

**CERTIFICATE OF AMENDMENT
COLCHESTER CODE OF ORDINANCE
CHAPTER 7 – Fire Prevention and Protection Ordinance.**

We, the Colchester Selectboard, hereby certify that pursuant to Chapter 1, Section 104 through 109 of the Colchester Town Charter, will hold a public hearing on March 8, 2011, 7:30 p.m. at the Colchester Meeting House to hear comments on the following amendments to the Colchester Code of Ordinances, Chapter 7, Fire Prevention and Protection Ordinance.

Chapter 7

Fire Prevention and Protection Ordinance

Art. I.	In General,	§§ 7-1	–	7-7
Art. II.	Technical Specifications,	§§ 7-8	–	7-11
Art. III.	Fire Alarms,	§§ 7-12		
Art. IV.	Municipal Open Burning Requirements,	§§ 7-13	–	7-14

Article I. In General.

Sec. 7-1. Purpose.

This Article is to promote the health, safety, and general welfare for all those who live, work, visit, or invest in our community for the protection of life, property and the environment.

Sec. 7-2. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- (a) *Building Inspector (BI)* shall mean the person duly appointed under Colchester Code of Ordinances sections 7-4 and 4-4 or the assistant building inspector.
- (b) *Fire Chief (FC)* shall mean the Chief Engineer of the Colchester Center Volunteer Fire Company or the Malletts Bay Fire Department.
- (c) *Fire Warden* shall mean the person duly appointed by the Selectboard.
- (d) *Authority Having Jurisdiction (AHJ)* shall be the BI and FCs with final sign-off by the BI and further subject to provisions of Section 7-5(d).
- (e) *ISO* shall mean the Insurance Services Organization.
- (f) *NFPA* shall mean the National Fire Protection Association.

- (g) **Private Driveway Type I shall mean driveways serving one residential dwelling unit that are less than 50 feet in length.**
- (h) **Private Driveway Type II shall mean driveways, excluding Type I, serving four (4) or less residential dwelling units.**
- (i) **Private Driveway Type III shall mean driveways, excluding Type I and II, that are less than 300 feet long, are not public roads, and do not serve residential dwelling units.**
- (j) **Private Roads shall mean all driveways, excluding Private Driveways Type I, II, and III, that are not public roads.**

Sec. 7-3. Adoption of Fire and Life Safety Codes.

- (a) **Pursuant to Title 24, Chapter 83, Sections 3101 and 3102 of the Vermont Statutes Annotated (V.S.A), the Town of Colchester, for the purpose of establishing rules and regulations for the prevention of fires, removal of fire hazards, prescribing standards necessary to protect the public, employees and property against harm arising out of or likely to arise out of fire, and to promote public safety hereby adopts the herein listed standards.**
- (b) **The “Vermont Fire and Building Safety Code” and the International Residential Code exempting Section P2904 as amended from time to time are herein adopted. Should any section, subsection, paragraph, sentence, clause, provision or phrase of these Vermont Fire and Building Safety Code be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of any other portion of these regulations, except the section in question.**
- (c) **Conflict with other Regulations or Private Restrictions. The provisions of these regulations shall not be construed to abrogate or annul the provisions of other ordinances or regulations or to impair private restrictions placed upon property. Where these regulations impose a greater restriction upon land, buildings, or structures than is imposed by any such provision, the restrictions of these regulations shall control.**

Sec. 7-4. Building Inspector Appointment.

The Building Inspector (BI) and Assistant Building Inspector(s) (ABI) shall be appointed by the Town Manager. The Assistant Building Inspector’s powers and duties equal those of the Building Inspector. Whenever the BI is designated in this Code, the ABI may fill the same description.

Sec. 7-5 Building Inspector Duties and Powers.

The BI and the ABI are hereby authorized, empowered, and required to enforce all provisions of this Code. The BI shall administer the provisions of this Code relating to the issue and enforcement of permits as herein after provided.

