

ORDINANCE ESTABLISHING CITATION PROCEDURES AND FINES FOR VIOLATIONS OF THE ZONING REGULATIONS

SECTION 1 - AUTHORIZATION

This Ordinance is adopted pursuant to Connecticut General Statutes 7-152c and 8-12a as amended.

SECTION 2 - DEFINITIONS

As Used in this Ordinance:

- (a) “Zoning Violation” means any violation of the Thomaston Zoning Regulations originally adopted April 28, 1971 revised June 1, 2012, as amended, as determined by the Thomaston Planning and Zoning Commission or its Zoning Enforcement Officer.
- (b) “Zoning Enforcement Officer” means that person appointed by the Thomaston Planning and Zoning Commission to enforce the Zoning Regulations pursuant to Connecticut General Statutes, 8-3e and 8-12
- (c) “Hearing Officer” means any person(s) appointed by the Board of Selectmen Pursuant to Connecticut General Status 7-152c(b), as amended, to conduct Hearings of contested citations issued pursuant to this Ordinance. No person who serves as a Zoning Enforcement Officer, Wetlands Agent, Building Official, Police Officer, employee or person who issues citations or a member of the Zoning Commission, Inland Wetlands and Watercourses Commission, or Zoning Board of Appeals shall serve as a Hearing Officer.

SECTION 3 - ZONING VIOLATIONS

- (a) The Planning and Zoning Commission (P&Z) or its duly appointed Zoning Enforcement Officer (ZEO) shall first issue a notice of violation or order and allow a period for corrective action as prescribed by the Commission in the document entitled “Standard Zoning Enforcement Procedures”, adopted by the Planning and Zoning Commission on December 5, 2012, as may be amended and filed with the Town Clerk.
- (b) If corrective action or abatement procedure is not initiated by the violator, the P&Z Commission or the duly appointed ZEO is authorized to issue citations for zoning violations as authorized by this Ordinance. The citation may be served by hand delivery or by certified mail to the owner or lawful occupant of the premises where the violation exists. If the person named in the citation refuses to accept certified

mail, the citation may be sent by first class mail to the person's last known address of record.

- (c) The maximum fine of each violation shall be in accordance with the schedule below:
1. Violations involving earth excavation, mining or grading - \$150 per day that the activity continues
 2. Violations involving activities that pose an immediate danger to the public health, safety and general welfare of the community - \$150 per day that the violation exists
 3. All other violations - \$50 per day that a violation continues

Multiple fines may result if multiple zoning violations exist on the same premises. For continuing violations, each day of violation shall be considered a separate offense, but only one citation is required to be served for either multiple or continuing violations arising from the same use, structure, condition, act or activity.

SECTION 4 - CITATION PROCEDURE

- (a) In issuing a citation under this Ordinance, the Zoning Officer shall send a notice to the person cited by certified mail informing such person:
1. the allegations against such person and the amount of the fines
 2. that the person cited may formally contest liability in writing and before a Hearing Officer appointed by the Board of Selectmen of the Town of Thomaston as provided in this Ordinance
 3. that if the person cited does not demand such a hearing, an assessment and judgement shall be entered against such person
 4. that such judgement may be issued without further notice
- (b) Any person receiving such a citation shall be allowed a period of thirty (30) days from receipt of the citation to:
1. Make an uncontested payment of the fine specified in the citation to the Town Treasurer
 2. File a formal appeal in writing to the Hearing Officer

If the citation has been sent by regular mail pursuant to the provisions of this Ordinance, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.

- (c) If the person who is sent notice pursuant to this Ordinance wishes to admit liability for any alleged violations, such person may, without requesting a hearing, pay the full amount of the fine either in person or by mail, to the Zoning Enforcement Officer. All fines shall be made payable the Treasurer of the Town of Thomaston. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within thirty (30) days of the date of

the notice described in this Ordinance shall be deemed to have admitted liability, and the Zoning Enforcement Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines provided for by this Ordinance and shall follow the procedures hereinafter set forth in this Ordinance.

SECTION 5 - HEARING PROCEDURE

- (a) Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days or more than thirty (30) days from the date of the mailing of notice, provided the Hearing Officer shall grant upon, good cause shown, any reasonable request by any interested party for postponement or continuance. The presence of the Zoning Enforcement Officer shall be required at the hearing if requested by the person who is issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in such persons' behalf. The Zoning Enforcement Officer may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against such person upon finding of proper notice and liability under the applicable provisions of the Zoning Regulations. The Hearing Officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form with such methods of proof as the Hearing Officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce the decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter the determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation the Hearing Officer shall forthwith enter and assess the fines against such person as provided by this ordinance.
- (b) If such assessment is not paid on the date of its entry, the Hearing Officer shall send by certified mail, return receipt requested, a notice of assessment to the person found liable and shall file not less than thirty days nor more than twelve months after such mailing, a certified copy of the notice assessment with the Clerk of the Superior Court for the Judicial District of Litchfield at Torrington, together with an entry fee prescribed by the court. The hearing officer shall enter an assessment in an amount not to exceed, as of the date of the assessment, the direct municipal enforcement costs plus a ten-percent (10%) administrative cost. In the event that municipal costs exceed that of the citation, the actual amount of the citation shall be assessed. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgement in the amount of such record of assessment and court costs against such person in favor of the municipality. Notwithstanding any other provision of the Connecticut General Statutes, the Hearing Officer's assessment, when so entered as a judgement,

shall have the effect of a civil money judgement and a levy of execution on such judgment may issue with further notice to such person.

SECTION 6 - APPEAL

A person whom an assessment has been entered pursuant to this Ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims cases pursuant to Connecticut General Statutes, 52-259, in the Superior Court for the Judicial District of Litchfield at Torrington, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

SECTION 7 - MISCELLANEOUS PROVISIONS

The remedies set forth in this Ordinance shall be deemed to be in addition to such other remedies as are provided by law. The decision to assess fines under this Ordinance shall be an exercise of municipal discretion and shall not prevent the Zoning Enforcement Officer from instituting enforcement action, such as a cease and desist order or order to show cause, concurrently with the assessment of fines.

The document entitled "Standard Zoning Enforcement Procedures", adopted by the Planning and Zoning Commission on December 5, 2012, as may be amended and filed with the Town Clerk shall serve as the model procedural document for enforcement of the Thomaston Zoning regulations and shall be followed by the Zoning Enforcement Officer in pursuing enforcement actions.

SECTION 8 - EFFECTIVE DATE

This Ordinance shall take effect fifteen (15) days after publication of a summary of its provisions in a newspaper having a general circulation of the Town of Thomaston pursuant to Connecticut General Statutes 7-157(b).

MOTION BY:
SECOND BY:
VOTE: YEA_____ **NAY:**_____

ADOPTED AT TOWN MEETING ON:_____,2018
PUBLISHED IN THE:_____ **ON**_____,2018
EFFECTIVE DATE:_____,2018
THOMASTON TOWN RECORDS: VOLUME_____,**PAGES**_____