

**TOWN COUNCIL
TOWN OF SOUTH WINDSOR**

Action Minutes

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February 5, 2018

**TOWN COUNCIL – REGULAR MEETING
COUNCIL CHAMBERS – SOUTH WINDSOR TOWN HALL**

Mayor Anwar called the Regular Meeting to order at 7:00 p.m.

4. Roll Call

Members Present: Mayor M. Saud Anwar
Deputy Mayor Andy Paterna
Councilor Jeffrey Glickman
Councilor Mary Justine Hockenberry
Councilor Lisa Maneeley (left at 7:38 p.m.)
Councilor Carolyn Mirek
Council Liz Pendleton
Councilor Matthew Riley

Members Absent: Councilor Janice Snyder

Others Present: Matthew B. Galligan, Town Manager
Morris Borea, Town Attorney (arrived at 7:30 p.m.)

7. Adoption of Minutes

BE IT RESOLVED that the South Windsor Town Council hereby approves the Minutes of the following Town Council Meetings: Public Hearing Minutes of January 16, 2018; and Regular Meeting Minutes (with an amendment) of January 16, 2018.

Was made by Councilor Mirek
Seconded by Councilor Pendleton
The motion was approved, unanimously

13. Consent Agenda

Councilor Hockenberry made a motion to approve Agenda Items 14. B. (*); through 14. U. (*) as the Consent Agenda. Mayor Anwar seconded the motion; and it was approved, unanimously.

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ITEM:

14. Unfinished Business

***A. Resolution Appointing Stephen Wagner (D) to the Water Pollution Control Authority**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Stephen Wagner (D) to the Water Pollution Control Authority for a term ending November 30, 2020 to fill the expired term of William Vees.

(Approved by Consent Agenda)

***B. Resolution Reappointing Carol Fletterick (D) to the Water Pollution Control Authority**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Carol Fletterick (D) to the Water Pollution Control Authority for a term ending November 30, 2021.

(Approved by Consent Agenda)

***C. Resolution Reappointing James Kupchunos (D) to the Zoning Board of Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints James Kupchunos (D) to the Zoning Board of Appeals for a term ending November 30, 2021.

(Approved by Consent Agenda)

***D. Resolution Reappointing Steven Carty (D) to the Zoning Board of Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Steven Carty (D) to the Zoning Board of Appeals for a term ending November 30, 2021.

(Approved by Consent Agenda)

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ITEM:

14. Unfinished Business (Continued)

***E. Resolution Reappointing Elizabeth McGuire (D) an Alternate to the Zoning Board of Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Elizabeth McGuire (D) an Alternate to the Zoning Board of Appeals for a term ending November 30, 2021.

(Approved by Consent Agenda)

***F. Resolution Appointing Cathy Gallagher (D) to the Library Board**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Cathy Gallagher (D) to the Library Board for a term ending November 30, 2021 to fill an expired term of Mindy Lewis.

(Approved by Consent Agenda)

***G. Resolution Appointing Mindy Lewis (D) to the Park & Recreation Commission**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Mindy Lewis (D) to the Park & Recreation Commission for a term ending December 31, 2021 to fill the expired term of Craig Zimmerman.

(Approved by Consent Agenda)

***H. Resolution Appointing Ken Lewis (D) to the Patriotic Commission**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Ken Lewis (D) to the Patriotic Commission for a term ending December 31, 2018 to fill the unexpired term of Robert Hornish.

(Approved by Consent Agenda)

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ITEM:

14. Unfinished Business (Continued)

***I. Resolution Reappointing Kent Carlson (D) to the Patriotic Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Kent Carlson (D) to the Patriotic Commission for a term ending December 31, 2020.

(Approved by Consent Agenda)

***J. Resolution Reappointing James Throwe (D) an Alternate to the Patriotic Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints James Throwe (D) an Alternate to the Patriotic Commission for a term ending December 31, 2020.