- (a) **The BI shall review applications as required by Chapter 4 of the Colchester Code of Ordinances, Building Code and Building Construction Ordinance for compliance with this Code herein.**
- (b) **The BI shall receive applications required by this Code, issue permits and furnish the prescribed certificates in accordance with this Code. The BI shall keep records of applications, permits issued, certificates issued, inspections made, reports rendered and notices or orders issued. All such records shall be open to public inspection.**
- (c) **The BI shall perform investigations in the enforcement and administration of this Code. The BI shall issue such written reports or orders as may be necessary to enforce compliance with this Code. The BI may accept reports of inspectors or recognized inspection services, after investigation of their qualifications and reliability.**
- (d) **The Authority Having Jurisdiction (AHJ) shall be the BI and FCs with final sign off by the BI. If there is a disagreement, the BI and FCs shall consult with the Vermont Division of Fire Safety for the State's position. If there is still a disagreement, it shall be decided by the Town Manager in conformance to Section 7-6a of this Code.**
- (e) **Open burning shall be prohibited within Colchester except as permitted in Section 7-14(e).**
- (f) **In the course of enforcement of this Code, the BI may issue an order to cease and vacate a structure or alter a structure, building, facility, or construction. With the exception of unsafe facilities, such order shall not be issued by the BI until the party in violation of this Code has been provided notification of said violation and granted a period of not less than seven (7) days to correct said violation.**

Additionally, pursuant to Title 24, Chapter 59 of V.S.A. and Title 24, Chapter 117 of V.S.A., authority is granted to "municipal officials," or "enforcement officers" for the Town of Colchester for the purpose of enforcing these fire prevention, fire protection, and life safety regulations, and they shall possess all the authority granted such official in the enforcement of said regulations. Town officers, upon being designated as deputy municipal officials by the Town Manager, and subject to the overall direction of the BI, shall serve as municipal officials and shall possess all the authority of a municipal official in the enforcement of said regulations.

- (g) **Vacating unsafe facilities. When a building, structure, facility, or portion hereof, or a portion of the town is determined by the BI to constitute an unsafe facility, the BI in consultation with the Police Department and the Public Works Department may order the closure of such facility and order**

occupants to immediately vacate the premises. Facility closure shall prohibit or otherwise restrict access to or use of an unsafe facility. Facility closure may include, but shall not be limited to: closure of public rights-of-way; closure of private ways; closure of buildings, structures, and facilities; and closure of areas adjacent to unsafe facilities. Such facilities may be partially or completely opened again at such time as deemed safe by the BI. The BI shall use all available media and means of communication to inform occupant(s) and/or the public of facility closure in a timely manner.

- (h) The BI shall adhere to all legal requirements and shall have benefit of all legal means of inspection now or hereafter required or available under law.**

Sec. 7-6. Appeals.

Appeals in the case of the issuance of a ticket under section 7-7 below shall be governed by the provisions of Title 4, Chapter 29 of V.S.A.. All other appeals shall be governed by the following provisions:

- (a) Any interested person aggrieved by an order of the BI as the AHJ or by the Town Manager under Section 7-5 (d) made in accordance with the provisions of this Chapter may appeal by way of a petition in writing to the Selectboard setting forth their reasons, filing such petition with the Town Clerk and giving the BI a copy thereof. Interested persons include the BI, the FC, and the person or entity owning title to property affected by the decision.**

Such petition shall be filed within ten business days after the receipt of the AHJ's order. Upon the receipt of a copy of said petition, a meeting of the Selectboard be called within 40 days to consider the facts set forth in the petition. The Selectboard shall take such action concerning the premises as they shall deem necessary.

- (b) The Selectboard may affirm or reverse such order of the AHJ or may modify the same, but such modification shall fall within the express or necessarily implied provisions of this Chapter relating to such subject matter so considered. The action of the Selectboard upon such petition shall be certified by the Town Clerk and delivered to the AHJ and to the aggrieved party signing the petition.**

Sec. 7-7. Penalty for Violations.

A violation of these regulations shall constitute a civil ordinance violation. Each day that a violation continues shall constitute a separate offense. Offenses may be prosecuted through the issuance of a municipal civil complaint ticket or the commencement of an enforcement action as described below.

- (a) *Municipal civil complaint ticket.* Pursuant to Title 24, Chapter 59 of V.S.A. and Title 4, Chapter 29 of V.S.A., any designated enforcement officer, may commence prosecution for any zoning violation by serving two (2) copies of a municipal civil complaint ticket either in person or by first class mail on the alleged offender, and thereafter promptly filing the original with the Judicial**

Bureau. The issuing officer shall follow the procedure set forth by the Judicial Bureau for municipal complaint tickets. The first offense ticketed for a violation shall be punishable by a fine of one hundred dollars (\$100.00); the waiver fee shall be fifty dollars (\$50.00); a second offense ticketed for the same violation shall be punishable by a fine of two hundred dollars (\$200.00), the waiver fee shall be one hundred dollars (\$100.00); a third offense ticketed for the same violation shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fee shall be two hundred fifty dollars (\$250.00). Upon the fourth offense, the town may request that the case be transferred from the Judicial Bureau to the Environmental Court, or any other court of competent jurisdiction.

