Mr. Blake and Mr. Dube explained the ordinance and why the change is necessary. They responded to questions and comments from Council members.

5. Adjournment

Mr. Grandelski made a motion, seconded by Ms. George, to adjourn the meeting.

Voice Vote:  Unanimous. Motion passed.

The meeting ended at 8:14 p.m.

Respectfully submitted,

Elizabeth Buzalski

Council Secretary

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**KILLINGLY TOWN COUNCIL**

**PUBLIC HEARING**

**DATE:** TUESDAY, November 10, 2020

**TIME:** 7:00 P.M.

**PLACE:** Town Meeting Room

(Council Members only)

The Town Council of the Town of Killingly held a Public Hearing on Tuesday, November 10, 2020 at 7:00 p.m. in the Town Meeting Room of the Killingly Town Hall, 172 Main Street, Killingly, Connecticut which time interested persons were heard on the following ordinances:

Agenda item 14a, an ordinance amending Chapter 14 of the Killingly Code of Ordinances to modify the length of time an assessment deferral or tax abatement agreement may be; agenda item 14b, an ordinance amending Chapter 12 of the Killingly Code of Ordinances to modify process to apply for a peddler or vendor permit; agenda item 14c, an ordinance amending Chapter 15 of the Killingly Code of Ordinances to include Article IV – Illicit Discharge and Connection to Stormwater System; and agenda item 14d, an ordinance to authorize the transfer of up to $212,757 from the Highway Division unexpended funds for FY 19/20 to Road Renewal Capital Project Funds. The Public was invited by WebEx.

There were no public comments.

The Public Hearing was closed at 7:13 p.m.

**KILLINGLY TOWN COUNCIL**

**REGULAR MEETING**

**DATE:** TUESDAY, November 10, 2020

**TIME:** 7:00 P.M.

**PLACE:** TOWN MEETING ROOM

KILLINGLY TOWN HALL

**AGENDA**

The Town Council of the Town of Killingly held a Regular Meeting on Tuesday, November 10, 2020 at 7:00 p.m. in the Town Meeting Room of the Killingly Town Hall, 172 Main Street, Killingly, Connecticut.  The agenda was as follows:

1. **CALL TO ORDER**
2. **PRAYER**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG**
4. **ROLL CALL**
5. **ADOPTION OF MINUTES OF PREVIOUS MEETINGS**

a) Special Town Council Meeting: October 6, 2020

b) Regular Town Council Meeting: October 13,2020

c) Special Town Council Meeting: October 20, 2020

d) Special Town Council Meeting: October 29, 2020

1. **PRESENTATIONS, PROCLAMATIONS AND DECLARATIONS**
   1. Recognition of Veterans Day
2. **UNFINISHED BUSINESS FOR TOWN MEETING ACTION**
3. **CITIZEN’S STATEMENTS AND PETITIONS**

Pursuant to Governor’s Executive Order 7B, all public comment can be emailed to [publiccomment@killinglyct.gov](mailto:publiccomment@killinglyct.gov) or mailed to Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. All public comment received prior to the meeting will be posted on the Town’s website www.killinglyct.gov.

1. **COUNCIL/STAFF COMMENTS**
2. **APPOINTMENTS TO BOARDS AND COMMISSIONS**
3. **REPORTS FROM LIAISONS**

a) Board of Education Liaison

b) Borough Council Liaison

1. **DISCUSSION AND ACCEPTANCE OF MONTHLY BUDGET REPORTS**

a) Summary Report on General Fund Appropriations for Town Government

b) System Object Based on Adjusted Budget for the Board of Education

13. **CORRESPONDENCE/COMMUNICATIONS/REPORTS**

a) Town Manager Report

14. **UNFINISHED BUSINESS FOR TOWN COUNCIL ACTION**

a) Consideration and action on an ordinance amending Chapter 14 of the Killingly Code of Ordinances to modify the length of time an assessment deferral or tax abatement agreement may be

b) Consideration and action on an ordinance amending Chapter 12 of the Killingly Code of Ordinances to modify process to apply for a peddler or vendor permit

c) Consideration and action on an ordinance amending Chapter 15 of the Killingly Code of Ordinances to include Article IV – Illicit Discharge and Connection to Stormwater System

d) Consideration and action on an ordinance to authorize the transfer of up to $212,757 from the Highway Division unexpended funds for FY 19/20 to Road Renewal Capital Project Funds

15. **NEW BUSINESS**

a) Discussion and potential action regarding the acquisition of five dam properties located in East Killingly from Wright Investors’ Service Holdings Inc.