(Approved by Consent Agenda)

***K. Resolution Appointing Elizabeth Kuehnel (D) to the Personnel Board of Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Elizabeth Kuehnel (D) to the Personnel Board of Appeals for a term ending November 30, 2020 to fill an expired term of Roy Normen (R).

(Approved by Consent Agenda)

***L. Resolution Reappointing Edward O'Connell (D) to the Public Building Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Edward O'Connell (D) to the Public Building Commission for a term ending November 30, 2021.

(Approved by Consent Agenda)

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ITEM:

14. Unfinished Business (Continued)

***M. Resolution Appointing Barbara Kelly (D) to the Agricultural Land Preservation Advisory Commission**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Barbara Kelly (D) to the Agricultural Land Preservation Advisory Commission for a term ending November 30, 2019 to fill an expired term of Wayne McKinney.

(Approved by Consent Agenda)

***N. Resolution Appointing Linda Jeski (D) a Full Member to the Board of Assessment Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Linda Jeski (D) a full member to the Board of Assessment Appeals for a term ending November 30, 2021 to fill the expired term of Darren DeMartino (R).

(Approved by Consent Agenda)

***O. Resolution Appointing Cesar Lopez (D) an Alternate to the Board of Assessment Appeals**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Cesar Lopez (D) an Alternate to the Board of Assessment Appeals for a term ending November 30, 2021 to fill an expired term of Linda Jeski.

(Approved by Consent Agenda)

***P. Resolution Reappointing Joseph Kennedy (D) to the Economic Development Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Joseph Kennedy (D) to the Economic Development Commission for a term ending November 30, 2021.

(Approved by Consent Agenda)

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ITEM:

14. Unfinished Business (Continued)

***Q. Resolution Reappointing James Murray (D) to the Economic Development Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints James Murray (D) to the Economic Development Commission for a term ending November 30, 2021.

(Approved by Consent Agenda)

***R. Resolution Appointing Victor Dorobantu (D) an Alternate to the Economic Development Commission**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Victor Dorobantu (D) an Alternate to the Economic Development Commission for a term ending November 30, 2021 to fill an expired term of David Marsh.

(Approved by Consent Agenda)

***S. Resolution Reappointing Virginia Macro (D) to the Historic District Commission**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Virginia Macro (D) to the Historic District Commission for a term ending November 30, 2022.

(Approved by Consent Agenda)

***T. Resolution Reappointing Jan Tarr (D) to the Housing Authority**

BE IT RESOLVED that the South Windsor Town Council hereby reappoints Jan Tarr (D) to the Housing Authority for a term ending November 30, 2022.

(Approved by Consent Agenda)

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ITEM:

14. Unfinished Business (Continued)

***U. Resolution Appointing Mindy Lewis (D) an Alternate to the Historic District Commission**

BE IT RESOLVED that the South Windsor Town Council hereby appoints Mindy Lewis (D) an Alternate to the Historic District Commission for a term ending November 30, 2021 to fill the expired term of Carolyn Taylor.

(Approved by Consent Agenda)

15. New Business

A. Resolution Transferring the Power Purchase Agreement to South Windsor Energy Investments, LLC

BE IT RESOLVED that the South Windsor Town Council hereby authorizes the Town Manager, Matthew B. Galligan, to execute, on behalf of the Town, an agreement with South Energy Investments, LLC ("SEI"), which assigns the Town's Power Purchase Agreement to SEI, subject to such assignment being held in escrow until the Closing of SEI's financing for the Project, and on such terms and conditions which have been reviewed and approved by the Town Manager and legal counsel for the Town.

Was made by Councilor Mirek
Seconded by Councilor Pendleton
The motion was approved, unanimously

C. Resolution Setting a Time and Place for a Public Hearing to Receive Citizen Input on the Establishment of an Ordinance Creating a Tax Stabilization Fund

BE IT RESOLVED that the South Windsor Town Council hereby sets **Tuesday, February 20, 2018, at 8:00 p.m.**, in the Council Chambers of the South Windsor Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut as the time and place for a Public Hearing to receive citizen input on the establishment of an Ordinance Creating a Tax Stabilization Fund.