- (b) *Enforcement Action under Title 24, Chapter 117 of V.S.A..* An enforcement action may be brought under Title 24, Section 4451 of the V.S.A. for any violation of this Chapter. Pursuant to an enforcement action, any person who violates this Chapter shall be fined not more than one hundred dollars (\$100.00) for each offense. No action may be brought under this subsection unless the alleged offender has had at least seven (7) days warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the by-law or chapter after the seven-day notice period and within the next succeeding twelve (12) months. The seven day warning notice shall state that a violation exists and that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporations, shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of these regulations shall be paid over to the Town.
- (c) *Violations by Owners, Architect, Builder, etc.* The owner of a structure or premises which is in violation of this chapter and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in commission of such violation shall each be subject to fine as herein provided.
- (d) *Appropriate Action.* The imposition of the penalties herein prescribed shall not preclude the town from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to prevent the occupancy of a structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

Article II. Technical Specifications.

Sec. 7-8. Fire Department Access.

Means of access for fire department apparatus shall be provided to all structures and kept passable year round.

- (a) **Fire access shall have minimum of (24) feet of width for all structures requiring tower truck access. The lane shall be constructed so as to support a 40,000 pound vehicle however may be surfaced with pavement, gravel, paving blocks, and grass over a load bearing gravel layer.**
- (b) **The fire access shall be no closer than 20ft. from the subject structure and no further than 150 feet from the structure.**
- (c) **Turns in fire access shall be constructed with a minimum radius of 25ft. at the inside curb/shoulder line and a minimum radius of 50ft. at the outside curb/shoulder line.**
- (d) **At least 13ft. 6in. in overhead clearance shall be provided and maintained over full width of the fire lane.**
- (e) **Commercial structures, residential structures over three units, and residential structures where the occupants generally can not self-evacuate shall require that the 95 foot tower truck be able to adequately access the structure. Table 1 below shows the minimum requirements for tower truck accessibility based upon the use and structure height. In measuring accessibility, the tower truck shall be able to park within an approved fire access as specified herein and reach the top of it's bucket/ladder level with the highest window, balcony, and floor. Percentages provided in Table 1 below are the percent of the total exterior façade that shall be accessible to the tower truck/**

Table 1: Structure Exterior Facade Accessibility

<u>Stories</u> *	<u>Non Residential Class</u> A	<u>Residential Class</u> B	<u>Residential Class C</u>
1	50 %	50 %	50 %
2	50 %	50 %	100 %
3	75 %	100 %	100 %
4 or more	100 %	100 %	100 %

* Where 1 story is considered to equal (10) vertical feet.

Class A: Commercial structures with no residential units.

Class B: Three (3) or more residential units where the occupants are generally able to self evacuate the building.

Class C: Facilities with (3) or more residential units where the occupants are generally not able to self evacuate the structure including but not limited to nursing homes.

Hydrants shall be installed in accordance with the Colchester Department of Public Works Specifications and Standards. Hydrants for commercial structures shall not exceed a distance of three hundred (300) feet of distance over the roadway from a hydrant to the structure unless a sprinkler system is installed. The minimum flow requirements for each commercial hydrant shall be 1000 gallons per minute with a minimum residual pressure of 20 pounds per square inch.

All hydrants shall be equipped with a four-inch (4") STORZ fire department connection (FDC). Where a fire department connection (FDC) is present, an additional hydrant shall be installed by the property owner within 75 feet of the FDC.

Sec. 7-10. Private Driveways and Roads Requirements.

This Section pertains to parcels that use or intend to use a private driveway or road to provide access. Each of the following conditions must be met prior to occupancy.

