



John L. Salomone  
Town Manager

# TOWN OF NEWINGTON

131 CEDAR STREET  
NEWINGTON, CONNECTICUT 06111

**MAYOR STEPHEN WOODS**

## MINUTES

**NEWINGTON TOWN COUNCIL**  
Conference Room L-101 Lower Level – Town Hall  
7:00 P.M.

**February 11, 2014**

---

The meeting was called to order by Mayor Woods at 7:00 p.m.

### **I. PLEDGE OF ALLEGIANCE**

### **II. ROLL CALL**

Councilor Baume  
Councilor Borjeson  
Councilor Castelle  
Councilor Cohen  
Councilor Dinunzio  
Councilor Klett  
Councilor Marocchini  
Councilor Nagel – Absent  
Mayor Woods

### **Staff Attendees:**

Paul Boutot, Chief Financial Officer  
Ann Harter, Finance Director  
Lisa Rydecki, Deputy Finance Director  
Andy Brecher, Economic Development Director  
Jaime Trevethan, Executive Assistant  
Linda Irish-Simpson, Clerk of the Council

### **III. PUBLIC PARTICIPATION**

Rachel Kennedy, 528 Lincoln Street, New Britain: She brought up the topic of Victory Energy Solutions, which is a home performance and energy management company that does business with several area towns (Berlin/Bloomfield/New Britain/Bristol). Mrs. Kennedy stated Newington had not signed a resolution to become a clean energy community. Connecticut has several programs that would provide residents at little or no cost services to make homes more energy efficient. Towns would have the opportunity to help residents but would also be eligible for grants for the Town to be used for energy efficiency projects. Mrs. Kennedy stated she would be contacting the Town Manager to possibly make a presentation to the Town Council at a later date.

John Slusarski, 40 Grandview Drive: He attended the recent meeting of the Town Hall Renovation Committee and was disappointed with the cost of the project as presented. Mr. Slusarski indicated options should be given to the taxpayers and have the taxpayers decide how much they were willing to spend on the project and include the dollar amount that would be added to their taxes to pay for the project. He was not in favor of a patched, inexpensive Town Hall that would require multi-year fixes.

Rose Lyons, 46 Elton Drive: She agreed that Town Hall needed to be fixed correctly and hoped more residents would be attending meetings to give their input on the project. Mrs. Lyons did not feel the Community Center should be done at the expense of the Town Hall being patched.

Michael Fox, 1901 Main Street: He commented that Earth Day would again be happening this year and would include clean up of Cedar Mountain. Mr. Fox had been contacted by two people from the Conservation Commission about having student liaisons possibly help with smaller clean ups.

Sharon Braverman, 39 Churchill Way: She stated she was disappointed at the projected cost of the Town Hall, that after two years there was not a good budget or design and felt it was time to go back to the drawing board to have only one building, which would accommodate all the needs of the children, administration and Parks and Rec. Mrs. Braverman felt there was no clear vision for the renovation at this time.

Lorraine Pandolfo, Cedar Village Apartments, 312 Cedar Street: She brought several issues to the Town Council attention she felt needed to be addressed. 1) Inconsistent heat in the apartments with nobody able to fix issues the first time they occur 2) Rent checks were not being deposited on a timely basis making it appear that rent was not being paid on time 3) Driveway in need of repair for the past several years, which could cause problems for people who used walkers or wheelchairs. 4) Many doors and screens in the apartments were drafty and although the renters did not pay for the heat she felt it was a waste of money. If the problem was solved, possibly the money saved could be used to make needed repairs. 5) Emergency calls were not always answered, which could cause problems for the elderly. 6) There was no backup generator on the grounds which she felt was a safety issue in the case of no power. 7) Trees on the property were not taken down as needed and could fall on the buildings 8) Contractors used the dumpsters instead of removing the debris off site. The residents then did not have room in the dumpsters to put garbage. 9) Baseboard heaters should be bled, which could save money.

Faith Peters, Cedar Village: She stated she had issues with the leadership of Cedar Village. There had been times in the past after conversations with the Director that she felt shamed and intimidated and had seen neighbors shaking prior to calling the emergency line when there was no heat.

#### **IV. REMARKS BY COUNCILORS**

Councilor Klett stated the Council appointed members to the Newington Housing Authority which held meetings once a month, at 5:30 p.m. She felt it might be appropriate to have the Housing Authority attend a Council meeting. Mayor Woods indicated the Housing Authority was a separate entity and the Council had no oversight capability. Councilor Borjeson stated that when there was an issue with a veteran smoking on the premises, the Council learned they were an independent agency but felt it would be a good idea to have them attend a Council meeting.

Councilor Borjeson was also disheartened about the cost of the Town Hall Renovation project and felt a red flag had gone up after last night's meeting and the project needed to be reviewed.

Councilor Cohen commented that the Housing Authority was independent but should be asked to attend a Council meeting for follow up. She also felt the Town Hall Renovation project was back to square one and would need to start all over again. Councilor Castelle said the projected estimates for the repair and renovation of Town Hall were double what had originally been budgeted. The Committee instructed Kaestle Boos Associates to pursue less expensive alternatives. He hoped they would be able to keep the main concepts which were to continue to consider a separate Community Center and determine what could be accomplished on the Town Hall renovation.

Councilor Dinunzio stated the committee needed to take a hard look at the feedback from residents and determine what should be done to move forward.

Mayor Woods commented that the Housing Authority was a separate entity from the Town but was disheartened to hear the comments from the residents. He said he would continue to talk to the Authority to make it a better place to live and indicated the Council had passed a resolution to allow Cedar Village to apply for a grant that would be used to upgrade and improve the heating system at Cedar Village. He also said that round one of the Town Hall Renovation was completed and was not surprised at the results. The Committee would have to adjust the project to meet the budgeted amount. The public would have to approve the project and the costs would be spelled out for the taxpayers prior to approval. Mayor Woods was confident the Committee would be able to put together a package the voters would approve. The project would not be done piecemeal but done the right way.

**V. CONSIDERATION OF OLD BUSINESS**

**A. Ordinance Amendment, Chapter 367: Streets and Sidewalks**

Mayor Woods said the Highway Department asked for a change to the ordinance from page 23 regarding the Placement of Removed Obstructions into Public Ways # 3 stated permission was needed of the "person" and the Highway Department wanted to change that to read "the Town." Council members had no problem with the change. Councilor Klett wanted to ensure the Town would not use mailboxes for notice of citations to the residents, since that was against the law. She was assured the employees had been notified and that would not reoccur.

Councilor Borjeson moved the following:

**RESOLVED:**

**That the Newington Town Council hereby adopts amendments to the Newington Code of Ordinances Chapter 367 entitled "Streets and Sidewalks", a copy of said amendments is attached to the resolution.**

The motion was seconded by Councilor Marocchini and the motion passed 8 – 0 on a roll call vote:  
Yes: Councilors Baume, Borjeson, Castelle, Cohen, Dinunzio, Klett, Marocchini, Mayor Woods  
Absent: Councilor Nagel

**B. Martin Kellogg Middle School STEM Academy: Approve Plans and Specifications**

Councilor Castelle moved the following:

**RESOLVED:**

**Pursuant to Chapter 8, Article X, Section 8-45, Project Building Committees, of the Newington Code of Ordinances, the Newington Town Council hereby approves the plans and specifications for the Martin Kellogg Middle School STEM Academy Renovations Project, as approved by the School Career Technical Program Renovation Project Building Committee on September 13, 2013, and the Newington Board of Education approved on January 8, 2014, and requests that the Town Manager authorizes the project to proceed to bid.**

Councilor Cohen asked that the date for the approval by the State Facilities Unit be added to the resolution.