(Resolution Continued on Next Page)

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ITEM:

15. C. (Continued)

Was made by Councilor Riley
Seconded by Councilor Pendleton
The motion was approved, unanimously

E. Resolution Approving an Annual Salary for Deborah W. Reid, Clerk of the Council for Fiscal Year 2017/2018

BE IT RESOLVED that the South Windsor Town Council hereby approves an annual salary increase of 2% for Fiscal Year 2017/2018 for Deborah W. Reid, Clerk of the Council, said annual salary rate will be retroactive from July 1, 2017.

Was made by Deputy Mayor Paterna
Seconded by Councilor Hockenberry
The motion was approved, unanimously

F. Resolution Approving the Appropriation of \$350,000 from the Capital and Non-Recurring Expenditures Account

BE IT RESOLVED that the South Windsor Town Council hereby conducted the required Public Hearing at 8:00 p.m., on February 5, 2018, and hereby approves the appropriation of \$350,000 from the Capital and Non-Recurring Expenditures Account to the Capital Projects Account, as follows:

\$165,000 for Improvements to Ridge Road
\$185,000 for Improvements to Edwin Road

Was made by Councilor Glickman
Seconded by Councilor Pendleton
The motion was approved, unanimously

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ITEM:

15. New Business (Continued)

H. Resolution Appointing Wayne Kilburn (R) an Alternate to the Economic Development Commission and Postponing Consideration of this Motion until the Town Council's Next Regularly Scheduled Meeting

BE IT RESOLVED that the South Windsor Town Council hereby appoints Wayne Kilburn (R) an Alternate to the Economic Development Commission for a term ending November 30, 2021 to switch positions with Shaliesh Verma and postpones consideration of this motion until the Town Council's next regularly scheduled meeting.

Was made by Councilor Mirek

Seconded by Mayor Anwar

The motion was approved, unanimously

I. Resolution Appointing Shaliesh Verma (R) a Full Member to the Economic Development Commission and Postponing Consideration of this Motion until the Town Council's Next Regularly Scheduled Meeting

BE IT RESOLVED that the South Windsor Town Council hereby appoints Shaliesh Verma (R) a full member to the Economic Development Commission for a term ending November 30, 2019 to switch positions with Wayne Kilburn and postpones consideration of this motion until the Town Council's next regularly scheduled meeting.

Was made by Councilor Mirek

Seconded by Mayor Anwar

The motion was approved, unanimously

J. Resolution Accepting the Resignation of Andrew Paterna (D) from the Agricultural Land Preservation Advisory Commission

BE IT RESOLVED that the South Windsor Town Council hereby accepts with regret, the resignation of Andrew Paterna (D) from the Agricultural Land Preservation Advisory Commission, said resignation to be effective immediately; and

(Resolution Continued on Next Page)

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ITEM:

15. J. (Continued)

BE IT FURTHER RESOLVED that the South Windsor Town Council extends its thanks to Andrew Paterna for the time he has dedicated to serving his community by his membership on the Agricultural Land Preservation Advisory Commission.

Was made by Councilor Pendleton
Seconded by Mayor Anwar
The motion was approved, unanimously

K. Resolution Appointing Edward Kasheta, Jr. (D) to the Agricultural Land Preservation Advisory Commission and Postponing Consideration of this Motion until the Town Council's Next Regularly Scheduled Meeting

BE IT RESOLVED that the South Windsor Town Council hereby appoints Edward Kasheta, Jr. (D) to the Agricultural Land Preservation Advisory Commission for a term ending November 30, 2019 to fill the unexpired term of Andrew Paterna and postpones consideration of this motion until the Town Council's next regularly scheduled meeting.