- (a) The length of a private driveway, for the purpose of this Code shall be the distance measured along the centerline of the driveway from the curbcut in the public road to the subject structure. If the private driveway does not extend to the structure, the length of a private driveway is measured along the centerline of the driveway from the curbcut in the public road to 50 feet from the subject structure.
- (b) A private driveway shall be extended to, at minimum, within 50 feet of the structure served
- (c) All private driveways, excepting Private Driveways Type I, shall have at least six foot wide zone on each side of the driveway clear of encumbrances such as trees, structure, and rocks for plowed snow storage area on each side. In driveways under 50 feet and driveways serving commercial structures, designated snow storage areas shall be permissible in lieu of the six foot wide zone.
- (d) Every private driveway in excess of 150 feet in length shall be provided with approved provisions for the turning around (see Figure 3.5 & 3.6 of the Colchester Public Works Specifications and Standards for dimensional requirements for a turn around).
- (e) A private driveway shall have a minimum of thirteen and one half foot height clearance.
- (f) All private driveways, excepting Private Driveways Type I, shall be constructed so as to support a 40,000 pound vehicle.
- (g) All private driveways shall meet the following dimensional requirements unless waived by the AHJ:

Type	Minimum Width
Private Driveway Type I	10 feet
Private Driveway Type II >50 feet but <300 feet in length	15 feet
> 300 feet in length	20 feet
Private Driveway Type III	20 feet
Private Road	Per the requirement of Colchester Code of Ordinance Chapter 14, Public Works Specifications and Standards for roadway design standards as amended from time to time

- (h) **Waiver of Private Driveway and Road Requirements.** Should the applicant not meet the requirements for private driveways and roads as stated herein the applicant shall install fire suppression technology and warning systems in compliance with NFPA 13 D. In granting this relief, the applicant shall be required to install and maintain fire suppression technology and warning systems in compliance with NFPA 13 D. Such warning system shall be monitored by a central station or private alarm company.

Sec. 7-11. Areas Not Served by the Public Water Main Distribution Systems.

For areas of the Town not served by municipal water mains and their attendant hydrants residential units, excluding single-family and duplexes, will be required to construct and maintain an alternative water source in compliance with NFPA 1142 or an approved NFPA 13D sprinkler system for each unit. The presence of a nearby private hydrant and water reservoir serving a separate private facility will not constitute fire protection for a nearby proposed development.

Article III. Fire Alarms.

Sec. 7-12. Fire Alarms.

Deliberate damage to, or disabling a fire alarm system or any components thereof is prohibited and fines may be levied by the BI in accordance with Section 7-7 of the Colchester Code of Ordinances, “Penalty for Violations”. The fine amounts shall be as defined in the Code of Ordinances unless a specific fine amount is included in the text of a specific section.

- (a) The building owner is at all times responsible for having the fire alarm system and all components operating correctly in accordance with the manufacturer’s requirements and all applicable regulatory codes and standards.

- (b) **Notification shall be transmitted to the fire/police dispatch center prior to any testing or maintenance that would result in the fire alarm system being disabled for any length of time. The BI may fine a building owner for a failure to make the necessary notification.**
- (c) **The fire alarm system and all its equipment shall be under full control of the fire department during a fire or a false alarm investigation. A person or employer who willingly resets or tampers with the fire alarm system at any time after activation of the alarm, with-out permission from the fire chief may be referred to the BI for enforcement action.**
- (d) **Noncompliance may result in fines, the immediate shut down of the facility, and the termination of the Certificate of Occupancy by the BI. Failure to remedy the violation in the time frame allotted by the BI may result in fines and shut down of the facility until a new Certificate of Occupancy can be obtained.**
- (e) **No person shall knowingly give or cause to be given a false alarm of fire, or cause a fire alarm to activate when no fire or smoke is present, or, after an alarm has been given, maliciously and/or falsely proclaim the fire to be extinguished.**
- (f) **Every person calling in an alarm of the fire shall forthwith give their name and address and a call back telephone number.**
- (g) **Buildings that are equipped with fire alarms systems shall be permitted two (2) false alarm calls within one calendar month. The BI may fine the building owner the amount of five hundred dollars (\$500.00) for each instance of a false alarm following the first two (2) false alarms within a calendar month. The owner may contest the fine and request a court hearing. The owner may elect to waive the court hearing and accept a waiver penalty of two hundred fifty dollar (\$250.00) fine.**

Article IV. Municipal Open Burning Requirements.

Sec. 7-13. Definitions.

