pleasure of the Town Council. The Open Space Land Acquisition Committee shall elect its chairperson and a secretary and shall meet periodically, but not less frequently than bi-annually. Its charge shall be to identify and/or review potential acquisitions of land or interests in land for open space, natural resource protection, recreational or agricultural purposes, to make recommendations to the Town Council regarding acquisition of such land and other proper uses of the Open Space Land Acquisition fund and to perform such other tasks relating to the use and administration of the fund as the Town Council may direct. (Ord. No. C14-05; 5-13-14; Effec. 5-28-14)

## **Section 2-173**

Appropriations from the fund for the purposes for which it is created shall be made upon the recommendation of the Conservation Commission, the Open Space Land Acquisition Committee and the approval of the Town Council, and, where the proposed appropriation is for the purpose of acquiring land (or any interest in land, including but not limited to easements and development rights) upon review by the Planning and Zoning Commission pursuant to Connecticut General Statute § 8-24, by any Annual or Special Town Meeting after due warning. (Ord. No. C00-023; 8-8-00)

## **Section 2-174–2-180**      Reserved

## **Article XVII      CAPITAL RESERVE FUNDS**

### **DIVISION 1      GENERAL CONDITIONS OF USE**

#### **Section 2-181**

##### **1. Expenditures**

- a. Capital Projects - Expenditures may be made from said Fund to fund, in whole or in part, Town capital projects. Uses may include but shall not be limited to: municipal infrastructure construction and improvements, municipal, school, parks and recreation facilities construction and improvements and the acquisition of land. Funds may be expended for contractual services, materials, supplies, equipment and professional services; however, said Fund shall not be expended for normal, routine operating expenses of the Town.
  - b. Information Technology - Expenditures may be made from said Fund to fund, in whole or in part, technology equipment, computer software or hardware and any other expenditures related to utilizing information technology in support of Town functions. Said expenditures shall be segregated from other expenditures described herein and shall be supported by revenues derived from fees, charges and inter-fund transfers associated with information technology.
  - c. Geographic Information System - Expenditures may be made from said Fund to fund, in whole or in part, technology equipment, computer software or hardware and other expenditures related to utilizing the town's geographic information system in support of Town functions. Said expenditure shall be segregated from other expenditures described herein and shall be supported by revenues derived from fees, charges and inter-fund transfers associated with geographic information technology.
2. The sources of revenue of the Capital Revenue Fund may be any of the following as the Town Council shall, from time to time, determine: General Fund appropriations and contributions from other Town funds, as may be authorized by the Town Council.
  3. The Town Finance Department will maintain an accounting of the activity of the Fund.
  4. In the event of the dissolution of the Fund, any balance remaining in the Fund shall be transferred to the Fund Balance of the General Fund.

### **DIVISION 2      DISBURSEMENTS**

#### **Section 2-182**

1. All disbursements for Capital Projects and the Geographic Information System from this Fund shall be authorized by the Town Council upon a recommendation by the Town Manager.
2. All disbursements for information technology from this Fund shall be authorized by the Town Manager.  
(Ord. No. C00-025, 9-12-00) (Ord. 8-12-03; Amending Ord. of 8-9-05)

## **Section 2-183 - 2-200**      Reserved

# Killingly Code of Ordinances

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## **Article XVIII      PROCUREMENT CODE OF THE TOWN OF KILLINGLY**

### **Section 2-201      Purpose**

The purpose of this Procurement Code is to:

- A. Provide for the fair and equitable treatment of all persons involved in public procurement by the Town of Killingly.
- B. Maximize the value of public funds in procurement.
- C. Provide safeguards for maintaining procurement procedures of quality and integrity.