Was made by Councilor Pendleton
Seconded by Mayor Anwar
The motion was approved, unanimously

L. Resolution Appointing Kenneth J. Young (D) an Alternate to the Planning & Zoning Commission and Postponing Consideration of this Motion until the Town Council's Next Regularly Scheduled Meeting

BE IT RESOLVED that the South Windsor Town Council hereby appoints Kenneth J. Young (D) an Alternate to the Planning & Zoning Commission for a term ending December 1, 2019 to fill the unexpired term of a vacancy, (previously William Flagg), and postpones consideration of this motion until the Town Council's next regularly scheduled meeting.

Was made by Councilor Pendleton
Seconded by Mayor Anwar
The motion was approved, unanimously

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ITEM:

15. New Business (Continued)

M. Resolution Approving a Refund of Property Taxes to One Hundred Forty-Three (143) South Windsor Taxpayers

BE IT RESOLVED that the South Windsor Town Council hereby approves a refund of property taxes to one hundred forty-three (143) South Windsor Taxpayers, the total of said refunds being \$287,089.32.

Was made by Councilor Riley
Seconded by Councilor Pendleton
The motion was approved, unanimously

15. Passage of Ordinance

A. Resolution Adopting the Establishment of an Ordinance Prohibiting Natural Gas Waste and Oil Waste from Natural Gas Extraction Activities or Oil Extraction Activities within the Town

BE IT FURTHER RESOLVED that the South Windsor Town Council hereby adopts the establishment of an Ordinance Prohibiting Natural Gas Waste and Oil Waste from Natural Gas Extraction Activities or Oil Extraction Activities within the Town, as shown in attached **Exhibit A**.

Was made by Councilor Hockenberry
Seconded by Councilor Pendleton
The motion was approved, unanimously

B. Resolution Adopting the Establishment of a Construction Ordinance

BE IT RESOLVED that the South Windsor Town Council hereby adopts the establishment of a Construction Ordinance, as shown in attached **Exhibit B**.

Was made by Councilor Mirek
Seconded by Mayor Anwar
The motion was approved, unanimously

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ITEM:

20. Adjournment

At 10:28 p.m. Councilor Pendleton made a motion to adjourn the Regular Meeting. Councilor Glickman seconded the motion; and it was approved, unanimously.

Respectfully submitted,



Deborah W. Reid
Clerk of the Council

**TOWN OF SOUTH WINDSOR
ORDINANCE PROHIBITING NATURAL GAS WASTE AND OIL WASTE
FROM NATURAL GAS EXTRACTION ACTIVITIES OR OIL
EXTRACTION ACTIVITIES WITHIN THE TOWN**

Sec. 1. Purpose.

The purpose of this Ordinance is to protect, the health, safety, welfare and property of the residents of the town of South Windsor pursuant to the provisions of Section 7-148 of the Connecticut General Statutes by prohibiting the waste associated with drilling and extraction of natural gas and oil from being used for any purpose on any road or real property in the Town of South Windsor.

Sec. 2. Definitions.

For the purposes of this Ordinance, the following words, terms and phrases shall have the meanings respectively ascribed to them by this section, except where the context clearly indicates a different meaning:

- a) *"Application"* shall mean the physical act of placing or spreading natural gas waste or oil waste on any road or real property located within the Town of South Windsor.
- b) *"Hydraulic fracturing"* shall mean the fracturing of underground rock formations, including shale and non-shale formations, by man-made fluid-driven techniques for the purpose of stimulating oil, natural gas, or other subsurface hydrocarbon production.
- c) *"Natural gas extraction activities"* shall mean all geologic or geophysical activities related to the exploration for or extraction of natural gas, including, but not limited to, core and rotary drilling and hydraulic fracturing.
- d) *"Natural gas waste"* shall mean: 1) any liquid or solid waste or its constituents that is generated as a result of natural gas extraction activities, which may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants; 2) leachate from solid wastes associated with natural gas extraction activities; 3) any waste that is generated as a result of or in association with the underground storage of natural gas; 4) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations; and 5) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.
- e) *"Oil extraction activities"* shall mean all geologic or geophysical activities related to the exploration for or extraction of oil, including, but not limited, to, core and rotary drilling and hydraulic fracturing.
- f) *"Oil waste"* shall mean: 1) any liquid or solid waste or its constituents that is generated as a result of oil extraction activities, which may consist of water, brine, chemicals, naturally

