

TOWN OF EAST WINDSOR

PLANNING & ZONING DEPARTMENT

11 RYE STREET

BROAD BROOK, CT. 06016

FAX: (860) 623-6030

TOWN PLANNER LAURIE WHITTEN, CZEO, AICP

ZONING ENFORCEMENT OFFICER, ROBIN M. NEWTON

MEMORANDUM

TO: Denise Menard, First Selectman
FROM: Robin M. Newton, Assistant Town Planner/ZEO/Wetlands Agent
DATE: March 31, 2009
SUBJECT: Proposed Citation Ordinance for Wetland Enforcement

Hi Denise,

Here is the revised Ordinance per your request to take out the actual fine schedule from the body of the Ordinance. At the March 4, 2009 Inland Wetland Meeting, I discussed the removal of the fine schedule with the Commission and they were fine with the change.

towns w. "fine ordinances": Ellington + S. Windsor + others
A "fine ordinance" requires BOS approval + Town mtg.
Feb., 2009: Bos requested that fee schedule be removed
from ordinance. to prevent continual revisions
of said ordinance.
"Schedule of Fines": 10/28/09 hearing; & evidence of results.
: 1st test doc. dated 7/10/2013



TOWN OF EAST WINDSOR

PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

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SCHEDULE OF FINES FOR WETLAND VIOLATIONS

ADOPTED : , 2013 BY EAST WINDSOR INLAND WETLAND AND WATERCOURSES AGENCY

Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse: \$ 50.00
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse: \$150.00
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse: \$200.00
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit: \$500.00
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit: \$1000.00
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse: \$1000.00
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above: \$ 50.00

Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan: \$100.00
2. Non-compliance with permit conditions: \$150.00
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas: \$250.00
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse: \$500.00

7/10/2013

Chapter 48. Citations for Wetland and Zoning Violations

(HISTORY: Adopted by the Town of Ellington 2-5-2007. Amended ~~xx-xx-2019~~ ments noted where applicable)

General References

Citations – See Ch. 46

Inland wetlands and watercourses – See Ch. 210

Zoning – See Ch. 230

§ 48-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter. (Masculine terms include the feminine.)

CITATION

A written statement of the relevant conditions and facts giving rise to the wetland or zoning violation, including a reference to the specific section(s) of the wetland or zoning regulations which has been violated, the time period during which the violation has existed, and the amount of the potential fine ~~due and the cited persons right to appeal pursuant to § 46-3A.~~

CITATION HEARING BOARD

As defined pursuant to § 46-2.

CITED PERSON

As defined pursuant to § 46-2.

OFFICIAL

The Zoning Enforcement Officer, Deputy Zoning Enforcement Officer, Wetland Agent or municipal official charged with enforcing a municipal ordinance or regulation who issued the notice of violation or citation.

§ 48-2. Authority to issue citations; fines.

- A. Pursuant to Connecticut General Statutes (C.G.S.) § 8-12a, as may be amended, and in addition to the remedies provided in C.G.S. § 8-12, an official, as defined herein, is hereby authorized to issue citations for violations of the Zoning Regulations of the Town of Ellington. Except as

otherwise provided in § 48-4A, the ~~The~~ fine for each zoning violation shall be ~~may not exceed~~ \$150 for each day a violation continues.

B. Pursuant to C.G.S. § 22a-42g, as may be amended, and in addition to the remedies provided in C.G. S. § 22a-44, an official, as defined herein, is hereby authorized to issue citations for violations of the Inland Wetlands Regulations of the Town of Ellington.

(1) Except as otherwise provided in § 48-4A, the ~~The~~ fine for each wetland violation shall ~~not be more than~~ the following:

(a) For activities that occur within the established upland review area of an inland wetland or watercourse, but not within its related inland wetland or watercourse: \$500.

(b) For activities that occur within an inland wetland or watercourse: \$1,000.

(2) Each day's continuance thereof shall be deemed to be a separate and distinct offense.

C. Any such fine shall be made payable to the Treasurer of the Town of Ellington.

§ 48-3. Service of notice; citation.

A. Any citation issued under this chapter shall be and is sufficient if notice of the same is provided in accordance with § 46-2. ~~provided in one of the following forms, unless otherwise stated:~~

~~(1) In-hand delivery by an official charged with enforcing the ordinance or regulation.~~

~~(2) Certified mail, return receipt requested, to the last known address of the person cited or to the address listed in the records of the Assessor's Office.~~

~~(3) Delivery by any commercial carrier and delivery service such as, but not limited to, Fed-Ex or UPS.~~

~~(4) A commercial process server, state marshal, police officer or constable.~~

B. When a citation is refused by any of the ~~above~~ methods set forth in § 46-2, it may be sent by first class mail. The official issuing the citation shall retain a true and attested duplicate original of such citation.

§ 48-4. Citations, enforcement and appeal ~~and~~ procedures.

A. ~~The provisions of § 46-3 as to the time within which an appeal may be filed to the contrary notwithstanding, any person receiving a citation may, within 10 days following service of the citation, file an appeal in writing in the office of the First Selectman pursuant to the~~

~~provision of § 46-3A and C.G.S. § 7-152c(d). The failure to file an appeal shall be deemed to have admitted liability for the violation cited.~~

A. Any person receiving a citation shall have 30 days ~~30 days from the date of the citation~~ to make an uncontested payment of the fine set forth in the citation to the First Selectman's office, either in person or by mail without requesting a hearing. If the person cited makes an uncontested payment within the prescribed 30 days ~~30 days~~ and the cited violation has been remedied within said period, the total fine shall be \$150 for a zoning violation. In the case of a wetlands violation, if the cited person makes an ~~any~~ uncontested payment ~~is made~~ within the prescribed 30 days ~~30 days~~ and the cited violation has been remedied within said period, the total fine shall be \$500 or \$1,000, whichever fine is applicable pursuant to § 48-2B.