### **Section 2-202      Application**

- A. This Procurement Code applies to the procurement of supplies, services and construction for the Town, except for items or services specifically certified by the Board of Education as exempt from the Code as educational items not amenable to bid. It shall apply to every expenditure of public funds by any general government department of the Town irrespective of the source of funding except when any purchase involves the expenditure of federal or state assistance or contract funds, where said purchases shall be conducted in accordance with any applicable laws and/or any federal, state or local regulations approved for the expenditure by the appropriate federal or state agency. Nothing in this Procurement Code, hereafter referred to as this code, shall prevent any department of the Town from complying with the terms and conditions of any grant, gift or request that is otherwise consistent with law. The use of any open bid rendered to the State of Connecticut, the Council of Governments, other governmental body or public procurement association with which Killingly is associated shall be considered in compliance with this code. (Amending Ord of 10-8-19)
- B. In order to promote contracts with vendors having responsible employment practices, preference should be given to goods or services produced in the United States and to vendors known for their responsible labor practices. (Amending Ord of 10-8-19)
- C. All specifications shall be drafted to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs and shall not be unduly restrictive. The policy enunciated in this sub-section applies to all specifications including but not limited to those prepared for the Town by architects, engineer, designers, draftsmen and other professionals. (Amending Ord of 10-8-19)

### **Section 2-203      Definitions**

The following words, terms and phrases, when used in this code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Brand name or equal specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet Town requirements, and which provides for the submission of equivalent products.

**Brand name specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers.

**Contract:** All types of agreements including purchase orders, regardless of what they may be called, for the purchasing of supplies or services.

**Contractor:** Any person having a contract with the Town or any of its departments. The term "contractor" shall include the general or prime contractor and shall include subcontractors performing work under the contract.

**Construction:** The process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

**Local Bidder:** Any bidder having its registered principal place of business within the confines of the Town of Killingly.

**Services:** The furnishing of labor, time or efforts by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements or the appointment of the Town Attorney which shall be governed by Section 902 of the Town Charter.

**Specification:** Any description of the physical or functional characteristics or the nature of a supply or service item. It may include a description of any requirement for inspecting, testing or preparing a supply or service item for delivery.

# Killingly Code of Ordinances

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**Supplies:** All consumables or property, including but not limited to equipment, materials, printing and leases for real property, excluding land or a permanent interest in land.

## **Section 2-204 Appointment, authority and duties of Purchasing Agent**

- A. In accordance with Section 903 of the Town Charter, the appointment by the Town Manager of the Finance Director to be Purchasing Agent is herein confirmed.
- B. The authority and duties of the Purchasing Agent shall be as follows:
  - 1. Except as may be otherwise provided, the Purchasing Agent shall serve as the principal purchasing official for the Town and shall be responsible for the purchasing of supplies or services in accordance with this code.
  - 2. In accordance with this policy and subject to the supervision of the Town Manager, the Purchasing Agent shall:
    - a. Procure or supervise the purchasing of all supplies and services needed by the Town;
    - b. Exercise direct supervision over the Town's central stores and general supervision over all other storeroom inventories belonging to the Town;
    - c. Assist the departments of the Town with the establishment and maintenance of programs for specification development, contract administration and product inspection and acceptance and coordination of supplies and service purchases.

## **Section 2-205 Department responsibilities**

- A. The responsibility of department heads regarding purchasing shall be as follows:
  - 1. Development of specifications for supplies or services shall be the responsibility of department heads. Any specifications to be included in an invitation for competitive sealed bids or proposals shall be submitted to the Purchasing Agent.
  - 2. When requesting for a purchase, the highest quality item(s) for a specified use at the lowest possible expense is required by all department heads, or their delegates.
  - 3. Department heads are required to control, supervise and maintain any necessary inventories in a storeroom. Such storerooms shall serve as the receiving and distribution points for materials purchased by a using department.
  - 4. With the exception of public works parts and fuel inventories, departments will be charged for items at the time of purchase. The Highway Division of Public Works will conduct a physical inventory count of all supplies at such time as there is a change in personnel directly responsible for those storerooms and as otherwise may be required throughout the year. (Amending Ord of 10-8-19)
  - 5. Local purchasing is encouraged where competitive market prices exist except when subsection 7 of this section or Section 2-206 applies. Local purchasing shall be considered unless non-local purchasing is more cost effective. The following factors shall be considered to determine cost effectiveness: (Amending Ord of 10-8-19)
    - a. Price;
    - b. Comparable quality;
    - c. Cost/ability to secure prices;
    - d. Shipping and handling cost;
    - e. Convenience of follow-up service;
    - f. Time to secure the supply, item or service.
  - 6. Inspection of incoming materials or services shall be performed for compliance with specifications. These inspections are to be maintained under rigorous review by department heads and their authorized designees. The receiving report copy of the purchase order and any packing slips are to be completed and returned to the Finance Department upon acceptance and payment of an order.
  - 7. Unless otherwise provided, the single purchase of a supply item in an amount estimated at \$10,000 or above shall be made only by written contract award through a formal bidding procedure. No supply or service generally purchased in the whole shall be purchased as a sum of the parts for the purpose of avoiding the requirement to solicit bids. A single purchase of services in an amount estimated at \$10,000 shall be made only by written contract award through the appropriate proposal procedure. Sole source purchases and emergency purchases as provided for respectively in Sections 2-209 and 2-210 shall be exceptions to these rules. (Amending Ord of 10-8-19)
- B. Consistent with this code and with the approval of the Town Manager, the Purchasing Agent may adopt operational procedures relating to the execution of his or her duties.