The motion was seconded by Councilor Cohen and the motion passed 8 – 0 on a roll call vote:  
Yes: Councilors Baume, Borjeson, Castelle, Cohen, Dinunzio, Klett, Marocchini, Mayor Woods  
Absent: Councilor Nagel

**C. IBPO Union Contract**

Ann Harter and Ken Plumb gave an overview of the proposed contract. The union had already ratified the contract and details were in the Councilors' packets. Changes included: 1) pensions – contributions would increase from 7% to 9% over the period of the contract 2) new hires-no COLA and 50 year minimum age to retire to receive all retiree health benefits 3) loss of training days- in 2007 days were lost due to scheduling changes and it was agreed to give back three days each year to allow the Town to do the necessary training 4) use of part time dispatchers 5) 1% increase in premium cost sharing by all officers 6) change in language in disciplinary process 7) increases of 2%, 2.85%, 2.85% and 2.85% each year of the contract 8) increase in midnight shift differential from .25 to .45 per hour 9) no new pension changes until the year 2019. He felt significant issues had been addressed and all parties benefited. Ann Harter gave an overview of the cost and savings of the contract. The total cost of the contract was \$643k and the net savings would amount to \$363k. The contract overall cost would be \$279k over the four years of the contract.

Councilor Castelle commented that 14-15% of the Town budget represented health/pension benefits and wanted to thank all groups involved for accepting the increases. Councilor Borjeson commended everyone involved and thought it was a fair contract. Mayor Woods agreed and thanked Mr. Salomone, and the police leadership to develop the contract.

Councilor Borjeson moved the following:

**RESOLVED:**

**That the Newington Town Council, pursuant to Section 7-474(b) of the Connecticut General Statutes, as revised, hereby approves the proposed agreement between the Town of Newington and Local 443, International Brotherhood of Police Officers, representing personnel in the Newington Police Department, and authorizes the Town Manager to sign said agreement which covers the period of time from July 1, 2013 through June 30, 2017.**

The motion was seconded by Councilor Cohen and passed 7 – 0 on a roll call vote:  
Yes: Councilors Baume, Borjeson, Castelle, Cohen, Dinunzio, Marocchini, Mayor Woods  
Abstain: Councilor Klett  
Absent: Councilor Nagel

**D. Contract Agreement with the CRDA, RE: the Former National Welding Site**

Councilor Marocchini moved the following:

**RESOLVED:**

**That Town Manager John L. Salomone is hereby authorized to act on behalf of the Newington Town Council and the Town of Newington in executing an agreement with the Capital Region Development Authority (CRDA) to 1) Administer a \$2 million grant from the State of Connecticut Department of Economic and Community Development for demolition and remediation of the National Welding Site, and 2) Provide development services to the Town related to the disposition of the National Welding property.**

Councilor Dinunzio asked Mr. Brecher how CRDA would be beneficial to Newington since they had never done a project of this type with a Town. He was concerned Newington would get the short end of the stick since there were a lot of individuals involved in CRDA with an interest in the project. Mr. Brecher said CRDA would administer the grant and be a development partner. Newington could hire people to administer the grant, go out to RFP or pick a not for profit organization. CRDA was in his opinion the best option since the other options would take a long time to put into effect and the individuals involved in CRDA had the expertise and contacts to move the project along faster.

Councilor Cohen asked if Mr. Brecher would be in contact with CRDA throughout the process and was told they would work for the Town Manager who he expected would have Mr. Brecher provide day to day oversight of the project.

Councilor Klett asked if the \$75k was tied into legislation to pay CRDA. Mr. Brecher said there was no requirement to use CRDA but there was an expectation the Town would use the \$75k to pay CRDA to administer the grant. Paul Boutot indicated no Town employee would be paid from the money. She expressed being uncomfortable with the possibility of DOT having the same importance as the Town and wanted to ensure the Town did not lose control of the project. Mr. Brecher said the Town was in charge and would hire people to work on the Town's behalf. Councilor Borjeson said he had spent two years immersed in the project to ensure the Town retained control of whatever was done around the busway. He commented there was no conspiracy theory involved and urged anyone interested to attend the next meeting on February 24, 8:30 a.m. in the Council chambers.

Councilor Dinunzio asked if the \$50k that was budgeted was for a 12 month period and Mr. Brecher indicated that was correct. There was a possibility CRDA would need more money as the project proceeded. Councilor Marocchini asked what specific reservations the Councilors had regarding CRDA and was told the Council had no other options to compare CRDA to.

The motion was seconded by Councilor Cohen and passed 6 – 2 on a roll call vote:  
Yes: Councilors Baume, Borjeson, Castelle, Cohen, Marocchini, Mayor Woods  
No: Councilors Dinunzio, Klett  
Absent: Councilor Nagel

## **VI. CONSIDERATION OF NEW BUSINESS**

### **A. Mid-Year Transfers**

Ann Harter reviewed the attached information regarding revenues to date.

Councilor Klett asked about the breakdown of Police and Highway Department overtimes costs. Mrs. Harter said in the Police contract there was \$62k for full time, \$20k for overtime, \$4k for part time, \$20k for overtime, and \$200 for seasonal. She explained in the Highway Department \$36k was for full time, \$8k for overtime, \$192 for part time. Lastly in the Grounds Department she explained there was \$32k for full time and \$4,400 was for overtime.

Councilor Borjeson was glad to see that veterans and seniors had taken advantage of the credit available to them. He asked if Mrs. Harter knew how many seniors were also veterans who took advantage of the program. Mrs. Harter explained she would get the information for the next meeting, Councilor Castelle asked about the Education Cost Sharing Grant and the shortfall projected of \$604k. He wanted to know if some was compensated for by an increase in a transportation grant. and if the entire amount was compensated by grants. She explained the money was shifted from one account to another.

### **B. Discussion: NVA Contract**

Paul Boutot explained Mr. Salomone had worked with the NVA and Mr. Frank DeMaio to negotiate a contract. Mr. DeMaio said they had reached agreement and changes had been noted in the Council packet. He was glad it was before the Council and hoped there would not be any obstacles for the approval. Mayor Woods indicated the item would be placed on the next Council agenda.

**C. Discussion: DECD National Welding Financial Assistance Proposal**

Mr. Boutot indicated it was the next step in receiving the grant. Councilor Borjeson said after approval the next step would be for it to go to the Bond Commission. He stated it would be good for the Town to have the building demolished by the time the busway opened next year. Mr. Brecher said there were a lot of steps in the process including DECD hiring an attorney to develop a contract for which the Town would pay \$7,500 and be asked to act upon. Councilor Klett was concerned about the wording of the letter received by Mr. Salomone from Commissioner Smith. He was unsure what the TOD Module referred to but would try to get further clarification for the next meeting. The \$4 million would not cover any development but only the demolition of the building. The specifics would follow in the contract to be received. The project would be a transit project, not affordable housing or mixed use project.

Councilor Castelle asked if the cover letter or the contract would take precedence, and Mr. Brecher said the letter was an acknowledgment of a theoretical proposal, which did not commit the Town to anything. The contract would be more specific and have to be approved by the Council. Councilor Borjeson explained the State would build the busway and the station but the area to be developed was owned by the Town and the Town would decide what to do with the area. Mayor Woods indicated the item would be put on the next Council agenda.