B. If the fine provided for in any such citation is unpaid beyond the due date stated therein, the official who issued the same may initiate proceedings under Chapter 46, Citations, to collect such fine.

C. Any person issued a citation and fined pursuant to this chapter may appeal such citation and fine pursuant to Chapter 46, Citations.

~~B.~~

~~C.~~ ~~If the person cited fails to pay the fine within the time frame prescribed in Subsection B of this section, an official authorized to issue citations may proceed as provided in § 46-3B et seq.~~

~~D.~~ ~~The failure to pay the assessment of any fine(s) made by the citation hearing officer may result in a Superior Court judgment as provided in C.G.S. § 7-152(f), as may be amended, entitled to judicial review as provided in C.G.S. § 7-152c(g), as may be amended.~~

§ 48-5. Severability, Effect on other laws; Effective date.

A. If any provision of this chapter or the application thereof shall be held invalid or unenforceable, the remainder of this chapter, or the application of such terms and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof shall be deemed valid and shall be enforced to the fullest extent permitted by law.

B. The provisions of this chapter shall be in addition to and not in derogation of any and all provisions of the Connecticut General Statutes and ordinances of the Town of Ellington.

C. The effective date of this chapter is March 3, 2007.

notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality;

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands and watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection a of this Section or other enforcement proceedings as provided by law.

14.4 FINES FOR VIOLATIONS OF INLAND-WETLANDS REGULATIONS AND HEARING PROCEDURES

- a) The Town Engineer or their designee(s) may issue citations to persons who commit violations of Inland-Wetlands Regulations. No citations may be issued against the State or any State official or employee acting within the scope of his employment.
- b) Citations may be issued for the following violations of the Inland-Wetlands Regulations, and the amount of the civil fine for each violation shall be as follows:

<u>Nature of Violation</u>	<u>Amount</u>
(1) Carrying on, without a permit, activities in the buffer zone which do not pose an immediate danger to a wetland or watercourse.	\$75.00
(2) Carrying on, without a permit, activities in the buffer zone which may pose an immediate danger to a wetland or watercourse.	\$150.00

- (3) Carrying on, without a permit, activities in a wetland or watercourse which causes limited and/or correctable damage to the wetland or watercourse. \$200.00
 - (4) Excavating in, filling or draining of any portion of a wetland or watercourse. \$750.00
 - (5) Carrying on, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of any portion of a wetland or watercourse. \$750.00
 - (6) Conduct in an inland-wetland/watercourse, without a permit, of any other regulated activity in a regulated area not listed above. \$250.00
- c) Any such citation may be (1) personally served on the person named in the citation; (2) served by certified mail, return receipt requested, to the person named in such citation or; (3) served on the property where the violation has occurred. The Town Engineer or other issuing authority shall maintain an original or certified copy of the citation. Such citation shall include the following provisions: (1) that the person may pay the fine specified in the citation to the Tax Collector within thirty days of receipt of such citation or service on the property where the violation occurred; (2) the allegations against him and the amount of the fines; (3) that the person may contest liability before a Hearing Officer appointed by the Mayor as provided in subsection (G) of this section, by delivering, in person or by mail, within ten days of the date of the notice, a written demand for a hearing; (4) that if the person cited does not demand such a hearing, an assessment and judgment will be entered against him; and (5) such judgment will issue without further notice.
- d) If the person who is served such citation wishes to admit liability for any alleged violation, he may, without requesting a hearing, remit the full amount of the civil fine, either in person or by mail, payable to the Town of East Hartford Tax Collector. 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 fails to pay such fine or demand a hearing shall be deemed to have admitted liability, and the Tax Collector shall certify such failure to the Hearing Officer. The Hearing Officer

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shall thereupon assess the civil fines provided for in the citation.

- 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 days nor more than thirty days from the date of the mailing of such notice, provided the Hearing Officer may grant upon good cause shown any reasonable request by such person for a postponement. The presence of either the Town Engineer or the person who issued the citation shall be required at the hearing if so requested by the person named in the citation. Such request must be included with the appeal. A person wishing to contest liability shall appear at the hearing and may present evidence in his behalf, and may be represented by agent or attorney. The Town Engineer or his designee may present evidence on behalf of the Town. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable provisions of the Inland-Wetlands Regulations. The hearing shall be conducted in accordance with the rules of evidence as established in Connecticut General Statutes §4-178. The Hearing Officer shall render a decision within ten days of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, he shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, he shall assess the fines against such person as provided in the citation.
- e) If the assessment by the Hearing Officer is not paid to the Tax Collector within ten days of the decision of the Hearing Officer, the procedures set out in Connecticut General Statutes § 7-152 (f) shall apply.
 - f) The Mayor shall appoint one or more citation Hearing Officers to conduct the hearings provided in subsection (G) of this section. Neither the Zoning Enforcement Officer, the Building Official, nor any employee, agent or member of the Inland-Wetlands Commission who exercises Wetlands Commission authority may be appointed as a Hearing Officer.

SECTION 15 AMENDMENTS

15.1 AMENDMENTS TO REGULATIONS AND INLAND WETLANDS MAPS

These regulations and the inland wetlands maps may be amended, from time to time, by the Commission in accordance with changes in the General Statutes of Connecticut or regulations of the Connecticut Department of Energy and

Simsbury

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- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

SECTION 14 - ENFORCEMENT

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 With the consent of the property owner or the authorized agent of the owner having been given in the permit application or thereafter, [t]he Agency or its agent may, during the life of the permit, make regular inspections upon reasonable notice and at reasonable hours of all regulated activities for which permits have been issued.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.