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## **Section 2-206 Competitive sealed bidding**

All contracts of the Town for procurement at or in excess of \$10,000 shall be awarded by competitive sealed bidding except as otherwise provided in this code and in accordance with the following:

- A. Public notices for inviting bids. (Amending Ord of 10-8-19)
  - 1. Newspapers. Notices inviting bids shall be published once in at least one official newspaper having a circulation in the Town and such other newspapers as may be necessary to ensure competition in the area and at least ten (10) calendar days preceding the last day set for the receipt of proposals.
  - 2. Town of Killingly website. Notice inviting bids shall be posted on the Town of Killingly website.
- B. Scope of notices shall:
  - 1. The notice shall State where bid blanks and specifications may be secured and the time and place for opening bids. (Amending Ord of 10-8-19)
- C. Bid security:
  - 1. Construction contracts exceeding \$50,000. Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the designated official for construction contracting management to exceed \$50,000. Bid security shall be a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Finance Director. Nothing herein shall prevent the requirement of such bonds on construction contracts under \$50,000 when the circumstances warrant.
  - 2. Bid security shall be in an amount equal to at least ten percent (10%) of the amount of the bid.
  - 3. When the invitation for bids requires security, noncompliance requires that the bid be rejected.
  - 4. If a bidder is permitted to withdraw a bid before award as provided in Section 2-206, Subsection H.a. of this code, no action shall be taken against the bidder or the bid security.
  - 5. Refund of deposit. The Purchasing Agent shall return the security deposit of any unsuccessful bidder.
  - 6. Forfeit of deposit. The deposit of a successful bidder shall be forfeited if he fails to enter into a contract within ten (10) days after the award.
- D. Contract Performance and Payment Bond:
  - 1. When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the Town and shall become binding on the parties upon the execution of the contract:
    - a. A performance bond satisfactory to the Finance Director executed by a surety company authorized to do business in Connecticut; and
    - b. A payment bond satisfactory to the Finance Director executed by a surety company authorized to do business in the state. The bond shall be in the amount equal to 100 percent of the price specified in the contract.
  - 2. Nothing in this section shall be construed to limit the authority of the Town to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection A of this section. Nor shall this section be construed to limit the authority of the Town to require warranties or guarantees against defects where circumstances recommend them.
- E. Sealed bids.

All bids submitted pursuant to the terms of this section shall be sealed and identified on the envelope as bids.
- F. Bid opening procedures.
  - 1. Opening. Bids shall be opened in public at the time and place announced in the public notices required in this article. The amount of each bid, and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder shall be publicly read for the benefit of any bidders and each bid shall be open to public inspection.
  - 2. Postponement due to closing. If Town Hall shall be closed for weather or any other conditions, bid opening date shall be postponed until the same hour on the next day that Town Hall is officially open for business.
- G. Evaluation:

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that is not set forth in the invitation for bids.
- H. Corrections, Withdrawals

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Correction or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate. Mistakes discovered before bid opening may be withdrawn. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted. In lieu of a bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- a. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or
- b. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Agent and approved by the Town Manager.

I. Tie bids.

1. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder.
2. Where all tie bidders or none of them are local bidders, the Purchasing Agent shall award the contract by drawing lots.

J. Rejection of bids when in public interest.

The Purchasing Agent shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The reasons therefore shall be made part of the contract file. Each solicitation issued by the Town shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the Town. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future purchases(s) of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or proposers.