16. **COUNCIL MEMBER REPORTS AND COMMENTS**

17. **EXECUTIVE SESSION**

a) Potential acquisition of property - Wright Investors’ Service Holdings, Inc. dams

18. **ADJOURNMENT**

**KILLINGLY TOWN COUNCIL**

1. Chairman Anderson called the meeting to order at 7:13 p.m.
2. Prayer by Mr. Anderson.
3. Pledge of Allegiance to the flag.

4. Upon roll call all Councilors were present except Mr. Wood and Mr. LaPrade who were absent with notification. Ms. Wakefield attended virtually. Also present were Town Manager Calorio, Finance Director Hawkins, and Council Secretary Buzalski.

5. Adoption of minutes of previous meetings

Mr. Lee made a motion, seconded by Ms. George, to adopt the minutes of the Special Town Council Meeting of October 6, 2020, the Regular Town Council meeting of October 6, 2020, the Regular Town Council Meeting of October 13, 2020, the Special Town Council Meeting of October 20, 2020, and the Special Town Council Meeting of October 29, 2020.

Discussion followed.

Voice Vote: Unanimous. Motion passed.

6. Presentations, proclamations and declarations:

6a. Recognizing Veterans Day

Mr. Anderson read the following:

**PROCLAMATION RECOGNIZING NOVEMBER 11, 2020 AS VETERANS DAY**

**WHEREAS**, Connecticut is blessed to be the home of over 187,600 veterans; and

**WHEREAS**, throughout the history of our nation, our men and women in uniform have risked their lives to protect the interests of our country and defend our freedoms; and

**WHEREAS**, Killingly residents live in freedom because of the contributions and sacrifices made by those who have served and by those who continue to serve; and

**WHEREAS**, these sacrifices are also made by the family members who support these men and women who preserve the liberties that enrich both this nation, the State and our Town; and

**WHEREAS**, on this Veterans Day, Killingly remembers that we are forever indebted to those who stepped forward to defend the blessing of liberty; and

**WHEREAS**, as we reflect upon the enormous contributions made to our Country, State and Town by our veterans, we also pay tribute to those who are currently serving in our Armed Forces at home and abroad and who remain committed to sustaining this legacy of unyielding patriotism;

**NOW, THEREFORE,**the Killingly Town Council hereby recognizes November 10, 2020, as **VETERANS DAY**in the Town of Killingly**,** and calls this observance to the attention of all our citizens.

*Presented this 10th day of November 2020 by*

*The Killingly Town Council*

7. Unfinished Business for Town Meeting Action: None

8. Citizens’ Statements and Petitions:

All Citizens’ Statements received prior to this meeting related to agenda item 15a.

Rick Ouellette wrote in opposition.

Palumbo Law, representing Bukk Carleton wrote in opposition.

David and Brenda Merchant, through P&Z, wrote in opposition.

Nicola Leonetti, owner of Stateline Campresort & Cabins voiced concerns about problems with greater public access and the cost.

Frank DeFelice submitted an outline of his concerns.

Shannon Cairo, Assistant Park Manager for Stateline Campresort, is concerned about the reservoir being drained.

Resha Garrish has concerns about the protection of the waterways.

Harold Kahn of WISH Holdings had a response to the questions about access to the properties.

Richard O’Keefe commented on the Certificates of Compliance from DEEP and the carrying costs of the property.

Daphne Righter is opposed to the acquisition.

Tracey Mulligan is opposed to the acquisition.

Jeane McCormack wrote seeking additional information and is concerned about wildlife preservation.

Bukk Carlton had a list of concerns about the acquisition.

Joyce McCormack Goff supports the acquisition for conservation reasons.

Amy Righter, esquire, would like to see the area remain intact to preserve the historic character of the area.

Jacob Gadbois, as a member of the Conservation Commission, would like to explore the possible Open Space use of the land.

9.  Council/Staff Comments:

Mr. Lee commented on the perceived lack of notice given to the public about the meetings.

10. Appointments to Boards and Commissions: None

11.  Reports from Liaisons:

11a. Report from the Board of Education Liaison:

No report.

11b. Report from the Borough Liaison:

Borough Liaison LaBerge reported on various activities of the Borough of Danielson.