If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:

- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.
- b. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including site plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15 days) of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.3.a or other enforcement proceedings as provided by law.
- d. Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be fined not more than one thousand dollars (\$1,000.00) and/or be imprisoned for not more than six (6) months for each offense. Each violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.
- e. The Commission may petition the Superior Court to restrain a continuing violation, to correct or remove a violation, and to assess damages in an amount necessary to effect restoration of the affected wetlands and watercourses.

SECTION 15 - AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Maps for the Town of Simsbury may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and upland review areas, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Simsbury Inland Wetlands and Watercourses Maps shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption. (Note: Application fee scheduled shall be adopted as Commission regulations or as otherwise provided by town ordinance.)
- 15.4 Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map of the Town of Simsbury shall contain at least the following information:

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Section 12
Action by Wetlands Agent

- 12.1 The Commission hereby delegates to its Wetlands Agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form approved by the Commission and shall contain the information listed under Section 7.5 of these regulations deemed relevant and necessary by the wetlands agent. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.
- 12.3 The wetlands agent shall report to the Commission any such licenses approved or extended at the regular meeting following such approvals.

Section 13
Bond and Insurance

- 13.1 The Commission may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the Commission.
- 13.2 The bond or surety shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 The Commission may require as a permit condition the filing of a Hold Harmless agreement in a form acceptable to the Commission.

Section 14
Enforcement

- 14.1 The Commission appoints the Wetlands Enforcement Officer as its agent to act in its behalf with the authority to issue notices of violation, cease and desist orders, or cease and correct orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or the Wetlands Enforcement Officer shall take into consideration the criteria for decision under section 10.2 of these regulations.

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- 14.2 The Commission or the Wetlands Enforcement Officer may make regular inspections of all regulated activities for which permits have been issued as authorized by law or by the signed application during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Commission or the Wetlands Enforcement Officer may make regular inspections with the consent of the property owner or the authorized agent of the property owner or as otherwise allowed by law.
- 14.4 If the Commission or Wetlands Enforcement Officer finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Commission or the Wetlands Enforcement Officer may:
- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.
 - b. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in section 14.4.a or other enforcement proceedings as provided by law.
- 14.5 The Commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- 14.6 Any person who commits, takes part in, or assists in any violation of any provision of the Town of Vernon Inland Wetlands and Watercourses Regulations shall be subject to a fine of not more than one thousand dollars (\$1,000.00) for each offense. Each violation of said regulations shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be

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deemed to be a separate and distinct violation. The Superior Court, in an action brought by the Commission, shall have jurisdiction to restrain a continuing violation of said regulations and to issue orders directing the violation to be corrected or removed. All costs, fees and expenses, including reasonable attorney's fees, in connection with such action shall be assessed as damages against the violator.

Section 15 Amendments

- 15.1 These regulations and the Inland Wetland and Watercourse Map for the Town of Vernon may be amended from time to time by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Vernon Inland Wetland and Watercourse Map ("map") shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption. A copy of any proposed amendment to these regulations and/or the map shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before the public hearing.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetland and Watercourse Map, Town of Vernon, Connecticut" shall contain at least the following information:
 - a. the petitioner's name, mailing address and telephone number;
 - b. the address, or location, of the land affected by the petition;
 - c. the petitioner's interest in the land affected by the petition
 - d. map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
 - e. documentation by a soil scientist of the distribution of wetland soils on said land; such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - f. map(s) showing existing and/or proposed development of the land in relation to existing and proposed wetland and watercourse boundaries;

Wethersfield

ORDINANCE

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Article II Zoning and Wetlands Regulations

[Adopted 10-17-2005]

§ 73-7 Purpose.

The purpose of this chapter is to establish penalties for violations of the Town's Zoning Regulations and Inland and Wetland Regulations,^[1] establish procedures for issuance of citations to violators and for collections of fines and to have the Town's citation hearing procedure (Article I, Citation Hearing Procedure, of this Chapter 73) apply to citations hereunder issued.

[1]

Editor's Note: See Ch. 167, Zoning, and Ch. A181, Inland Wetlands and Watercourses Regulations, respectively.

§ 73-8 Issuance of orders and citations.

The Town's Zoning Enforcement Official or agent is authorized to issue cease-and-desist orders or other appropriate orders to a violator of the Town's Zoning Regulations or the Town's Inland Wetland and Watercourses Regulations or of any approval or permit issued by the Town Planning and Zoning Commission or Inland Wetlands and Watercourses Commission. If such violation has not been remedied either immediately or within 10 days of the date of issuance of the cease- and-desist order or other appropriate order, as provided in the order, the Enforcement Official, or such other Town official or employee designated by the Town Manager to issue citations, unless such time has been extended for good cause by the Enforcement Official, shall issue a citation to the violator which shall invoke the Town's citation hearing procedure set forth in Article I, Citation Hearing Procedure, of this Chapter 73. However, in the case where a violation is found by the Enforcement Official or agent to be willful, penalties may be assessed from the date such violation has been committed.

§ 73-9 Penalties for offenses; hearing.

A.

The penalty for each violation of the zoning regulations or approvals or permits issued shall be \$150 for each day that such violation continues beyond the compliance date in the cease-and-desist order. Notwithstanding the preceding, in instances of willful violations and instances where the violation is not corrected within such manner and time period stipulated in the order, fines may be assessed from the date such violation has been committed.

B.

The penalty for each violation of the Inland Wetlands and Watercourses Regulations or approvals or permits issued shall be from \$150 to \$1,000 for each day that such violation continues beyond the compliance date in the cease-and-desist order. Notwithstanding the preceding, in instances of willful violations and instances where the violation is not

corrected within such manner and time period stipulated in the order, fines may be assessed from the date such violation has been committed. The Inland Wetlands and Watercourses Commission, within 10 days of the issuance of an order, shall hold a hearing to provide the alleged violator an opportunity to be heard and show cause why the order should not remain in effect. No fines may be levied against the state or any employee of the state acting within the scope of his employment.