K. Rejection of bid where bidder is in default to the Town.

1. The Purchasing Agent shall not accept the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the Town, or of a contractor, a principal of which is in default on the payment of taxes, licenses or other monies due the Town. The Purchasing Agent shall include in the bid document a form to be executed by a bidder, certifying that said bidder is not in default on the payment of taxes, licenses or other monies due the Town.
2. As used in this section:
  - a. a "principal" of a contractor shall mean an individual who is a director, an officer, an owner, a limited partner or a general partner; and,
  - b. "default in the payment of taxes" shall mean the failure to pay taxes by the date such taxes are due and payable or the failure to be current with respect to a delinquent taxes payment schedule as set forth in a written agreement with the Revenue Collector.

L. Award of contract.

The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

M. Award to other than lowest bidder; reasons must be stated.

When the award is not given to the lowest responsive bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent and filed in the records with the other documents relating to the award. (Amending Ord of 10-8-19)

N. Considerations used in determining lowest responsible bidder.

The Purchasing Agent shall consider the following in the determination of who is the lowest responsible bidder:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- d. The quality of performance of previous contracts or services.
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service, including, but not limited to, the provisions of subsection O of this section.
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services.



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- g. The quality, availability, and adaptability of the supplies, or contractual services to the particular use required. (Ord. of 10-8-19)
- h. The ability of the bidder to provide future maintenance and service for the subject of the contract.
- O. Contractual provisions concerning fair wages and employment of residents. (Amending Ord of 10-8-19)
  - 1. All contracts entered into between the Town and contractors which utilize trades persons or laborers by the contractor in the performance of the contract shall incorporate the following provisions:
    - a. The contractor and all subcontractors will not employ any illegal aliens to work on any projects in the Town of Killingly;
    - b. Violations of this section will result in permanent disbarment from future work for the Town of Killingly.
    - c. Preference shall be given to residents of the Town of Killingly in the hiring of labor necessary to the construction, remodeling or repairing of public buildings of the Town.
    - d. In the event the contractor is restricted by labor contracts, or the required specific skills that are not available in the Town of Killingly, the contractor may hire tradesmen and/or laborers who reside outside the Town.
  - 2. Where applicable, construction of any public works project shall be performed in accordance with Connecticut General Statutes, Section 31-53 as it may be amended from time to time.
  - 3. All workers furnishing the goods and services in connection with the construction shall be properly classified as employees rather than independent contractors, causing them to be treated accordingly for the purposes of pay, benefits, worker's compensation, insurance coverage, unemployment compensation coverage, social security taxes and income tax withholding.
  - 4. In contracts where the total cost of all work to be performed exceeds one hundred thousand dollars (\$100,000.00) and in all cases wherein one or more apprentices are employed, the employer shall be affiliated with a state-certified apprenticeship program and must register all apprentices with the division and abide by the apprentice to journeyman ratio for each trade prescribed therein.
  - 5. If a contractor signing a contract required under this subsection is found to have violated the provisions of said contract, it shall, if already paid by the Town, reimburse to the Town one percent (1%) of the payment that would have otherwise been owed by the Town for every count of violation found.

If a contractor signing a contract required under this subsection is found to have violated the provisions of the contract and it has not already been paid by the Town, the Town shall withhold from payment one percent (1%) of the payment that would have otherwise been owed by the Town for every count of violation found. For these purposes, each day of violation and each worker affected shall be deemed a separate count. If a contractor signing a contract required under this subsection is found to have violated the provisions of said contract, they will be barred from performing any work on future projects for six months for a first violation, three years for a second violation, and permanently for a third violation. Each construction contract entered into by the Town shall recite that the contractor understands and agrees to the terms of this section.

- 6. As used herein, the term "contractor" shall include the general or prime contractor and shall include subcontractors performing work under the contract.
- 7. This bid procedure may be waived by the Town Manager when State Contracts are available for participation by local communities.
- P. Responsibility for selection of methods, of construction contract management.

The Town Manager shall designate the official(s) to be responsible for any construction project in excess of \$35,000 that is not under the jurisdiction of the Permanent Building Commission as provided in Article IX of the Killingly Code of Ordinances. The designated official shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the designated official shall consider the Town's requirements, its resources and the potential contractor's capabilities. The designated official shall include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project. This contract provision will be executed with the advice and consent of the Town Council or designee. (Amending Ord of 10-8-19)
- Q. Subdivision of contract prohibited.