12.  Discussion and Acceptance of Monthly Budget Reports:

12a.   ­Summary Report on General Fund Appropriations for Town Government:

Mr. Kerttula made a motion, seconded by Ms. George, to accept the summary report on general fund appropriations for Town Government.

Discussion followed.

Voice Vote:  Unanimous. Motion passed.

12b. System Object Based on Adjusted Budget for the Board of Education:

Mr. Kerttula made a motion, seconded by Ms. George, to accept the system object based on adjusted budget for the Board of Education.

Discussion followed.

Voice Vote:  Unanimous. Motion passed.

13.  Correspondence/Communications/Reports:

13a. Town Manager Report

Town Manager Calorio discussed her report and responded to comments and questions from Council Members.

14.  Unfinished Business for Town Council Action:

14a. Consideration and Action on an Ordinance Amending Chapter 14 Of The Code Of Ordinances For Revision Of The Discretionary Assessment Deferrals And Tax Abatements

Mr. Grandelski made a motion, seconded by Mr. Lee, to adopt the following:

**an ordinance AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES FOR revision of the discretionary assessment deferrals and tax abatements**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF KILLINGLY** that, the following amendment as shown in underline or strike through to Chapter 14 Section 14-6e (2) of the Town of Killingly Code of Ordinances be adopted:

(e) Qualifying applicants and projects (defined as those meeting the criteria set forth in subsection (e)(1), in addition to any other lawful requirements imposed by the town council) within the enterprise corridor zone may be entitled to discretionary assessment deferrals and tax abatements with respect to real and personal property pursuant to C.G.S. § 32-71 (e).

(1) Criteria:

a. An applicant seeking discretionary assessment deferrals and tax abatements shall submit a letter to the town manager requesting a discretionary assessment deferral and tax abatement agreement, such letter to disclose all principals of the applicant and such other information as may be required by the town.

b. Projects pursuant to this subsection (e) must have a minimum of twenty-five million dollars ($25,000,000) in estimated initial costs of construction, rehabilitation, machinery and equipment, excluding the costs of real property acquisition. (Amending Ord. C15-05 of 9-1-15)

(2) Discretionary assessment deferrals and tax abatements:

a. The Town of Killingly may, in its discretion and by a written discretionary assessment deferral and tax abatement agreement (agreement), provide additional tax assessment deferrals and tax abatements to commence at such time or on the occurrence of such conditions as the agreement shall provide and continue, ~~over a period not exceeding twenty-five (25) years~~, on any real or personal property located within the enterprise corridor zone. Such additional assessment deferrals and tax abatements may take the form of a series of specified annual real and personal property tax payments to be made by the taxpayer in lieu of calculating a tax benefit based upon mill rate and assessment.

In order to derive a series of specified annual real and personal property tax payments described in subsection (e) (2) a. above, the town may enter into a discretionary assessment deferral and tax abatement agreement with a qualified applicant providing for the annual calculation of an assessment deferral of an amount sufficient, in conjunction with the applicable mill rate, to result in the specified tax payment for each year covered by such agreement.

In order to derive a series of specified annual real and personal property tax payments described in subsection (e)(2)a. above, the town may enter into a discretionary assessment deferral and tax abatement agreement with a qualified applicant providing for the annual calculation of a tax abatement of an amount sufficient, in conjunction with the applicable assessment (whether or not subject to deferral.), to result in the specified tax payment for each year covered by such agreement.

(3) Administration of discretionary assessment deferral and tax abatement agreements:

a. Discretionary assessment deferral and tax abatement agreements shall not be conveyed with the real property to which they apply, nor shall they be assigned, to a successor-in interest or assignee of a successful applicant, unless expressly authorized by such agreements. This provision shall apply to changes in controlling ownership of corporations and limited partnerships. (Connecticut General Statutes Section 34-9 et seq.)

b. Discretionary assessment deferral and tax abatement agreements may be recorded on the land records of the town, at the town’s discretion. (Ord. No. 97-001, §§ 1—4, 1-14-97; Ord. No. 99-001, 1-12-99)

**BE IT FURTHER ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF KILLINLGY** that the amendment shall be published in summary with full copies available at the Town Clerk, Town Manager and Public Library for public inspection.

KILLINGLY TOWN COUNCIL

Jason Anderson

Chairman

Dated at Killingly, Connecticut

this 10th day of November 2020

Discussion followed.