§ 73-10 Procedure.

The procedure to be followed with respect to all citations issued under this chapter shall be the citation hearing procedure set forth in Article I, Citation Hearing Procedure, of this Chapter 73 of the Wethersfield Code.

Willington
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Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.

- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

SECTION 13. BOND AND INSURANCE

- 13.1 The Agency may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the Agency.
- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 The applicant may be required to certify that it has comprehensive property liability insurance against liability for injury to persons and damage to property which may result from the entry of persons for site walks, inspections, or other purposes in connection with the proposed operation or use, and continuing for at least two (2) years after completion of such operations. Such insurance shall be in an amount to be determined by the Agency commensurate with the projected operation and the extent of anticipated inspection.

SECTION 14. ENFORCEMENT

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this Section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these regulations.
- 14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit.

14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours.

14.4 If the Agency or its designated agent finds that any person is conducting or maintaining any activity, facility or condition, which is in violation of the Act or these regulations, the Agency or its duly authorized agent, may:

- a. Issue a written order by certified mail; return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this Subsection shall not delay or bar an action pursuant to Section 22a-44 (b) of the Connecticut General Statutes, as amended.
- b. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.3.a or other enforcement proceedings as provided by law.

14.5 The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

14.6 Any person who commits, takes part in, or assists in, any violation of any provision of Sections 22a-36 to 22a-45 inclusive of the General Statutes, as amended, including these Regulations shall be subject to the penalties of the General Statutes as amended. Violators may be fined up to

\$1,000 per day, plus court costs, and/or imprisoned up to six months for a first offense, and fined up to \$2,000 per day and/or imprisoned up to one year for a subsequent offense. Corporate officers responsible for a violation are subject to such fines or imprisonment.

- 14.7 All enforcement activities undertaken by the Town and all appeals which pertain to the wetlands and watercourses of the State shall be reported, on a form supplied by the Commissioner, to the Commissioner within fifteen (15) days of the commencement of such action.

SECTION 15. AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Willington may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection or as new information regarding soils and inland wetlands and watercourses become available.
- 15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this Section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Willington Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Willington, Connecticut", shall contain at least the following information:
- The petitioner's name, mailing address and telephone number;
 - The address, or location, of the land affected by the petition;
 - The petitioner's interest in the land affected by the petition;
 - Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
 - The reasons for the requested action.

S. Windsor Town Ord.

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ARTICLE VI. - INLAND-WETLANDS AND WATERCOURSES

DIVISION 1. - GENERALLY

Secs. 70-201—70-220. - Reserved.

DIVISION 2. - CITATION PROCEDURES AND FINES FOR VIOLATIONS

Sec. 70-221. - Issuing authority.

The wetlands agent (wetlands enforcement officer), after making reasonable attempts to resolve or remedy violations of the inland wetlands and watercourses regulations of the Town of South Windsor, is authorized to issue citations for violations of the inland wetlands and watercourses regulations of the Town of South Windsor, to the extent and in the manner provided by this division. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. The wetlands agent shall file and retain an original or certified copy of the citation.

(Ord. No. 168, § 1, 3-3-03)

Sec. 70-222. - Fines.

The fine for the first such citation issued to any person with respect to any specific parcel of land shall be \$250.00. The fine for the second citation issued to any person with respect to any specific parcel of land shall be \$500.00. Subsequent citations issued to any person with respect to any specific parcel of land shall be \$1,000.00 for each such citation. All fines shall be made payable to the treasurer of the Town of South Windsor.

(Ord. No. 168, § 2, 3-3-03)

Sec. 70-223. - Period an uncontested payment of fine.

Any person receiving such a citation shall be allowed a period of 30 days from his or her receipt of the citation to make an uncontested payment of the fine specified in the citation to the treasurer. If the citation has been sent by regular mail pursuant to the provisions of [section 70-221](#) of this division, the day of the receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.

(Ord. No. 168, § 3, 3-3-03)

Sec. 70-224. - Notification if fine not timely paid.

If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the treasurer within the time allowed under [section 70-223](#) of this division, the wetlands agent shall send a notice to the person cited, informing such person:

(1) Of the allegations against him or her, the amount of the fines, and the imposition of the administrative fee set forth in [section 70-225](#);

(2) That the person cited may contest liability before a hearing officer appointed by the town manager, as provided in [section 70-229](#) of this division, by delivering, in person or by mail, within ten days of the date of the notice, a written demand for a hearing;

(3) That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and

(4) That such judgment may issue without further notice.

(Ord. No. 168, § 4, 3-3-03)

Sec. 70-225. - Admission of liability.

If the person who is sent notice pursuant to [section 70-224](#) of this division wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, together with an additional administrative fee, either in person or by mail, to the wetlands agent. Said administrative fee shall be established by resolution of the inland wetlands agency, with input from the town manager, and amended from time to time as determined by the inland wetlands agency. All fines and fees shall be made payable to the treasurer of the Town of South Windsor. 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 ten days of the date of the notice described in [section 70-224](#) of this division shall be deemed to have admitted liability, and the wetlands agent shall certify to the hearing officer that such person has failed to respond. The hearing officer shall thereupon enter and assess the fines and fees provided for by this division and shall follow the procedures set forth in [section 70-228](#) of this division.

(Ord. No. 168, § 5, 3-3-03)

Sec. 70-226. - Request for hearing.

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 15 days nor more than 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 wetlands agent shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The wetlands agent 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 him or her upon a finding of proper notice and liability under the applicable provisions of the inland wetlands and watercourses 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 and with such methods of proof as he or she 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 his or her 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 that 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 division, including an additional hearing fee. Said hearing fee shall be established by resolution of the inland wetlands agency, with input from the town manager, and amended from time to time as determined by the inland wetlands agency.