**VI. RESIGNATIONS/APPOINTMENTS (Action May Be Taken)**

Councilor Borjeson moved the following:

**RESOLVED:**

**That the Newington Town Council hereby accepts the resignation of Gloria Olesen as a member of the Environmental Quality Commission, in accordance with correspondence dated January 31, 2014.**

The motion was seconded by Councilor Cohen and passed 8 – 0 (Councilor Nagel-absent).

**1. Board of Fire Commissioners**

Councilor Borjeson moved the following:

**16. Board of Fire Commissioners**

Name	Address	Party	Term	Replaces
Brian Gallagher	23 Crestview Drive	D	Immed. – 11/14/17	R. Seiler (deceased)

The motion was seconded by Councilor Marocchini and passed 7 – 0 (Councilor Nagel-absent), (Councilor Klett-abstained)

Councilor Borjeson moved the following:

**8. Conservation Commission**

Name	Address	Party	Term	Replaces
Alternate: Alan Paskewich	100 Cambria Avenue	D	Immed – 11/30/17	A. Paskewich (term exp. 11/30/13)
Alternate:			Immed. – 11/30/15	Vacant

**14. Board of Ethics**

Name	Address	Party	Term	Replaces
Joanne Shulman	155 Brentwood Road	D	12/1/13 – 11/30/17	M. Camilli (term exp. 11/30/13)
			12/1/13 – 11/30/17	F. Marci (term exp. 11/30/13)
			12/1/13 – 11/30/17	A. Skidgell (term exp. 11/30/13)
			Immed – 11/30/16	Vacant
			Immed – 11/30/16	Vacant
Alternate:			Immed – 11/30/16	Vacant

**26. STEM Academy Project Building Committee**

3 members: 2 NTC, 1 BOE

Name	Address	Party	Term	Replaces
NTC Rep: David Nagel	1175 Willard Avenue	R	NTC Term	N/A

**Subcommittees of the Newington Town Council (3 Members, NTC Term, Party Max: 2)**

**IHCC Committee**

1. Daniel Dinunzio (R)

The motion was seconded by Councilor Castelle and passed 8 – 0 (Councilor Nagel-absent)

**VIII. TAX REFUNDS**

Councilor Baume moved the following:

**RESOLVED:**

That property tax refunds in the amount of \$4,297.07 are hereby approved in the individual amounts and for those named on the "Requests for Refund of an Overpayment of Taxes," certified by the Revenue Collector, a list of which is attached to this resolution.

The motion was seconded by Councilor Cohen and passed 8 – 0 (Councilor Nagel-absent)

**IX. WRITTEN/ORAL COMMUNICATIONS FROM THE TOWN MANAGER, OTHER TOWN AGENCIES AND OFFICIALS, OTHER GOVERNMENTAL AGENCIES AND OFFICIALS AND THE PUBLIC**

None

**X. COUNCIL LIAISON/COMMITTEE REPORTS**

Councilor Cohen said the Youth/ Adult Council would be having their Super Hoopla Basketball event on March 7 from 5 – 9 p.m. or a snow date of March 8.

**XI. PUBLIC PARTICIPATION – IN GENERAL**

Madeline Kenny, 53 Crestview Drive: She was pleased that public attendance increased at the Town Hall Renovation Committee meeting and requested residents attend to give their suggestions and ideas to the committee. The next meeting would be March 3, 5 p.m. in Room L101.

Rose Lyons, 46 Elton Drive: She was disheartened about the comments regarding Cedar Village. She was not sure who the Director answered to and what authority. She hoped the Council would be able to find out.

Gail Budrejko, 21 Isabelle Terrace: She agreed with Councilor Klett's comments regarding the wording in the Commissioner's cover letter. Words were important and in a big project especially so. Mrs. Budrejko thought it would be a good idea to have the Town Attorney review the cover letter before it was signed.

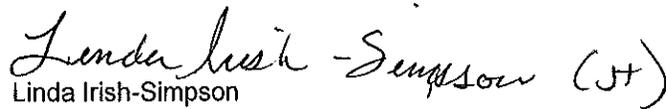
**XII. REMARKS BY COUNCILORS**

None

**XIII. ADJOURNMENT**

Councilor Borjeson moved to adjourn at 9 p.m. and was seconded by Councilor Castelle. The motion passed 8 – 0 (Councilor Nagel-absent).

Respectfully Submitted,

  
Linda Irish-Simpson  
Clerk of the Council

## **Chapter 367. STREETS AND SIDEWALKS**

[HISTORY: Adopted by the Town Council of the Town of Newington as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Citation hearings — See Ch. 13.

Fees — See Ch. 225.

Littering — See Ch. 278.

Vehicles and traffic — See Ch. 367.

### **Article I. Working Within Street Boundaries**

[Adopted 10-16-1964 (§ 15-2 of the 1974 Code)]

#### **§ 367-1. Permit required; standards.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III). Before any work shall be done within the boundaries of any public street in the Town, the person, firm or corporation engaged to do the work shall first obtain from the Town Manager a written permit to do such work. After such consent has been given, the work shall be done as directed by the Town Manager.

#### **§ 367-2. Penalties for offenses.**

Any work in violation of this article shall be removed by the person responsible for such work and shall be punishable by a fine of not less than \$10 nor more than \$50 for every offense.

### **Article II. Work Within Public Right-of-Way**

[Adopted 12-3-1974 (§§ 15-36 to 15-43 of the 1974 Code)]

#### **§ 367-3. Provisions applicable to all work.**

A. Definitions. As used in this article, the following terms shall have the meanings indicated:

#### **PUBLIC RIGHT-OF-WAY**

Any public street within the boundaries of the Town of Newington which has been officially accepted by the Town Manager and thus incorporated into the official street system of the Town of Newington.

B. Licenses; to whom issued. A license to perform specific work within the public right-of-way will be issued by the Town Manager or his designated agent to any person or corporation who shall make proper application, file a satisfactory bond, show evidence of liability insurance as specified in this article, indemnify the Town, and satisfy the Town Manager or his designated agent that he is competent and intends to perform his work in accordance with all applicable conditions, rules, regulations, and specifications herein contained or hereafter adopted. A fee, as provided in § 225-1 of this Code, will be charged for each license issued.

C. Bond. Before a license is granted, the applicant must file with the Town Manager's office a surety bond of not less than \$10,000 made out on a form provided by said office. If a permit is applied for by the applicant for a project requiring a bond in excess of \$10,000 to adequately protect the Town, an additional bond increasing the surety bond by an amount deemed sufficient by the Town can be requested by the Town before said permit shall be issued. Said surety bond must be written by a regular indemnity or surety company authorized to transact business in Connecticut and approved by the Town Manager or his agent. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

D. Insurance.

(1) The contractor applying for a license shall furnish to the Town of Newington a valid insurance certificate completed by his agent or insurer for the amounts determined by the Town's Risk Manager. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

(2) The insurance shall cover the entire contract period as well as the maintenance period, and in the event that the insurance expires during this time, the contractor shall furnish the Town with a renewal certificate at least 10 days prior to its expiration or the license and any permits issued pursuant to it shall be null and void. The property damage insurance shall specifically cover damage to underground pipes and conduits. In the event that a licensee shall fail to renew an insurance policy which expires during the maintenance period, the Town Manager or his designated agent may renew said policy after written notice to the licensee and to his surety company and, upon their failure to furnish a renewal certificate, charge the cost thereof to the surety company. The insurance certificate shall include a statement to the effect that the specified coverages cannot be altered or canceled without 10 days' written notice having been given to the Town.