Voice vote: Unanimous. Motion passed.

14b. Consideration and Action on an Ordinance Amending Chapter 12 of the Code of Ordinances for Revision of the Peddler and Vendor Permit Process

Mr. Kerttula made a motion, seconded by Mr. Grandelski to adopt the following:

**an ordinance AMENDING CHAPTER 12 OF THE CODE OF ORDINANCES FOR revision of the PEDDLER AND VENDOR PERMIT PROCESS**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF KILLINGLY** that, the following amendment as shown in underline or strike through to Chapter 12 of the Town of Killingly Code of Ordinances be adopted:

***Chapter 12***

***HAWKERS, PEDDLERS AND VENDORS****[[1]](#footnote-2)*

**Art. I. Peddlers**

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

***ARTICLE I. IN GENERAL***

***Section 12-1*** **Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(5) Description of vehicle to be used for transportation including year, make, model and license plate.**

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

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

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

(d) The ~~town clerk~~ **Town Manager** may defer the issuance of a license pending investigation for a period not to exceed seven (7) days.

(e) Pursuant to the provisions of section 21-37 of the Connecticut General Statutes, no permit shall be issued to any for-profit person or entity under this section unless such person or entity has obtained a permit to engage in or transact business as a seller within this state in accordance with section 12-409 of the Connecticut General Statutes.

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

***Section 12-3*** **Registration fee**

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

***Section 12-4*** **Registration expiration**

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

***Section 12-5*** **Identifying credentials**

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

***Section 12-6*** **Refusal or revocation of credentials**

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

***Section 12-7*** **Records of registration**

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

***Section 12-8*** **Persons exempted**

Sections 12-2 through 12-7 shall not apply to:

(a) Persons less than eighteen (18) years of age;

(b) Persons exempted under Connecticut General Statutes;

(c) Persons licensed by the State of Connecticut;

(d) Persons selling only to stores or other business establishments for resale;

(e) Charitable or religious organizations or their representatives;

(f) Persons acting pursuant to a license granted in accordance with Chapter 11, Article II, sections 11-39 and 11-40 of this Code of Ordinances shall be exempt from the provisions of this article during the time the outdoor event is being held.

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

***Section 12-9*** **Hours of operation**

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

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

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

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

***Section 12-10*** **Violations and penalties**

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

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

***Sections 12-11 - 12-20***. Reserved.

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

***Section 12-21*** **Purpose**

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

***Section 12-22*** **Registration**

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

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

***Section 12-23*** **Liability of permittee**

Any person to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person or property by reason of negligence on the part of the person engaged in the activity being sponsored under the permit, and shall agree to hold the town and any of its agents and employees harmless from any and all losses caused by the permittee or any person engaged in activity being sponsored under the permit.

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

***Section 12-24***  **Permit revocation**

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

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

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

**BE IT FURTHER ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF KILLINLGY** that the amendment shall be published in summary with full copies available at the Town Clerk, Town Manager and Public Library for public inspection.

KILLINGLY TOWN COUNCIL

Jason Anderson

Chairman

Dated at Killingly, Connecticut

this 10th day of November 2020

Discussion followed.

Voice vote: Unanimous. Motion passed.

14c. An Ordinance Amending Chapter 15 of the Code of Ordinances to Include Article Iv – Illicit Discharge and Connection to Stormwater System

Mr. Grandelski made a motion, seconded by Ms. George, to adopt the following:

**an ordinance AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES TO INCLUDE aRTICLE IV – ILLICIT DISCHARGE AND CONNECTION TO STORMWATER SYSTEM**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF KILLINGLY** that, the following amendment to add Article IV – Illicit Discharge and Connection to Stormwater System to Chapter 15 of the Town of Killingly Code of Ordinances be adopted:

**Article IV - Illicit Discharge and Connection to Stormwater System**

**SECTION 15-150.** **PURPOSE/INTENT.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Killingly through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are:

1. To prohibit and eliminate illicit connections and discharges to the municipal separate storm sewer system
2. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

**SECTION 15-151. DEFINITIONS.**

For the purposes of this ordinance, the following shall mean:

**Authorized Enforcement Agency**: The Town Manager. The Town Manager may, in writing, designate other employees and designees as deputy authorized agents to act through the authorized agent.

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

**Clean Water Act:** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**Construction Activity:** Any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavation, and dewatering.