(Ord. No. 168, § 6, 3-3-03)

Sec. 70-227. - Compliance.

The payment of the assessed fines does not absolve the person from the obligation of complying with the terms of the violation order.

(Ord. No. 168, § 7, 3-3-03)

Sec. 70-228. - Notice of assessment.

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court for geographical area no. 19 in Rockville, together with an entry fee of \$8.00 or such other amount as may be required by state law. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

(Ord. No. 168, § 8, 3-3-03)

Sec. 70-229. - Conducting of hearing.

The town manager, with input from the town council, shall appoint one or more citation hearing officers to conduct the hearings provided by this division. Neither the wetlands agent, the building inspector, nor any other employee of the Town of South Windsor may be appointed as a hearing officer pursuant to this division. The rate of compensation of the hearing officer, administrative fees, and hearing fees shall be determined by resolution of the inland wetlands agency, with input from the town manager, and may be reviewed and adjusted on an annual basis.

(Ord. No. 168, § 9, 3-3-03)

Sec. 70-230. - Issuance of citation.

No citation shall be issued pursuant to this division unless:

- (1) The wetlands agent has provided notice of the violation to the person who would have received the citation;
- (2) The notice specifies a reasonable time for the violation to be corrected; and
- (3) The violation is not corrected within the time required.

The hearing officer shall not uphold the issuance of any citation if he or she determines that the time proved for the violation to be corrected was unreasonable under all of the circumstances.

(Ord. No. 168, § 10, 3-3-03)



TOWN OF EAST WINDSOR

PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

11 Rye Street, Broad Brook, CT 06016

PHONE: (860) 623-6030 FAX: (860) 623-4798

PLANNING & DEVELOPMENT WEB SITE ➔ <http://www.eastwindsor-ct.gov>

POLICY FOR WETLAND VIOLATION ENFORCEMENT AND CITATIONS

1. The violation shall be verified and documented by the Wetland Enforcement Official.
2. A Notice of Violation (hereinafter NOV) will be sent to the property owner. This NOV will document the details of the violation, reference to non-conformance with ordinance number and/or Wetland Regulation Section. The NOV will include details for how to bring the property into compliance.
3. A written response will be required by the violator within 15 (fifteen) days of the NOV explaining how the violation occurred and what steps they have taken to comply with the NOV. A total of 30 (thirty) days from the date of the NOV will be provided for compliance.
4. If the conditions of the NOV are not met within 30 days from the date of issuance, the wetland agent will ask the Commission to vote on whether a citation inclusive of fines may be issued. Once approval is issued from the Commission granting the issuance of a citation, fines may commence 30 days after the issuance of a citation (not the NOV). For every day that a violation continues a new citation can be issued.
5. Any person who has received a NOV need not to receive a second notice of violation before a citation is issued. For those violations in which time is of the essence, i.e. filling of a stream embankment, diversion of a watercourse, large amounts of sediment flowing into a wetland or watercourse, a second NOV would NOT be issued. For those violations in which a longer time can be provided to achieve compliance, i.e. work in the upland review area which does not pose an immediate threat to the wetland or watercourse, failure to install or maintain silt control measures in accordance to an approved plan, or non-compliance with permit conditions, a second notice may be issued.
6. A reminder notice shall be sent every 15 days with accumulated fines and requirements for compliance.
7. Violations that are not brought into compliance within 35 days of issuance of a citation may be subject to a Notice of Non-Compliance.
8. Payments of fines and appeals of citations shall follow the procedure outlined in the adopted ordinance.
9. In extreme circumstances where permanent damage and pollution can occur to a wetland or water resource, the wetland agent will issue a Cease and Desist OR Cease and Correct Order along with a Citation. If the Commission at the show cause hearing overturns the Agent's Cease and Desist or Cease and Correct Order the Citation will become null and void.



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TOWN OF EAST WINDSOR

PLANNING & ZONING DEPARTMENT

11 RYE STREET

BROAD BROOK, CT. 06016

FAX: (860) 623-6030

TOWN PLANNER LAURIE WHITTEN, CZEO, AICP

ZONING ENFORCEMENT OFFICER, ROBIN M. NEWTON

MEMORANDUM

TO: Denise Menard, First Selectman
FROM: Robin M. Newton, Assistant Town Planner/ZEO/Wetlands Agent
DATE: March 31, 2009
SUBJECT: Proposed Citation Ordinance for Wetland Enforcement

Hi Denise,

Here is the revised Ordinance per your request to take out the actual fine schedule from the body of the Ordinance. At the March 4, 2009 Inland Wetland Meeting, I discussed the removal of the fine schedule with the Commission and they were fine with the change.