E. Indemnity agreement. Notwithstanding the insurance requirements set forth above, the person applying for a license shall accept and sign the following agreement:

"The applicant agrees to indemnify and save harmless the Town of Newington, its agents and employees from and against all loss or expense (including costs and attorneys' fees) arising out of or resulting from the performance of the work by reason of liability imposed by law upon the Town of Newington, its agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons (including employees of the applicant or any subcontractor) or on account of damage to property, including loss of use thereof, whether such injuries or damages are caused in whole or in part by the negligence of the Town of Newington, its agents and employees or otherwise."

F. Business address. The applicant for a license shall file with the office of the Town Engineer his business address and shall notify said office promptly of any change therein. Any orders or notices which the Town Engineer's office may have to give to said applicant, if mailed to the address as filed, shall be considered as due notice delivered to him personally and shall relieve the Town of further obligation in the matter.

G. Expiration of licenses. All licenses will expire on the 31st day of December next following their date of issue unless sooner revoked. A new application must be made in all respects like the first, and a new license obtained, before any work can be performed thereafter by the licensee.

H. Revocation of licenses. The Town Manager or his designated agent may at any time cancel or suspend any license for cause. Cancellation of insurance or bond automatically suspends the license.

I. All work to be done by licensed contractors. No one but a contractor, duly licensed by the Town Manager or his designated agent as herein provided, will be allowed to do any work within any public right-of-way in the Town. This rule shall not prevent the making without such license of temporary or minor repairs by the owner of the property abutting a public right-of-way or such owner's agent, provided that a permit is obtained for said repairs.

J. License not transferable. No licensed contractor or abutting property owner shall allow his name to be used by any other person or party either for the purpose of obtaining permits or doing any work under his license.

K. Competence of workers to be employed. No licensed contractor shall employ any person under his license who, in the opinion of the Town Manager or his designated agent, shall have shown himself incompetent to perform such work as he is expected to do. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

L. Permits. Application for permits to perform any specific work within the public right-of-way in the Town must be in writing by a licensed contractor or his authorized agent on forms provided for the purpose by the Town. No work shall commence or be continued unless the permit is posted by the permittee or his agent at the location of the work. A minimum fee of \$25 will be charged for each permit. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

M. Line and grade. Notice must be given at the office of the Town Engineer not less than 72 hours before starting any work for which line, grade or any other pertinent information is to be provided by the Town of Newington. Under normal conditions it shall be the responsibility of the permittee's engineer to provide line and grade for a given permit. No permittee shall commence work within a public right-of-way until such line and grade have been marked. Should any stakes or marks be moved or lost, the permittee shall not proceed without them but shall notify the office of the Town Engineer and request their replacement. If at any time doubt exists in the mind of the permittee about the correctness of any such mark or stake, he must call for a verification of these points, as any work which is not true to line and grade shall be corrected at the expense of the permittee.

N. Notice before starting work. Notice of starting work under a permit must be given to the office of the Town Engineer a minimum of 24 hours in advance of starting work.

O. Correcting unsatisfactory work. The Town Manager or his designated agent is empowered to inspect or cause to have inspected at any time any or all work being performed under a permit issued to work within the public right-of-way. If, in the opinion of the inspector, the work being performed does not meet with specifications and conditions laid upon it, the permittee shall be required to correct such conditions, commencing work within 24 hours of notification to make such correction unless a longer period of time is granted by the Town Manager or his designated agent. Work that has been completed and from which all workers, equipment and materials have been removed will be subject to these same conditions with the exception that a five-day time limit will be imposed for commencement of rework unless a longer period of time is authorized by the Town Manager or his agent. If the permittee fails to comply with the requirements of this subsection, the Town Manager may cause such work to be done, and the permittee shall be liable for the full expense of such work, such expense to be paid within 30 days of billing. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

P. Period of responsibility. Unless the period of responsibility is waived in whole or in part by the Town Manager, the permittee will guarantee his work for a period of one year from date of completion of said work as designated in writing by the Town Manager. During this guarantee period the insurance as herein provided shall remain in full force and effect.

Q. Exceptions to the foregoing rules:

(1) The Town Manager or his designated agent may waive all requirements concerning licensing, bonding, and insurance in the case of any governmental agency or public service company. Nothing herein contained, however, shall be deemed to waive the requirements of securing the permit.

(2) None of the foregoing provisions of these regulations shall apply to any work performed in connection with the maintenance, repair, replacement or relocation of existing utility poles owned by any public service company, nor to the erection of any temporary protective warning signs or devices.

(3) Nothing in these regulations shall be construed to prevent the making of any necessary excavation or the performance of any work related thereto by any public service company in the event of emergency.

R. Public safety; traffic control. The permittee shall be responsible for taking measures which, in the opinion of the Town Manager or his designee, properly protect the general public from accident or injury from the work to be done, including, as appropriate, barricades, lanterns, flashers, guards, shoring, temporary trench plates, directional signs, warning signs, floodlighting, audible alarms, fencing, shields, etc. The permittee shall be responsible for vehicular and pedestrian traffic control and shall take such measures to provide for effective traffic control as the Town Manager or the Chief of Police shall order, including the provision of flagmen or police traffic officers, the cost of which shall be borne by the permittee.

#### **§ 367-4. Excavating in streets.**

A. Permits; to whom issued. No person other than a licensed contractor will be issued a permit to excavate in a paved street area.

B. Notification of police. The contractor shall notify the Police Department 24 hours in advance of making an excavation which requires blocking more than 50% of the street.

C. Tunneling and bracing. Excavations shall be made in open cut, and no tunneling will be allowed except by special permission of the Town Manager or his designated agent and under such additional conditions as he may impose. Trenches shall be braced and sheeted whenever, in the opinion of the Town Manager, such bracing and sheeting are necessary.

D. Public safeguards. If excavated material is acceptable for backfill, it shall be piled so as to interfere with public travel to the least extent possible. Suitable barricades must be provided and warning lights kept burning between sunset and sunrise. If the location and extent of work is such that a traffic officer is required in the opinion of the Town

Manager or his designated agent, said officer will be provided by the Newington Police Department. The cost thereof shall be borne by the contractor.

E. Backfill of trenches. The backfill of trenches within the roadway limits and paved areas shall be placed in layers not more than 12 inches thick and shall be thoroughly compacted by tamping or other approved means to the satisfaction of the Town Manager or his designated agent. The materials used for backfill shall be subject to the inspection and approval of the Town Manager or his agent and if, in his opinion, the excavated material is unsuitable for backfill, the contractor shall dispose of this unsuitable material and substitute approved sand, gravel, or other material in the amounts and proportions specified by the Town Manager. If an excavation is going to be left open overnight, the Police Department shall reserve the right to have the contractor cover the open excavation with steel plates.

F. Roadway repairs. Town of Newington specifications for roadway repairs current at the time of application for the permit shall be followed by the person or persons applying for the permit. If, in the judgement of the Town Manager or his designated agent, more than 1/3 of the paved travelway width is destroyed in a given area, the permittee shall cover the entire travelway, from gutter or gutter, with a one-inch (minimum) asphaltic concrete overlay following trench restoration work.

G. Road shoulders. If, as a result of work performed under a permit, the pavement outside of the trench area or the shoulders of the road are damaged as a result of this work or the detouring of traffic within the area covered by the permit, these damaged areas must also be repaired to the satisfaction of the Town.

(1) If the pavement area is damaged, it will be replaced as stipulated in Subsection F.

(2) If the unpaved shoulder of the road is damaged, it will be restored to the condition which existed prior to the beginning of the work. If the area was grassed, it will be loamed and seeded; otherwise, it must be regraded with processed gravel.