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

**Illegal Discharge**: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

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

**Industrial Activity:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**MS4:** Municipal separate storm sewer system

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

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

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

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

**Premises:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

**Stormwater:** Waters consisting of rainfall runoff, including snow or ice melt, during a rain event.

**Stormwater Pollution Prevention Plan:** A document which describes the BPM and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant discharges to Stormwater, Stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

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

**SECTION 15-152. APPLICABILITY.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

**SECTION 15-153. SEVERABILITY.**

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

**SECTION 15-154. RESPONSIBILITY FOR ADMINISTRATION.**

The Town Manager or designee shall administer, implement and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town Manager may be delegated in writing by the Town Manager to persons or entities acting in the beneficial interest of or in the employ of the Town of Killingly.

**SECTION 15-155. ULTIMATE RESPONSIBILITY.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**SECTION 15-156. DISCHARGE PROHIBITIONS.**

**Prohibition of Illegal Discharges**:

No Person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: uncontaminated ground water discharges including, but not limited to, pumped ground water, foundation drains, water from crawl space pumps and footing drains; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows and flows from riparian habitats and wetlands.
2. Any non-stormwater discharge to the MS4 authorized by a permit issued pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes is also authorized under this ordinance.

**Prohibition of Illicit Connections:**

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A Person is considered to be in violation of this ordinance if the Person connects a line conveying sewage to the MS4 or allows such a connection to continue.

**SECTION 15-157. SUSPENSION OF MS4 ACCESS.**

**Suspension due to Illicit Discharges in Emergency Situations**

The Town Manager, or designee, may, without prior notice, suspend MS4 discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town Manager or designee may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

**Suspension due to the Detection of Illicit Discharge**

Any Person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town Manager or designee will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town Manager for a reconsideration and hearing.

A Person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town Manager or designee.

**SECTION 15-158. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any Person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

**SECTION 15-159. MONITORING OF DISCHARGES.**

Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

Access to Facilities.

1. The Town shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town Manager.
2. Facility operators shall allow the Town ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The Town shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Town Manager, or designee, to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The Town Manager, or designee, has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town Manager and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Town Manager, or designee, access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A Person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the Person denies the Town Manager, or designee, reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
7. If the Town Manager, or designee, has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the Town of Killingly, then the Town Manager, or designee, may seek issuance of a search warrant from any court of competent jurisdiction.

**SECTION 15-160. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

The Town Manager, or designee, will adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any Person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

**SECTION 15-161. WATERCOURSE PROTECTION.**

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

**SECTION 15-162. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said Person shall notify the Town Manager, or designee, in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Manager within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**SECTION 15-163. ENFORCEMENT**

Notice of Violation.

Whenever the Town finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Town Manager, or designee, may issue a notice of violation and order compliance by written notice of violation to the responsible person. The notice of violation shall contain, at a minimum: (1) The name and address of the alleged violator; (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred; (3) A statement specifying the nature of the violation; (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action. It is not the responsibility of the Town of Killingly to formulate or design any remedial systems; (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and (6) A statement that the determination of violation may be appealed to a hearing officer appointed by the Town Manager by filing a written notice of appeal within fifteen (15) days from the date of the written Notice of Violation.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine or penalty to recoup costs incurred by the Town;
6. Suspension of any discharge to the MS4 system consistent with Section 8 of this ordinance;
7. The implementation of source control or treatment BMPs; and
8. The reporting of the violation to the Connecticut Department of Energy and Environmental Protection (CTDEEP) and/or the United States Environmental Protection Agency (EPA)

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within 60 days of source confirmation, a schedule for its elimination will be set for no more than 180 days.

Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**SECTION 15-164. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the Town Manager, or designee. Such appeal shall be conducted in accordance with the provisions of Section 1-10 of the Cod of Ordinances of the Town of Killingly.

**SECTION 15-165. ENFORCEMENT MEASURES AFTER APPEAL.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the hearing officer upholding the decision of the Town Manager or designee, then representatives of the authorized enforcement agency may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any Person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**SECTION 15-166. COST OF ABATEMENT OF THE VIOLATION.**

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within fifteen (15) days. If the amount due is not paid within a timely manner as determined by the decision of the hearing officer or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the town by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eighteen (18) percent per annum shall be assessed on the balance beginning on the first (1st) day following discovery of the violation.