occurring radioactive materials, heavy metals, or other contaminants; 2) leachate from solid wastes associated with oil extraction activities; and 3) any products or byproducts resulting from the treatment, processing, or modification of any of the above wastes.

Sec. 3. Prohibitions.

- a) The application of natural gas waste or oil waste, whether or not such waste has received Beneficial Use Determination or other approval for use by DEEP (Department of Energy & Environmental Protection) or any other regulatory body, on any road or real property located within the Town for any purpose is prohibited.
- b) The introduction of natural gas waste or oil waste into any wastewater treatment facility within or operated by the Town is prohibited.
- c) The introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the Town is prohibited.
- d) The storage, disposal, sale, acquisition, handling, transfer, treatment and/or processing of natural gas waste or oil waste from natural gas extraction activities or oil extraction activities is prohibited within the Town.

Sec. 4. Provision to be included in bids and contracts related to the construction or maintenance of publicly owned and/or maintained roads or real property within the Town.

- a) All bids and contracts related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be utilized in providing such a service.
- b) All bids and contracts related to the purchase or acquisition of materials to be used to construct, or maintain any publicly owned and/or maintained road or real property within the Town shall include a provision stating that no materials containing natural gas or oil waste shall be provided to the Town.
- c) The following statement, which shall be a sworn statement under penalty or perjury shall be included in all bids related to the purchase or acquisition of materials to be used to construct or maintain any publicly owned and/or maintained road or real property within the Town and all bids related to the retention of services to construct or maintain any publicly owned and/or maintained road or real property within the Town:

"We _____ hereby submit a bid for materials, equipment and/or labor for the Town. The bid is for bid documents titled _____. We hereby certify under penalty of perjury that no natural gas waste or oil waste will be used by the undersigned bidder or any contractor, sub-contractor, agent or vendor agent in connection with the bid; nor will the undersigned bidder or any sub-contractor; agent or vendor agent

thereof apply any natural gas waste or oil waste to any road or real property within the Town as a result of the submittal of this bid if selected.”

Sec. 5. Penalties.

This ordinance shall apply to any and all actions occurring on or after the effective date of this ordinance. In response to a violation of this ordinance, the Town is empowered to:

- a) issue “Cease and Desist” orders demanding abatement of the violation;
- b) seek any appropriate legal relief, including immediate injunctive relief, as a result of any violation of this ordinance;
- c) file a complaint with any other property authority;
- d) require remediation of any damage done to any land, road building, aquifer, well, watercourse, air quality or other asset, be it public or private, within the Town, the Town may recoup from the offending person(s), jointly and severally, all costs, including experts, consultants and reasonable attorney’s fees, that it incurs as a result of having to prosecute or remediate any infraction of this ordinance.
- e) Issue citations in the amount of \$250 per violation per day, or such other amount as is allowed by law, and seek any other remedies allowable under the law.

Sec. 6 Enforcement.

- a) The Town Manager, or a designee, is hereby empowered and authorized to, if appropriate, issue orders and other directives under this Ordinance and refer matters in connection therewith to the Town’s Counsel. The South Windsor Police Department and/or any other designee(s) of the Manager are also authorized to enforce this Chapter. In addition to any equitable relief available, this Chapter shall be enforced by citations issued by said designated officers or employees.
- b) Town employees, officers and officials are not required to personally carry out testing of waste products to determine chemical contents, as this work may be done via contacting the State of Connecticut Department of Energy and Environmental Protection or the appropriate analytical laboratory or laboratories. If appropriate, the Town’s Manager, or a designee, may request that the State of Connecticut, Department of Energy and Environmental Protection pursue civil penalties allowable under the law.
- c) A citation hearing procedure is hereby established pursuant to C.G.S. § 7-152(a). The Town Manager shall appoint one or more citation hearing officers, other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this section. The citation hearing procedure provisions of C.G.S. § 7-152c, Subsections (c) through (g), inclusive, are hereby adopted by reference as if fully set forth herein.