For the purposes of this Section on “open burning”, the following definitions shall apply:

- (a) ***Air contaminants* shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof.**
- (b) ***Emission* shall mean a release of air contaminants.**
- (c) ***Fuel* shall mean any form of combustible matter, solid, liquid or gas used to produce heat, light, or power by burning, but excluding refuse. Fuel includes, but is not limited to, coal, coke, charcoal, natural gas, propane, gas, fuel oil and wood.**

- (d) ***Open burning*** shall mean any burning that takes place other than in heating systems, cooking systems, candles or lamps, welding equipment, or burning authorized by specific permit.
- (e) ***Refuse*** shall mean all solid or liquid wastes, including but not limited to animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; street cleanings; dead animals; abandoned automobiles; solid market and industrial wastes; paper; cardboard; tin cans; glass; bedding; crockery; plywood composite materials; dimensional lumber; pressure-treated materials; and other building materials.
- (f) ***Unsafe facilities*** shall mean buildings, structures, facilities or portions thereof, or areas of the town deemed by Building Inspector or the Fire Chiefs to constitute: a fire hazard; unsuitable or improper for the use or occupancy to which they are put; constituting a hazard of health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; presence of an imminent hazard or an ongoing event associated with features such as damaged or leaking underground gas mains, railroad cars, aircraft, automotive vehicles, and water craft; or other imminent danger to life or property.

Sec. 7-14. Open Burning.

- (a) No refuse, grass, leaves, or downed trees shall be burned.
- (b) All open burning shall be extinguished when not attended to.
- (c) No open burning shall occur within a fully enclosed structure.
- (d) The Authority Having Jurisdiction (AHJ), fire warden, or their designee may order any open burn to be extinguished if the AHJ judges the fire or the conditions under which the burning occurs is a threat to public safety or property.
- (e) All open burning shall require a permit obtainable at police dispatch except as herein specifically excluded:
 - (1) The burning of fuels for cooking purposes;
 - (2) Barbecue pits less than 30 inches in diameter; or
 - (3) Campfires and bonfires less than thirty (30) inches in diameter.
- (g) At the discretion of the fire warden, a permit may be issued for special occasions allowing bonfires greater than thirty (30) inches in diameter.
- (h) ***Open burning permits and fees.*** A specific permit may be granted by the fire warden or duly appointed designee to engage in open burning in accordance with the following:

- (1) No hazardous condition will be created by such burning and the emission of air contaminants will not create a danger to public safety and health. Permits shall be for specified days, specified location, and for a specified material. The hours within which said burning may take place may be specified on the permit.**
- (2) Open burning of brush shall be permitted if the outermost edge of the burning site is:**
 - a. At least one hundred fifty (150) feet or more from the closest dwelling located in the vicinity of, but not including, the permit holder's dwelling during the months of January and February.**
 - b. At least (300) feet or more from the nearest dwelling located in the vicinity of, but not including the permit holder's dwelling during the remainder of the year.**

All distances shall be measured from the outermost edge of the burning site in a straight line to the nearest point on the closest dwelling. The minimum distances imposed in subsections (h)(2)a. and (h)(2)b. shall not limit the fire warden from imposing greater distances between the site and any structure as a permit condition under subsection (h)(1).

- (i) A violation of this Section shall constitute a civil ordinance violation as described in section 7-6 (Appeals) and 7-7 (Penalty for violations) of this Chapter. In addition to the procedures contained in Sections 7-6 and 7-7, the following shall apply to any civil violation under this Section:**
 - (1) Any person who violates a provision of this Section shall be subject to fees as described in subsection (g)(2). Police officers, fire wardens, deputy fire warden, fire chief and fire officers of the Town shall be authorized to act as issuing municipal officials to issue a municipal complaint.**
 - (2) Fee schedule:**
 - (a) First offense: \$25.00 plus fire department expense up to \$500.00.**
 - (b) Second offense: \$50.00 plus fire department expense up to \$500.00.**
 - (c) Third offense: \$100.00 plus fire department expense up to \$500.00.**
 - (d) Fourth and subsequent offense: \$200.00 plus fire department expense up to \$500.00.**
 - (3) Offenses shall be counted on a calendar year basis.**
 - (4) Fire department expenses shall be as follows:**
 - (a) Pumper at one hundred dollars (\$100.00) per hour.**

(b) Tanker at seventy-five dollars (\$75.00) per hour each.

(5) In addition to the enforcement procedures available before the traffic and municipal ordinance bureau as described in subsection 7-7(a), the Town Manager or designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

(j) The Town will establish drop-off areas for residents of Colchester to bring leaves for disposal in the Autumn and Spring seasons.

Dated this 8th day of March, 2011. Effective May 8, 2011.

COLCHESTER SELECTBOARD

L. Richard Paquette

Marc Landry

Roger C. Derby

Myron Palmer

Nadine Scibek