H. Payment in lieu of making repairs. The Town reserves the right to require the permittee to pay to the Town, in lieu of installing a permanent pavement replacement as stipulated in the above subsections, a cash payment based on a current unit price per square yard of trench area including the cutback area referred to under Subsection F. A representative of the Town and the permittee will jointly measure the trench area, but the final determination as to the area in square yards will rest with the Town Manager.

I. Materials. Materials used in the permanent pavement replacement shall meet the requirements of "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended, current at the time of application for the permit. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

**§ 367-5. Driveways.**

[Amended 11-25-2003 by Ord. No. 0103-5; 11-12-2004 by Ord. No. 0305-3]

A. Permits; to whom issued. No person other than a licensed contractor will be issued a permit to construct, pave or repave a driveway within the public right-of-way of the Town, provided that a permit shall not be required for resealing paved driveways with liquid sealants. Permits shall only be issued for applications that meet the requirements of this article as well as applicable provisions of the Newington Zoning Regulations. Editor's Note: The Zoning Regulations are on file in the Town offices.

B. Grade. After obtaining a permit and before commencing operations within the public right-of-way, a grade line shall be obtained from the Town Manager or his designated agent.

C. Width. No private residential driveway of over 22 feet or commercial driveway of over 28 feet shall be permitted without special approval from the Town Manager or his designated agent.

D. Distance from crosswalks. No driveway shall be authorized within four feet of an established crosswalk.

E. Number and separation distance.

(1) It is the express policy of the Town of Newington to permit one driveway per single-family residential building lot. Therefore, single-family residential lots located on Town roads that have a frontage length of 80 feet or less, measured at the street line, shall have a maximum of one combination entrance and exit. However, an exception to this standard shall be for approved duplex lots located in the R-7 Zone District, which by necessity require one combination entrance and exit for each residential unit. Additionally, in exceptional situations a single-family residential lot located on a Town road that has a frontage length of more than 80 feet, measured at the street line, after review by the Town Engineer and Town Planner and meeting all requirements as provided herein, may be permitted one driveway with a maximum of two combination entrances and exits, provided that:

- (a) There is a frontage separation of at least 60% of the frontage length;
- (b) The width of the two combination entrances and exits shall not exceed 11 feet each as measured at the street line;
- (c) Corner lots shall not be permitted to connect the intersecting streets by a driveway with a maximum of two combination entrances and exits; and

(d) Driveways with two combination entrances and exits located on abutting lots must be separated by not less than 20 feet measured at the street line.

(2) Applications requesting consideration for one driveway with a maximum of two combination entrances and exits shall include:

(a) A plot plan which shall be reviewed using the Plot Plan Review Checklist as approved by the Town Manager and as amended from time to time; and

(b) A statement explaining the exceptional physical characteristics of the property that is the subject of the application that warrant consideration as an exceptional situation under this article. For example, mere convenience to the applicant shall not constitute an exceptional situation, nor shall requests for the parking of recreational vehicles or vessels. However, safety considerations, such as significantly improved sight lines and/or significantly improved entry/exit to/from the roadway may warrant consideration as an exceptional situation.

(3) Applications, together with plot plan and statement, shall be submitted to the Town Engineer. The Town Engineer together with the Town Planner shall review the submission and make a determination as to compliance with the provisions of this article within a period of 60 days from a complete submission and shall notify the applicant by certified mail.

(4) If an application for a driveway with a maximum of two combination entrances and exits is denied, an appeal must be submitted to the Town Manager within 15 days of receipt of the certified denial letter. The Town Manager's decision shall be final.

(5) The number, location and separation distance of combination entrances and exits for developments other than single-family residential lots shall be reviewed and approved by the Newington Town Plan and Zoning Commission as part of the site plan approval process. Applicants for all driveways, residential and commercial, that access onto a state highway shall secure approval from the Connecticut Department of Transportation.

F. Location. No driveway shall be authorized within 20 feet of a street intersection as measured along the street line.

G. Extent. No driveway apron shall extend into the street further than the gutter line.

H. Drainage. Where, in the opinion of the Town Manager or his designated agent, drainage conditions require a culvert, such culvert shall be installed under the driveway at the expense of the owner. Such culvert pipe shall conform to specifications as outlined under "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended, current at the time of application for the permit. Said culvert shall extend a minimum of two feet beyond each edge of the basic width of the driveway, and in no case shall it be less than 15 feet in length. Where driveways interfere with proper drainage of the abutting street, as in the moving or removal of catch basins, permission shall be granted only when such change is made with the approval of the Town Manager or his designated agent and

according to plans, if required, prepared by a competent engineer at the expense of the permittee. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

I. Removal of trees. The removal of large trees within the public right-of-way shall be carefully avoided, and plans shall be made to install driveways in such a manner that the removal of such trees may be avoided if at all possible. If, in the opinion of the Town Manager or his designated agent, the removal of a tree is unavoidable, the contractor shall conform to all rules and requirements as may be set forth by the Town Tree Warden.

**§ 367-6. Surface and subsurface drainage requirements.**

A. Permits; to whom issued. Only a licensed contractor may be issued a permit by the Town Manager or his designated agent to make any type of drainage installation (including yard and cellar drainage) which connects into or converges with the Town storm drainage system either at the surface or underground.

B. Waiver of claim. No permits will be issued until the property owner involved shall have executed a drainage agreement on forms provided by the Town Manager or his designated agent, relieving the Town of all responsibility for any damage resulting from said connection and specifically relinquishing any claim said property owner may otherwise have against the Town of Newington by reason of water backing up through the Town storm drain system.

C. Drainage system to be used. No permits will be issued to drain water into an open gutter or road shoulder by pipe or ditch if an underground drainage system exists in the street bordering the property to be drained.

D. Location of connection. The exact point at which a permittee may tie into a Town storm drainage system shall be designated by the Town Manager or his designated agent. This designation shall be obtained by the permittee after a permit has been issued and before work commences in the Town right-of-way. In all cases where the grade allows and the drain is to be connected to an underground storm drain pipe, said connection shall be made from the top of the storm drain system pipe.

E. Street excavations. If it is necessary to cut the street pavement to make a connection, the backfill and resurfacing will conform to all the requirements of § 367-4.

F. Existing connections. Any private drain emptying into an open gutter where an underground storm drainage is hereafter installed shall be changed to connect into said underground system.

G. Noncompliance of property owner. Any person who shall make any connection into the Town drainage system without a permit shall be in violation of this article. Any connection made in noncompliance with the terms of this article shall be corrected within 10 days after receipt of written notice from the Town Manager to correct such connections. If such correction is not made within 10 days of notification, the change may be caused to be made by the Town and a lien covering the cost will be placed upon the property involved. If said cost is not paid within 30 days after billing, any such lien may be foreclosed in the same manner as a tax lien.

**§ 367-7. Moving buildings and other structures.**

A. Structures shall be moved over local streets only by a public agency or contractor specializing in this type of work.

B. No building or structure being moved shall be left on any Town right-of-way overnight except in an extreme emergency and then only with the special permission of the Town Manager and under such special conditions as he may impose.

C. The contractor shall coordinate the hours for the movement of a structure with the Police Department and shall arrange for such police escort during said move as the Police Department may require.

D. Prior to the movement of the structure, it shall be the responsibility of the party securing the permit to see that all utility services have been properly disconnected in accordance with procedures specified by the particular utilities involved.