Sec. 7. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this Ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Ordinance or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered. To further this end, the provisions of this Ordinance are hereby declared to be severable.

Sec. 8. Conflicts with other Ordinances or Codes.

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or code of the Town, the provision that establishes the higher standard for the protection of the health, safety, welfare and property of the residents of the Town shall prevail. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or code of the Town, which other ordinance or code establishes a lower standard for the protection of the health, safety, welfare and property of the residents of the Town, the provisions of this Ordinance shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

Sec. 9 Transportation.

Nothing in this ordinance shall be interpreted to ban the transportation of any product or by-product described herein on any roadway or real property within the Town of South Windsor.

**THIS ORDINANCE WILL TAKE EFFECT IN ACCORDANCE
WITH THE TOWN CHARTER**

Construction Ordinance

§ 1-1. Legislative findings; purpose.

- A. Demolition and/or construction activity in Residential Districts during early morning or late evening hours is a detriment to the public health, comfort, convenience, safety, welfare, peace and quiet of persons within the Town of South Windsor.
- B. The need for regulation of such demolition and/or construction activity is a matter of legislative determination and public policy, and this chapter is adopted in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, peace and quiet of the Town of South Windsor and the people therein.
- D. Nothing in any portion of these regulations shall be construed in any manner as authorizing or legalizing the creation or maintenance of a nuisance. Compliance with these regulations is not a bar to a claim of a nuisance by any person. A violation of any portion of these regulations shall not be deemed to create a nuisance per se.

§ 1-2. Definitions.

When used in this chapter, the terms below shall have the following meanings:

Construction: The assembly, erection, substantial repair, alteration, demolition, or site-preparation for public or private right-of-ways, buildings or structures, utilities or property.

Demolition: Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

Holiday(s): New Year Day, President's Day, Martin Luther King Day, Columbus Day, Easter, Memorial Day, Fourth of July, Veteran's Day, Labor Day, Christmas Day, Thanksgiving Day and any other holidays designated by State statute.

Motor Vehicle: A vehicle as defined in the Connecticut General Statutes § 14-1(53), as amended, and Motorcycles as defined in the Connecticut General Statutes § 14-1 (54).

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

Plainly audible: Any sound that can be detected by a person using his or her unaided hearing faculties. For example, but not limited to, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

Premises: Any building, structure, land, or other real property, including all parts thereof and appurtenances thereto owned or controlled by a person.

Property Line: The real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and separates real property from public right-of-way.

Property Maintenance Equipment: All powered or manually operated tools and equipment used in the repair and upkeep of property, including, but not limited to, lawn mowers, riding tractors, wood chippers, power saws, and leaf blowers.

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

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

Residential District: Those areas that primarily consist of residential and multi-family dwellings so designated in the current Zoning Regulations and on the Zoning Map of the Town of South Windsor.

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

§ 1-3. Standards.

A. Demolition and/or Construction Activity.

- 1) No person, firm, corporation or other entity shall operate or permit the operation of electric or fuel powered equipment, including but not limited to pile drivers, backhoes, pneumatic hammers, derricks, trucks (loaders, bulldozers, graders, compactors, etc) of more than 10,000 pounds gross vehicle weight (GVW) on a construction site, and hoists required for construction, repair or demolition work between the hours of 5:00 p.m. and 7:00 A.M. Monday through Saturdays or at any time on Sundays and official state holidays.

§ 1-4. Exemptions.