**SECTION 15-167. INJUNCTIVE RELIEF.**

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a Person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the Person from activities which would create further violations or compelling the Person to perform abatement or remediation of the violation.

**SECTION 15-168. COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, watershed cleanup, etc.

**SECTION 15-169. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**SECTION 15-170. CRIMINAL PROSECUTION; COSTS AND EXPENSES.**

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law. Violation of this Ordinance shall be deemed to constitute an offense under the laws of the State of Connecticut. For intentional and flagrant violations of this Ordinance, the Town Manager, or designee, may refer the violation to the United States Environmental Protection Agency (EPA) for enforcement of penalties under Sections 309 and 311 of the Clean Water Act.

The Town of Killingly may recover all attorney’s fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses and costs of remediation.

**SECTION 15-171. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**BE IT FURTHER ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF KILLINLGY** that the amendment shall be published in summary with full copies available at the Town Clerk, Town Manager and Public Library for public inspection.

KILLINGLY TOWN COUNCIL Jason Anderson

Chairman

Dated at Killingly, Connecticut

this 10th day of November 2020

Discussion followed.

Voice vote: Unanimous. Motion passed.

14d. Consideration and action on an ordinance to authorize the transfer of up to $212,757 from the Highway Division unexpended funds for FY 19/20 to Road Renewal Capital Project Funds

Mr. Grandelski made a motion, seconded by r. Kerttula, to adopt the following:

**an Ordinance Authorizing a transfer of UP TO $212,757 TO THE ROAD RENEWAL CAPITAL ACCOUNT FROM FISCAL YEAR 2019-2020 UNEXPENDED HIGHWAY SUPERVISION, CENTRAL GARAGE AND HIGHWAY DEPARTMENT BUDGETS**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF KILLINGLY** that a transfer of up to $212,757 be transferred to the Road Renewal Capital Project Account.

**BE IT FURTHER ORDAINED** that the source of said transfer shall be from the fiscal year end 2019-2020 department budgets of Highway Supervision up to $38,258, Central Garage up to $84,032 and Highway Maintenance up to $90,467 and the Town Manager has further certified that said sums of $212,757 is unencumbered within the accounts specified

KILLINGLY TOWN COUNCIL

` Jason Anderson

Chairman

Dated at Killingly, Connecticut

This 13th day of November 2020

Discussion followed.

Voice vote: Unanimous. Motion passed.

15.  New Business:

15a. Discussion and potential action regarding the acquisition of five dam properties located in East Killingly from Wright Investors’ Service Holdings Inc.

Passed until after Executive Session.

17.  Executive Session:

Mr. Grandelski made a motion to move to Executive Session with Town Manager Calorio, Town Attorney Roberts, Finance Director Hawkins, and Town Engineer Capacchione for discussion of agenda item 15a.

Voice vote: Unanimous. Motion passed.

Moved to Executive Session at 8: 16 p.m. and returned at 9:17 p.m.

15.  New Business:

15a. Discussion and potential action regarding the acquisition of five dam properties located in East Killingly from Wright Investors’ Service Holdings Inc.

Mr. Kerttula made a motion, seconded by Mr. Lee, to decline the acquisition of five dam properties and ask the Town Manager to advocate on behalf of WISH and the Town of Killingly with the State of Connecticut DEEP for possible State of Connecticut DEEP acquisition of these properties.

Discussion followed.

Voice Vote: Unanimous. Motion passed.

16. Council Member Reports and Comments:

Mr. Kerttula reported on the Permanent Building Commission and the Open Space Land Acquisition meetings.

Ms. George attended the Planning & Zoning meeting.

Ms. Wakefield attended the Borough meeting and reported on the Rec Commission meeting..

18.  Adjournment:

Mr. Lee made a motion, seconded by Mr. Kerttula, to adjourn the meeting.

Voice Vote:  Unanimous. Motion passed.

The meeting ended at 9:30 p.m.

                                                                                                       Respectfully submitted,

                                                                                                       Elizabeth Buzalski

                                                                                                       Council Secretary

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1. Editor’s note—Ord. No. 99-014, adopted Aug. 10, 1999, amended Ch. 12 in its entirety to read as herein set out. Prior to amendment, Ch. 12 pertained to peddlers and vendors and derived from ordinances of Sept. 9, 1980, §§ I—X; May 11, 1982, §§ 1—4; and March 16, 1994, §§ 1—5. [↑](#footnote-ref-2)