**§ 367-8. Construction of sidewalks.**

A. Permits; to whom issued. No person other than a licensed contractor will be issued a permit to construct or replace a sidewalk within the public rights-of-way in and of the Town of Newington.

B. Specifications. After obtaining a permit and before commencing operations, specifications must be obtained from the Town Manager or his designated agent, and all work must be performed in strict conformity to these specifications, which shall designate the location, types of materials, width and thickness of the sidewalk, and methods of construction.

C. Grade. After obtaining a permit and before commencing operations in a public right-of-way, a grade line shall be obtained from or approved by the Town Manager or his designated agent. It shall be the responsibility of the applicant to stake the grade line in the field if required by the Town Manager or his agent.

D. Inspection and supervision. All phases of the work involved in the construction or replacement of the sidewalk shall be subject to the inspection and supervision of the Town Manager or his agent. Each stage of the construction must be inspected before the next stage is started. See "Concrete Sidewalk Specifications" for the Town of Newington for inspection schedule.

**§ 367-9. Material specifications.**

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III). All material(s) shall meet the requirements of "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended.

A. Hot asphaltic concrete pavement. Class II, § 4.04, "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended.

B. Bankrun gravel. Section 4.11, "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended.

C. Process stone. Section 3.04, "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended.

D. Culvert pipe. Reinforced concrete or asphalt coated or corrugated metal pipe meeting requirements of § 6.51 of "Standard Specifications for Roads, Bridges, and Incidental Construction," State of Connecticut, State Highway Department, Form 816, dated 2004, as amended.

E. Concrete sidewalks. See "Concrete Sidewalk Specifications" for the Town of Newington.

F. Other specifications. If special provisions do not exist for additional specifications of materials, construction methods and details of appurtenances as established by the Town and on file with the Town Manager, then Form 816, State of Connecticut, State Highway Department, "Standard Specifications for Roads, Bridges, and Incidental Construction," dated 2004, as amended, shall govern.

**§ 367-10. Penalties for offenses.**

Any individual, firm or corporation who violates any rule, regulation or specification of this article shall be fined not more than \$100 for each offense, and each day that the violation shall exist or continue shall be deemed a separate offense.

### **Article III. Sidewalks**

[Adopted 8-26-1975 (§§ 15-16 to 15-27 of the 1974 Code)]

#### **§ 367-11. Definitions.**

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings indicated:

##### **APPROVED CONTRACTOR**

A person or firm currently licensed by the Town of Newington to install and/or repair sidewalks.

##### **COUNCIL**

The duly elected legislative body of the Town.

##### **PUBLIC SIDEWALK**

That area along a public highway reserved and constructed for pedestrian traffic.

##### **SUBDIVISION DEVELOPMENT PLAN**

A plan submitted by a potential developer for development of a residential, commercial or industrial area to the Town Plan and Zoning Commission in conformance with the Subdivision Regulations of the said Commission.

#### **§ 367-12. Permit for work required.**

No person, except an approved contractor, shall construct, reconstruct, repair, alter or grade any public sidewalk in the Town without first obtaining a permit from the Town Engineer as provided by this article.

#### **§ 367-13. Application for permit.**

An approved contractor shall secure a permit for all construction, reconstruction and repair from the office of the Town Engineer prior to initiation of any sidewalk work. The permit will require the following information:

- A. The location of the work to be performed.
- B. The name and address of the party doing the work.
- C. A description of the work to be performed (the Town Engineer may require plans to be filed with the application when new sidewalk construction is involved.)
- D. The estimated cost of the alteration.

E. Such other information as the Town Engineer shall find reasonably necessary to the determination of whether a permit should be issued within the provisions of this article.

**§ 367-14. Permit fees.**

A permit fee to cover administrative and inspection costs of 1% of the total estimated cost of the work to be performed under the requested permit shall accompany the application. The minimum permit fee shall be as provided in § 225-1 of this Code. The permit fee may be waived by the Town Manager for all work to be performed under contract to the Town.

**§ 367-15. Bond and insurance requirements.**

Before a permit is issued, the following bonds and proof of insurance shall be filed by the approved contractor with the Town Engineer:

A. Performance bond. A performance bond in the amount of \$5,000 shall be executed by the approved contractor and endorsed on forms furnished by the Town and shall cover the period January 1 through December 31 of a given year.

B. Indemnity bond. A bond conditioned to protect and save harmless the Town from all claims for damages or injury to other persons by reason of such work.

C. Insurance requirements. A proof of insurance certificate shall be furnished to the Town of Newington by the approved contractor covering the period January 1 through December 31 of a given year and shall include coverage as determined by the Town's Risk Manager. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

**§ 367-16. Preparation of specifications; compliance required.**

The Town Manager shall cause to be prepared standard sidewalk specifications which shall be furnished to every applicant applying for a sidewalk construction permit. It shall be the duty of the Town Manager to cause all construction or repairs of sidewalks in the Town to be inspected and to enforce compliance with such specifications.

**§ 367-17. Supervision of work.**

All operations for which a permit is granted hereunder shall be under the direction and supervision of the Town Manager or such persons as he shall designate.

**§ 367-18. Construction by property owner.**

Any property owner within the Town who desires to construct public sidewalks may do so at his own cost, provided that:

- A. The property owner shall engage an approved contractor to construct said public sidewalk;
- B. The public sidewalk shall comply with the minimum standard specifications which may then be in force with regard to the construction of public sidewalks; and
- C. The public sidewalk shall comply with the line or grade, if any, determined by the Town Engineer for public sidewalks on that street or portion thereof.

**§ 367-19. Maintenance.**

- A. Generally. The owner or owners of any property which abuts or is adjacent to a public sidewalk shall be responsible for maintaining as hereinafter required that portion of the sidewalk which is adjacent to his property.
- B. Snow and ice removal. Such owner shall remove any accumulation of ice or snow within 12 hours after such snow and/or ice has ceased to accumulate, or within such period as the Town Manager may order, and if such owner shall fail to remove said accumulation of snow and ice as aforesaid, the Town Manager may cause the same to be done, the expense thereof to be paid by the Town and charged to the owner. Upon the failure of such owner to pay such costs, the Town Manager shall within 30 days file a lien against the property affected. Such lien may be enforced and collected in the same manner as is provided by law for the collection and enforcement of tax liens. Until it is practical to remove ice, it must be temporarily sanded with an abrasive or chemical substance (excluding pure salt compound) in accordance with the requirements of this article.
- C. Obstructions; hazards. Such owner shall be responsible for maintaining such public sidewalk free from all obstructions or materials which may be hazardous to pedestrian traffic, such as dirt, sand, leaves, branches, grass clippings, rocks or any other materials. If such owner shall fail to maintain the sidewalk free from the accumulation of such materials, the Town Manager may cause the same to be done and may collect the cost thereof from said owner as above provided.

**§ 367-20. Damage to sidewalk.**

No person shall cause any damage to any public sidewalk in the Town. Any person causing damage to any public sidewalk shall be liable for the cost of repairing such damage in addition to any other liability.

**§ 367-21. Financing construction, reconstruction and repair.**

The cost of construction, reconstruction or repair of any public sidewalk shall be borne as follows:

A. The Town shall, when authorized by the Town Council, bear the total cost of sidewalk construction, reconstruction or repair.

B. Unless specifically waived by the Town Plan and Zoning Commission, all subdivision developments shall have sidewalks along the street frontage of all lots, constructed in accordance with the Town specifications and installed at the expense of the developer, as a condition precedent to the acceptance of such proposed streets as public highways.