No contract or purchase shall be subdivided by the Purchasing Agent or any department head in order to circumvent or avoid the requirements of this division.
- R. Nondiscrimination provisions.

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Invitations to bid issued by the Town, on behalf of boards and commissions seeking contractual services for the construction of capital improvements shall include provisions concerning the payment of prevailing wages when called for pursuant to the provisions of 31-53a, proper classification as employees rather than as independent contractors, participation in a state-certified apprenticeship program, non-discrimination, anti-kickback, and conflict of interest similar to the type found in federal invitations to bid.

S. Legal review and approval of contracts.

No contract for goods or services to which the Town or any of its boards, commissions, departments, agencies or officials is a party shall be executed until the same has been reviewed and approved by corporation counsel with respect to form and legal substance. The Town shall not be bound by any contract unless such contract has been reviewed and approved by corporation counsel prior to its execution.

## **Section 2-207 Contracting for professional services**

- A. For the purpose of procuring professional services such as auditing, accounting, banking, computer or information processing, architect, engineering, land surveying, clergy, medical, veterinary or dental; the department of the Town requiring such services may procure them on its own behalf following notification to the Purchasing Agent and in accordance with the selection procedures specified in this section.
- B. Except as provided under the provisions for sole source purchasing and emergency purchasing, professional services as described in subsection A. of this section shall be procured as follows:
  - 1. Persons engaged in providing the described professional services may submit statements of qualifications and expressions of interest in providing such professional services. The department of the Town using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
  - 2. Adequate notice of the need for such services shall be given by the Town department requiring the services through a request for proposals. The request for proposals shall describe the service required, list the types of information and data required of each proposer, and state the relative importance of particular qualifications. (Ord. of 10-8-19)
- C. Sealed proposals shall be preferred but for purposes of expanding competition, proposals may be received by electronic format in accordance with procedures that ensure the security of the proposals to be developed by the Purchasing Agent and telephone bids may be authorized by the Town Manager where such bids constitute an industry standard. (Ord. of 10-8-19)
- D. Discussions may be conducted with any proposer who has submitted a proposal to determine such proposer's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other proposers.
- E. Award shall be made to the proposer determined in writing by the Purchasing Agent and the head of the Town department procuring the required professional services to be best qualified based on evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified proposer, then negotiations will be formally terminated with the selected proposer. If proposals were submitted by one or more other proposers determined to be qualified, negotiations may be conducted with such other proposers, in the order of their respected qualification ranking, and the contract may be awarded to the proposer then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

## **Section 2-208 Small purchases**

- A. Any contract not exceeding \$10,000 may be made in accordance with the small purchase procedures authorized in this section. (Ord. of 10-8-19)
- B. Insofar as it is practical for small purchases in excess of \$1,000, no less than three businesses shall be solicited to submit quotations. Quotations may be accepted by telephone and electronically. Award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded with purchase orders and maintained as a public record. (Ord. of 10-8-19)

## **Section 2-209 Sole source purchasing**

A contract may be awarded without competition when the Purchasing Agent with the approval of the Town Manager determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply or service item. The Purchasing Agent with the appropriate department head or designee shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source purchases shall be

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maintained as a public record and shall list each vendor's or contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract and the identification number of each contract file.

## **Section 2-210 Emergency purchasing**

Notwithstanding any other provision of this policy, the Town Manager may make or authorize others to make emergency purchases of supplies or services when there exists a threat to public health, welfare or safety; provided that such emergency purchases shall be made with such competition as is practicable under the circumstances.

## **Section 2-211 Brand name or equal specification**

- A. Brand name or equal specification may be used when the Purchasing Agent determines in writing that:
  - 1. No other design or performance specification or qualified products list is available;
  - 2. Time does not permit the preparation of another form of purchase description, not including a brand name specification;
  - 3. The nature of the product or the nature of the Town's requirements makes use of a brand name or equal specification suitable for purchasing; or
  - 4. Use of a brand name or equal specification is in the Town's best interest.
- B. Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- C. Where brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

## **Section 2-212 Brand name specification**

- A. Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Agent makes a written determination that only the identified brand name item or items will satisfy the Town's needs.
- B. The Purchasing Agent shall seek to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the purchases shall be made under Section 2-209 of this code.  
(Ord. of 12-11-07)