TOWN OF EAST WINDSOR

PLANNING & ZONING DEPARTMENT

11 RYE STREET

BROAD BROOK, CT. 06016

FAX: (860) 623-6030

TOWN PLANNER LAURIE WHITTEN, CZEO, AICP

ZONING ENFORCEMENT OFFICER, ROBIN M. NEWTON

MEMORANDUM

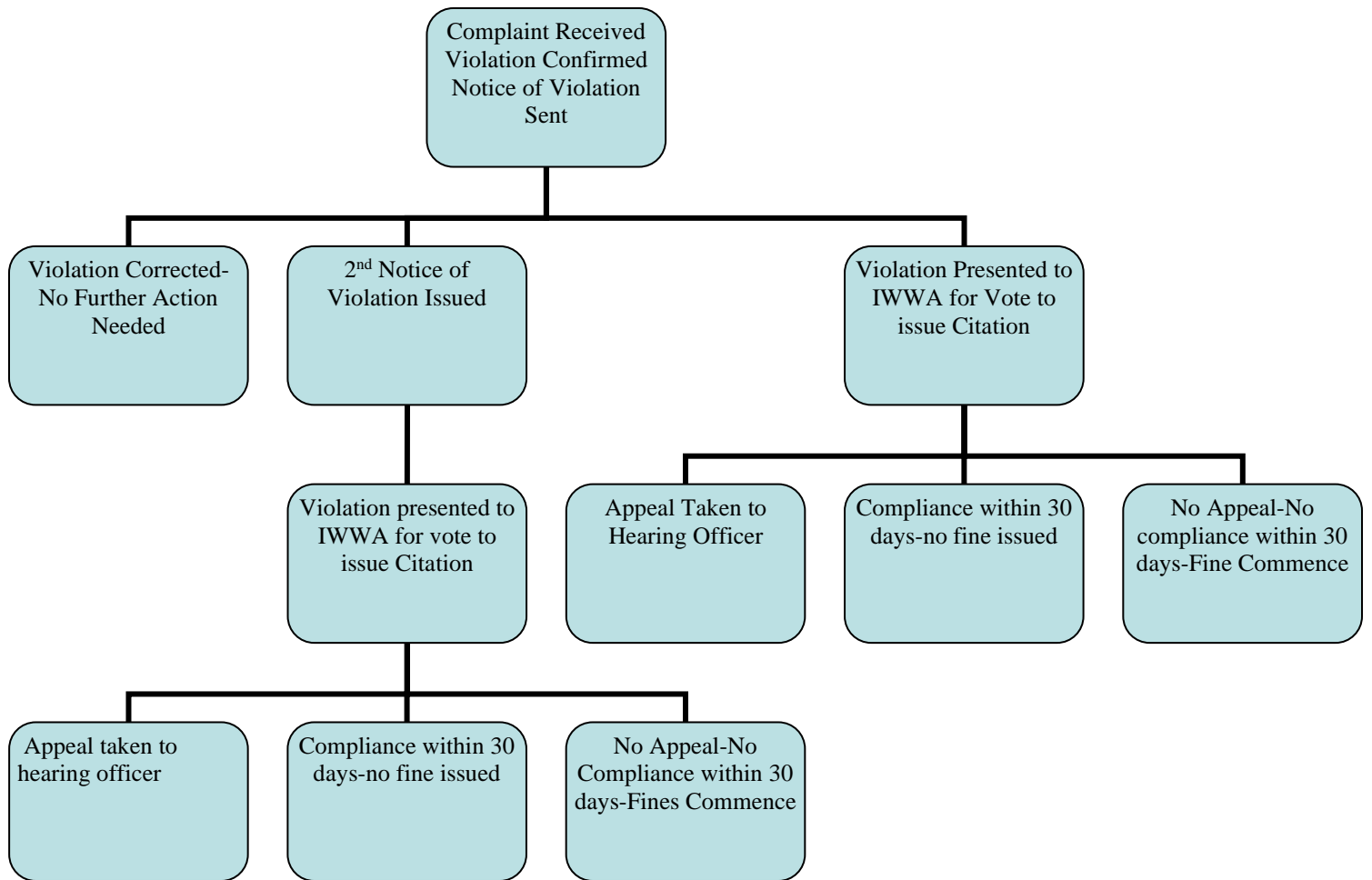
TO: Denise Menard, First Selectman
FROM: Robin M. Newton, Assistant Town Planner/ZEO/Wetlands Agent
DATE: February 10, 2009
SUBJECT: **Proposed Citation Ordinance for Wetland Enforcement**

The Town of East Windsor currently has no tools to use in the enforcement of wetland violations besides taking a violator to Superior Court, where civil penalties and fines may be issued, should the courts find in favor of the municipality. The Connecticut General Statutes (hereinafter C.G.S.) provides municipalities with the authority to adopt ordinances which allow citations and fines as enforcement tools that can be used by a wetland enforcement official.

As an alternative to taking a violator to court, C.G.S. Sec. 22a-42g provides municipalities the ability to adopt an ordinance to issue citations with fines as a tool for a wetland enforcement official to use to achieve compliance. This statute offers a wetland enforcement official the ability to achieve compliance by issuing a citation and fine for a continued violation without having to go to Superior Court. A violator will have the opportunity to appeal the citation and fines to a Hearing Officer, appointed by the Selectman. The Hearing Officer holds a hearing and makes a determination as to whether or not the violator should be assessed the fines or forgiven.

If a violation continues, without compliance or payment of fines, the enforcement procedure still may be taken to Superior Court. This fine ordinance is to be used as a tool to help with the enforcement of the wetland regulations and to encourage compliance by individuals before the need to go to Superior Court arises. This fine ordinance should be used as a tool to achieve compliance and show that the Town is serious about achieving compliance to violations.

Please advise me as to whether or not you require my attendance at a Board of Selectmen Meeting concerning this matter.





TOWN OF EAST WINDSOR

PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

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PLANNING & DEVELOPMENT WEB SITE ➔ <http://www.eastwindsor-ct.gov>

MEMORANDUM

TO: East Windsor Inland Wetland Watercourses Agency
FROM: Robin M. Newton, Wetland Enforcement Agent
DATE: January 5, 2009
SUBJECT: Proposed Citation Ordinance for Wetland Violations

The Town of East Windsor currently has no tools to use in the enforcement of wetland violations besides taking a violator to Superior Court, where civil penalties and fines may be issued, should the courts find in favor of the municipality. The Connecticut General Statutes (hereinafter C.G.S.) provides municipalities with the authority to adopt ordinances which allow citations and fines as enforcement tools that can be used by a wetland enforcement official.