**§ 367-22. Use regulations.**

A. No person shall use a public sidewalk in such a manner as to create a hazard to pedestrian traffic. No person shall cause a motor-driven vehicle, animal or any other type of object to travel along a sidewalk in such a manner as to create a hazard for normal pedestrian use.

B. No person shall permit any automobile, cart, wagon or any other type of vehicle to remain standing on any public sidewalk.

**Article IV. Newsracks in Public Rights-of-Way**

[Adopted 12-7-2004 by Ord. No. 0305-4]

**§ 367-23. Findings; purpose.**

A. The Town Council finds that the uncontrolled placement and maintenance of newsracks in public rights-of-way present an inconvenience and/or danger to the safety and welfare of persons using such rights-of-way; that garish, brightly colored or otherwise unsightly newsracks located within public rights-of-way constitute distractions to the driving public; that newsracks are constantly exposed to the elements, are subject to intensive use and vandalism and to protect against such must be designed and constructed of durable materials; and that the use of public rights-of-way has been historically associated with the sale and distribution of newspapers. The Town Council further finds that, in order to accommodate the governmental and distribution interests, it is necessary to implement a program to regulate the installation, operation and maintenance of newsracks located in public rights-of-way in the Town of Newington.

B. The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, safety and general welfare of persons in the Town in their use of public rights-of-way.

**§ 367-24. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**BLOCK**

One side of a street between two consecutive intersecting streets.

**DISTRIBUTOR**

Any person responsible for the installation, operation or maintenance of a newsrack in a public right-of-way.

**HEARING OFFICER**

The person appointed by the Town Manager pursuant to Chapter 13, § 13-1 et seq., to hear appeals under this article.

**NEWSRACK**

Any self-service free or coin-operated box, container, storage unit or other dispenser installed, operated or maintained for the display and distribution or sale of newspapers or other written materials for dissemination.

**PERSON**

An individual person, firm, corporation or other entity.

**PUBLIC RIGHT-OF-WAY**

Any area owned, leased or in which the Town of Newington has a property interest, such as an easement, and/or any area maintained by the Town of Newington or Newington Board of Education or other local governmental entity, open for use by the public for vehicular or pedestrian travel, including, but not limited to, roadways, sidewalks, streets, alleys and public grounds.

**ROADWAY**

That portion of any street improved, designed or ordinarily used for vehicular travel.

**SIDEWALK**

Any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

**STREET**

The entire area encompassed by a roadway and/or a sidewalk. The word "street" shall also be construed to embrace avenues, boulevards, roads, lanes and drives.

**TOWN**

Town of Newington.

## ZONING ENFORCEMENT OFFICER

The building official appointed pursuant to Newington Charter § C-704 and § 7.1.1 of the Newington Zoning Regulations. Editor's Note: The Zoning Regulations are on file in the Town offices.

### **§ 367-25. Permit required; application; fee; duration; appeals.**

A. It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate on any public right-of-way in the Town of Newington any newsrack without first having obtained a permit from the Zoning Enforcement Officer for each proposed newsrack.

B. Application for such permit shall be made, in writing, to the Zoning Enforcement Officer, upon such form as shall be provided to the applicant, and shall contain the name and business address of the applicant, a telephone number or numbers at which the applicant may be reached during normal business hours, the proposed location of said newsrack and such other information deemed reasonably necessary by the Zoning Enforcement Officer to fulfill the intent of this article, and shall be signed by the applicant. If the applicant is a business entity, the application shall include the name, address and telephone number of a responsible person whom the Town may notify or contact concerning the application or the newsrack subsequent to permit approval.

C. A permit fee as provided in Chapter 225, § 225-1, of this Code shall be required for each location.

D. Permits shall be issued or denied within 72 hours, excluding Saturdays, Sundays and legal holidays, after a complete application has been filed. If a permit is denied, the Zoning Enforcement Officer shall advise the applicant of the specific cause of such denial in writing.

E. Such permits shall be valid for one year and shall be renewable by the applicant pursuant to the procedure for original applications and upon payment of the permit fee. A permit issued pursuant to this section shall expire automatically in the event that the insurance coverage required pursuant to § 367-26 lapses.

F. Any person or controlling entity aggrieved by an order, finding or determination taken under the provisions of this section (hereinafter "appellant") may file an appeal with the Vehicle Appeals Board as created in Chapter 410 of this Code. Such appellant must effect the appeal within 15 days of the order, finding or determination. The Vehicle Appeals Board shall hold a hearing on any appeal brought pursuant to this section no later than 30 days following the receipt of the request for appeal, unless the parties mutually agree to an extension thereof. The appellant shall be given at least seven days' notice of the time and place of the hearing. The Vehicle Appeals Board shall give the appellant and any other interested party a reasonable opportunity to be heard. At the conclusion of the hearing, the Vehicle Appeals Board shall make written findings to determine the appeal. The written findings of the Board shall be signed by the Chairman

and filed in the office of the Town Clerk within 15 days of the hearing, and a copy shall be sent to the appellant by regular United States Mail. The decision of the Vehicle Appeals Board shall be effective when rendered and shall be final.

**§ 367-26. Indemnification of Town; insurance requirements.**

A. Every applicant for a permit to place a newsrack on a public right-of-way in the Town shall file a written statement as part of the application process with the Zoning Enforcement Officer in a form satisfactory to the Town Attorney whereby the person in lawful possession of the newsrack agrees to indemnify and hold harmless the Town, its officers and employees from any loss, liability or damage, including expenses and costs, for bodily injury and for property damage sustained by any person as a result of the installation, use and/or maintenance of any such newsrack.

B. Every person in lawful possession of a newsrack who places or maintains a newsrack on a public right-of-way shall provide the Town with a certificate of liability insurance coverage issued by an insurance company licensed to do business in the State of Connecticut insuring the applicant and the Town of Newington, with the Town named as an additional insured, against all claims for damages for bodily injury and for property damage which could arise in connection with the installation, operation or maintenance of a newsrack in the Town. The certificate of insurance shall state that the coverage afforded thereunder shall be primary coverage for any claims within its scope. Minimum coverage of such policy shall be determined by the Town's Risk Manager. The policy, by its terms, shall not be cancelable prior to the expiration date of the permit without 30 days' written notice to the Town. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

**§ 367-27. Certain information to be posted.**

A. Every person who places or maintains a newsrack on a public right-of-way within the Town shall have a permit number, the name, address and telephone number of the person in lawful possession of the newsrack affixed to the newsrack in a place where such information may be easily seen. Additionally, the name, address and telephone number of the person responsible for the newsrack, if different than the person in lawful possession of the newsrack, shall be permanently displayed on a label on each newsrack. Failure to post such information within 30 days of authorized placement shall be deemed abandonment of the newsrack. Abandoned newsracks shall be a violation of this article and shall be removed and disposed of in the manner provided in § 367-30 of this article.

B. All coin-operated newsracks shall also post the name, address and telephone number of a designated person to contact for reimbursement in the event of failure of coin mechanisms.

**§ 367-28. Location; placement; number of newsracks.**

Any newsrack which rests or projects, in whole or in part, upon or over any public right-of-way shall be located or installed in accordance with the provisions of this section:

A. No newsrack shall be chained, bolted or otherwise attached to any tree, utility pole or box or any other fixture located in the public right-of-way, except to other newsracks, without the express written permission of the Zoning Enforcement Officer. Newsracks shall not be physically attached, chained or bolted to any drainage structure, inlet pipe or other physical object meant to carry water, to a utility pole or box, to or placed upon any manhole cover, to or placed upon any water meter and/or water meter box, to any part of a traffic signal system or traffic signs, to a bench, or to any other Town-owned fixture or property without the written permission of the Zoning Enforcement Officer.

B. Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than 10 feet.

C. No newsrack shall be located so as to unreasonably interfere with or impede the flow of pedestrian or vehicular traffic, including motorized or manual wheelchairs.

D. No newsrack shall be placed, installed, used or maintained:

(1) Within 25 feet of any marked crosswalk.

(2) Within 15 feet of the curb return of any unmarked crosswalk.

(3) Within 25 feet of any fire hydrant, fire call box, police call box or other emergency facility.

(4) Within 25 feet of any driveway.

(5) Within any single-family residential zone. In no case will newsracks already located within single-family residential zones be permitted to remain.

(6) Within 200 feet of any part of a public or private school building.

E. No more than four newsracks shall be located on any public right-of-way within a space of 250 feet in any direction within the same block; provided, however, that no more than eight newsracks shall be allowed on any one block.

**§ 367-29. Standards for maintenance and installation.**

Any newsrack which rests or projects, in whole or in part, upon or over any public right-of-way shall comply with the following standards:

A. No newsrack, including the materials used to secure it, shall exceed four feet two inches in height, two feet two inches in width, and two feet two inches in depth.

B. The lettering of the name of the publication being displayed therein shall be in accord with the following standards:

(1) On the front of the newsrack, the lettering size shall not exceed 1.75 inches in height; and

(2) On the sides and back of the newsrack, the lettering size shall not exceed 5.5 inches in height for the first letter and shall not exceed 3.5 inches in height for the remaining letters in the name of the publication.

C. No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or other written materials contained therein.

D. Each newsrack shall be constructed of suitable, durable materials and shall be painted in a color scheme consisting of a dark background with light lettering or a light background with dark lettering. Shades of red, yellow, orange or green, similar to those used in traffic control signs or devices, shall not be used on any newsrack, as it is determined that such use of those colors causes a danger to the safety and welfare of the public.

E. Each newsrack shall be so secured, weighted and/or balanced as to prevent it from being tipped by the opening of its door or by the impact of snow cast by a passing snowplow.

F. Each newsrack, whether modular or not, shall be maintained in a neat, clean condition and in good repair at all times.

(1) Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

(a) It is free of graffiti.

(b) It is reasonably free of dirt and grease.

(c) It is reasonably free of chipped, faded, peeling and/or cracked paint.

(d) It is reasonably free of rust and/or corrosion.

(e) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed, are unbroken and reasonably free of cracks, dents, blemishes and discoloration.

(2) All such conditions shall be remedied within 15 working days' notice by the Town or the newsrack shall be deemed in violation of this article and shall be removed and disposed of in the manner provided in § 367-30 of this article.

G. No newsrack shall contain or utilize any electrically powered illumination or sound.

H. Coin-operated newsracks shall be equipped with a coin-return mechanism, maintained in good working order at all times, to permit customers to secure an immediate refund if a newsrack is inoperable. Failure to meet the requirements of this provision shall be deemed a violation of this article, and the newsrack shall be removed and disposed of in the manner provided in § 367-30 of this article.

I. In the event that a newsrack remains empty for a period of 30 continuous days, it shall be deemed abandoned and shall be a violation of this article, and the newsrack shall be removed and disposed of in the manner provided in § 367-30 of this article.

**§ 367-30. Penalties for offenses; failure to respond; removal of newsracks.**

A. The Zoning Enforcement Officer or his designee, upon a determination that a newsrack has been installed, used or maintained in violation of the provisions of this article, shall issue a notice of violation to the person responsible for the newsrack as provided in § 367-27 of this article. Such notice shall be mailed by certified mail, return receipt requested, or by service of the notice by a proper officer. The notice shall:

(1) Specify the offending condition.

(2) Suggest actions necessary to correct the condition.

(3) Inform the person responsible for the newsrack that the condition must be corrected within 15 days of the mailing date or date of service of the notice of violation, and if the condition is not corrected within such fifteen-day period, the newsrack will be removed and stored for 30 days at the Newington Public Works Facility, after which time it will be deemed abandoned.

(4) Inform the person responsible for the newsrack that he may appeal the notice of violation to a Citation Officer by delivering or mailing a letter to said Officer at the Newington Planning Department, Town Hall, 131 Cedar Street, Newington, CT 06111, within 15 days of the notice of violation.

B. Failure to correct the offending condition within 15 days after the mailing date of the notice of violation or to appeal such notice of violation within 15 days after the mailing date of the notice of violation shall result in the offending newsrack being summarily removed and stored by the Town for a thirty-day period, after which, unless retrieved from storage by the person responsible for the newsrack or his designated representative, the newsrack shall be deemed abandoned, and the newsrack shall be disposed of by the Town with no liability to the Town. If the newsrack is to be retrieved from storage, the

person responsible for the newsrack shall pay to the Town all citation, removal, administrative and storage charges prior to the Town's release of the newsrack.

C. A citation of \$99 shall be charged to the person in lawful possession of the newsrack for each newsrack removed and stored by the Town under the provisions of this section. This fee shall be in addition to removal, administrative and storage charges.

D. Nothing contained in this article shall be interpreted to limit or impair the exercise by the Town of its police powers to remove any newsrack which presents a clear and present danger of imminent personal injury or property damage to users of the public rights-of-way.

**§ 367-31. Citation appeal process.**

A. Any person cited for a violation of this article may appeal the citation within 15 days of the date of the citation by delivering or mailing a letter to the Citation Hearing Officer, Newington Planning Department, Town Hall, 131 Cedar Street, Newington, CT 06111.

B. The hearing procedure shall be the hearing procedure as set forth in Chapter 13, § 13-1 et seq., of the Code.

**§ 367-32. Existing newsracks.**

This article shall apply to existing newsracks within the Town, except that the person responsible for an existing newsrack shall have 60 days from the date of enactment of this article to comply with the provisions of this article.

**§ 367-33. Enforcement.**

This article shall be enforced by the Zoning Enforcement Officer or his designee.

PLACEMENT OF REMOVED OBSTRUCTIONS INTO PUBLIC WAYS.

A. No person shall lay, throw, blow, place or plow or cause to be laid, thrown, blown, placed or plowed on or into any public street or way any snow or ice from any private property, public or private sidewalk or public right-of-way. If, in the removal of snow or ice from any such property, sidewalk or way, it is necessary to temporarily place snow or ice on any public street or way, such snow or ice shall immediately be removed from the public street or way by and at the expense of the person causing such deposit.

B. No person in the process of clearing any property, sidewalk or way as defined above shall:

(1) Leave the surface of adjoining public ways any less clear of snow and ice than such person found the public way just previous to commencement of clearance.

(2) Plow or deposit snow or ice on the side of embankments to public ways so as to narrow or decrease the width of the traveled portion of the public way as it existed just previous to such person's clearance.

(3) Plow or deposit snow or ice on that portion of the public right-of-way that adjoins another person's property without the consent of ~~that person~~ *the Town*.

C. The provisions of this section shall not apply to the official snow removal operations of the Town of Newington and the State of Connecticut.

D. The penalty for each violation or offense shall be \$50, and each and every twenty-four-hour period of failure or neglect to comply with the provisions of this section shall be deemed a separate offense or violation.

ATTORNEY REVIEW DATE: 8-29-2013

INTRODUCTION DATE: 1-28-14

PUBLICATION DATE: 2-5-14

PUBLIC HEARING: 2-11-14

| ADOPTION DATE: 2-11-14