The following shall be exempt from the provisions of this chapter:

- 1) Operation of domestic construction and property maintenance equipment between 7 a.m. and 9 p.m., except on Holidays.
- 2) Operation of engine-powered or motor-driven lawn care or maintenance equipment shall be exempted between the hours of 7:00 a.m. and 9:00 p.m. provided that exhausts are adequately muffled to prevent loud and/or explosive noises therefrom.
- 3) Operation of snow removal equipment at any time shall be exempted provided that such equipment shall be maintained in good repair so as to minimize noise, and noise discharged from exhausts shall be adequately muffled to prevent loud and/or explosive noises therefrom.
- 4) Operation of equipment of the Town, State or utility companies constructing or maintaining public infrastructure.
- 5) Emergency work which is required for the protection or preservation of property or health, safety, life or limb of a person, including use of emergency or portable generators during periods of power outages.

1-5. Variance.

- A. Any person residing or doing business in the Town of South Windsor may apply to the Town Council or its designated representative for a variance for not more than one year from the provisions of this Chapter, provided that the applicant, at least forty-five (45) days prior to the date of said activity, provides the Town Manager with a written request for a variance to be acted on by the Town Council containing all of the following information:
 - 1) The location and nature of activity;
 - 2) The time period and hours of operation of said activity;
 - 3) The nature and intensity of the demolition and/or construction activity;
 - 4) Any other information required by the Town Manager.
- B. No variance from this Chapter shall be issued unless it has been demonstrated that:
 - 1) The proposed activity will not constitute a danger to the public health; and
 - 2) Compliance with this Chapter constitutes an unreasonable hardship on the applicant provided that such hardship is not the result of the applicant's own actions or inaction.
- C. The application for variance shall be reviewed and either approved or rejected at least five days prior to the proposed start of said activity. The approval or rejection shall be in writing and shall state the condition of approval, if any, or the reasons for rejection.
- D. Failure to rule on the application in the designated time shall constitute approval of the variance.
- E. The Council or its designated representative may impose reasonable conditions on the granting of any variance within its sole discretion.

§ 1-6. Hindering compliance-Prohibited.

- A. No person shall hinder or interfere with by force or otherwise, the performance by any duly authorized agent or employee of the Town of South Windsor of any duty to comply with or enforce the provisions of this Chapter.
- B. No person shall allow on any property or premises owned or leased by him any activity that violates or fails to comply with this Chapter, or the terms or conditions of any permit, variance or order issued pursuant to this Chapter.

§ 1-7. Penalties for offenses.

The first violation of any of the provisions of this chapter shall be punished by a fine not to exceed \$100. Each day any such violation shall continue or each act in violation of this Chapter shall constitute a separate offense. The second violation by any person or entity of any provision of this chapter shall be punished by a fine of \$175. Subsequent violations of any provision of this chapter shall be punished by a fine of \$250.

1-8. Enforcement.

- A. Any person aggrieved by any act constituting a violation of this Chapter may complain to the South Windsor Police Department which shall enforce these provisions, with or without complaint.
- B. This Chapter shall be enforced by citations issued by the designated municipal officers or employees in accordance with Connecticut General Statute Sections 51-164m and/or 51-164p Violations of Municipal Ordinances (penalty greater than \$90.00 but not more than \$250.00).
- C. The appeal of any such Infraction Ticket issued for Violation for Municipal Ordinances shall be via the Centralized Infraction Bureau and Connecticut Superior Court system pursuant to C.G.S. Sec. 51-164n.

§ 1-9. Severability

All provisions of the Charter, Ordinances and/or any applicable law(s) which are more stringent than those set forth herein, remain valid and may be enforced in addition to the provisions of this Chapter. If any section, paragraph, sentence, clause or phrase of this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portion of this ordinance or any part thereof.

**THIS ORDINANCE WILL TAKE EFFECT IN ACCORDANCE
WITH THE TOWN CHARTER**