I am attaching the following information to review:

1. C.G.S. 7-152c- This statute regulates the hearing procedure for citations. Section E of the proposed ordinance follows this statute. I am asking the Commission to discuss Section E.2 which references a time frame of 12 months for a notice to be sent following a citation that has been issued and payment that has not been made within the specified timeframe cited in the citation. 12 months is the most amount of time this can be. To use this citation ordinance as an effective tool I would recommend somewhere between 3-5 months in the place of the 12 month period.
2. FYI- C.G.S. 22a-42g- This is the statute that gives municipalities the authority to issue fine citations for wetland violations.
3. Written policy concerning the timing and process under which the Wetland Enforcement Official will issue citations.

As an alternative to taking a violator to court, C.G.S. Sec. 7-152c provides for municipalities to adopt ordinances to issue citations with fines as a tool for a wetland enforcement official to use to achieve compliance. This statute offers a wetland enforcement official a tool to use to try and achieve compliance by issuing a citation and fine for a continued violation without having to go to Superior Court. A violator will have the opportunity to appeal the citation and fines to a Hearing Officer, appointed by the Selectman. The Hearing Officer holds a hearing and makes a determination as to whether or not the violator should be assessed the fines or forgiven.

If a violation continues, without compliance or payment of fines, the enforcement procedure still may be taken to Superior Court. This fine ordinance is to be used as a tool to help with the enforcement of the wetland regulations and to encourage compliance by individuals before the need to go to Superior Court arises. Fine ordinances are not revenue generators nor should they be. This fine ordinance should be used as a tool to achieve compliance and show that the Town is serious about achieving compliance to violations.

TOWN OF EAST WINDSOR

Wetland Violation Citations & Procedures, Ordinance #2013-_____

The following ordinance was adopted at a Special Town Meeting duly warned and held on _____.

BE IT ORDAINED:

ORDINANCE ENTITLED "WETLAND VIOLATION CITATIONS & PROCEDURES"

A. Purpose:

The purpose of this ordinance is to establish a means by which the Town of East Windsor can effectively enforce the Town of East Windsor Inland Wetland and Watercourses Regulations (the Regulations), with the implementation of citations and fines for violations and continued noncompliance of the Regulations.

B. Statutory Authority:

Pursuant to Connecticut General Statutes (C.G.S.) Section 22a-42g, as may be amended, and in addition to the remedies provided in C.G.S. Section 22a-44, the Wetland Enforcement Official is authorized to issue citations for violations of the Town of East Windsor Inland Wetland and Watercourses Regulations to the extent and manner provided for by this section. A citation may be issued for those types of Inland Wetland and Watercourses violations specified in Section C. of this ordinance. No citations may be issued against the State or any State Official or employee acting within the scope of his employment.

C. Schedule of Fines:

The schedule of fines will be a separate document maintained and updated by the Inland Wetland and Watercourses Agency and kept in the East Windsor Planning and Development Office.

Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse:
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse:
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse:
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit:
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit:
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse:
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above:

Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan:
2. Non-compliance with permit conditions:
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas:
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse:

Each day that the violation remains uncorrected shall be considered a separate offense. The Wetland Enforcement Official may issue additional citations daily if the violation continues or remains uncorrected to his/her satisfaction.

D. Service of Notice; citation:

Any citation issued under this ordinance shall be and is sufficient if provided in one of the following forms, unless otherwise stated:

1. In hand service, by the Wetland Enforcement Official;
2. Certified mail, return receipt requested and regular mail, to the last known address of the person cited or to the address listed in records at the Assessor's Office.
3. Service by a State Marshal who shall serve the person named in the citation in hand or by leaving a true copy of the citation at the usual place of abode of such person or by any other service authorized for the service of civil process in the State of Connecticut. Marshal's service shall be effective at the time personal, abode or other service is made by the serving marshal.
4. A citation sent by regular mail shall be deemed and considered received on the fourth business day following mailing.

The Wetland Enforcement Official shall file and retain a true and accurate copy of the original citation so served, the date, place and manner of service and the date of mailing if service is by mail. If service is executed by a State Marshal, the Marshal's return of service shall be filed and retained by the Wetland Enforcement Officer.

E. Citations and Procedures:

1. Any person receiving such citation shall be allowed a period of 30 (thirty) calendar days from receipt of said citation to make an uncontested payment of the fine specified in the citation. If a person cited makes an uncontested payment within the prescribed 30 (thirty) calendar days and the cited violation has been remedied, the fine shall be equivalent to the fee in accordance with Section C of this ordinance.

2. If a person who has been issued a citation does not make an uncontested payment of the fine specified in the citation within the time allowed under Section E.1 of this ordinance, the Wetland Enforcement Official shall send a notice to the person cited, within 3 (three) months of the end of said uncontested payment period, informing such person:

- a. Of the allegations against him or her and the amount of the accumulated fines;
- b. That the person cited may contest liability before a Hearing Officer appointed by the First Selectman as provided in Section E.4 of this ordinance, by delivering, in person or by mail, within 10 days of the date of the notice, a written demand for a hearing;
- c. That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her;
- d. That such judgment may issue without further notice.

3. If the person who is sent the notice pursuant to Section E.2 chooses to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine either in person or by mail, to the Planning Office of the Town of East Windsor. All fines shall be made payable to the Treasurer, Town of East Windsor. Such payment shall be made 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 10 (ten) days of the date of the notice described in Section E.2. shall be deemed to have admitted liability, and the Wetlands Enforcement Official 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 section and shall follow the procedures set forth in Section E.4 of this Ordinance.

4. 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 15 days nor more than 30 days from the date of the mailing of notice, provided that the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original certified copy of the initial notice of violation issued by the issuing official shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of CGS §52-180 and evidence of the facts contained therein. The presence of the Wetland Enforcement Official shall be required at the hearing. A person wishing to contest liability shall appear at the hearing and may present evidence on his or her behalf. The Wetland Enforcement Official may present evidence on behalf of the Town of East Windsor. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Town of East Windsor Inland Wetland Regulations and Wetland Violation Citation and Procedure Ordinance. 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 a person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he or she 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 his or her decision at the end of the meeting. If the Hearing Officer determines that the person who received is not liable, the Hearing Officer shall dismiss the matter and enter that 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 Section.

5. If such assessment is not paid on the date of its entry, the Hearing Officer shall send, by first class mail, a notice of the assessment to the person liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court, together with the appropriate entry fee. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes pursuant to C.G.S. 7-152c.

6. The First Selectman shall appoint one citation Hearing Officer to conduct hearings provided by this section. Hearing Officers shall serve for terms of two years, unless removed for cause. Neither the Wetland Enforcement Official nor any employee, agent or member of the Town of East Windsor Planning and Development Department or Inland Wetland Commission who exercises Wetland Commission Authority may be appointed as a Hearing Officer.

Said Ordinance shall become effective fifteen (15) days from publication thereof.

TOWN OF EAST WINDSOR

Wetland Violation Citations & Procedures, Ordinance #2013-_____

The following ordinance was adopted at a Special Town Meeting duly warned and held on _____.

BE IT ORDAINED:

ORDINANCE ENTITLED "WETLAND VIOLATION CITATIONS & PROCEDURES"

A. Purpose:

The purpose of this ordinance is to establish a means by which the Town of East Windsor can effectively enforce the Town of East Windsor Inland Wetland and Watercourses Regulations (the Regulations), with the implementation of citations and fines for violations and continued noncompliance of the Regulations.

B. Statutory Authority:

Pursuant to Connecticut General Statutes (C.G.S.) Section 22a-42g, as may be amended, and in addition to the remedies provided in C.G.S. Section 22a-44, the Wetland Enforcement Official is authorized to issue citations for violations of the Town of East Windsor Inland Wetland and Watercourses Regulations to the extent and manner provided for by this section. A citation may be issued for those types of Inland Wetland and Watercourses violations specified in Section C. of this ordinance. No citations may be issued against the State or any State Official or employee acting within the scope of his employment.

C. Schedule of Fines:

The schedule of fines will be a separate document maintained and updated by the Inland Wetland and Watercourses Agency and kept in the East Windsor Planning and Development Office.

Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse:
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse:
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse:
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit:
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit:
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse:
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above:

Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan:
2. Non-compliance with permit conditions:
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas:
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse:

Each day that the violation remains uncorrected shall be considered a separate offense. The Wetland Enforcement Official may issue additional citations daily if the violation continues or remains uncorrected to his/her satisfaction.

D. Service of Notice; citation:

Any citation issued under this ordinance shall be and is sufficient if provided in one of the following forms, unless otherwise stated:

1. In hand service, by the Wetland Enforcement Official;
2. Certified mail, return receipt requested and regular mail, to the last known address of the person cited or to the address listed in records at the Assessor's Office.
3. Service by a State Marshal who shall serve the person named in the citation in hand or by leaving a true copy of the citation at the usual place of abode of such person or by any other service authorized for the service of civil process in the State of Connecticut. Marshal's service shall be effective at the time personal, abode or other service is made by the serving marshal.
4. A citation sent by regular mail shall be deemed and considered received on the fourth business day following mailing.

The Wetland Enforcement Official shall file and retain a true and accurate copy of the original citation so served, the date, place and manner of service and the date of mailing if service is by mail. If service is executed by a State Marshal, the Marshal's return of service shall be filed and retained by the Wetland Enforcement Officer.

E. Citations and Procedures:

1. Any person receiving such citation shall be allowed a period of 30 (thirty) calendar days from receipt of said citation to make an uncontested payment of the fine specified in the citation. If a person cited makes an uncontested payment within the prescribed 30 (thirty) calendar days and the cited violation has been remedied, the fine shall be equivalent to the fee in accordance with Section C of this ordinance.

2. If a person who has been issued a citation does not make an uncontested payment of the fine specified in the citation within the time allowed under Section E.1 of this ordinance, the Wetland Enforcement Official shall send a notice to the person cited, within 3 (three) months of the end of said uncontested payment period, informing such person:

- a. Of the allegations against him or her and the amount of the accumulated fines;
- b. That the person cited may contest liability before a Hearing Officer appointed by the First Selectman as provided in Section E.4 of this ordinance, by delivering, in person or by mail, within 10 days of the date of the notice, a written demand for a hearing;
- c. That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her;
- d. That such judgment may issue without further notice.

3. If the person who is sent the notice pursuant to Section E.2 chooses to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine either in person or by mail, to the Planning Office of the Town of East Windsor. All fines shall be made payable to the Treasurer, Town of East Windsor. Such payment shall be made 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 10 (ten) days of the date of the notice described in Section E.2. shall be deemed to have admitted liability, and the Wetlands Enforcement Official 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 section and shall follow the procedures set forth in Section E.4 of this Ordinance.

4. 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 15 days nor more than 30 days from the date of the mailing of notice, provided that the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original certified copy of the initial notice of violation issued by the issuing official shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of CGS §52-180 and evidence of the facts contained therein. The presence of the Wetland Enforcement Official shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence on his or her behalf. The Wetland Enforcement Official may present evidence on behalf of the Town of East Windsor. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Town of East Windsor Inland Wetland Regulations and Wetland Violation Citation and Procedure

Ordinance. 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 a person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he or she 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 his or her decision at the end of the meeting. If the Hearing Officer determines that the person who received is not liable, the Hearing Officer shall dismiss the matter and enter that 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 Section.

5. If such assessment is not paid on the date of its entry, the Hearing Officer shall send, by first class mail, a notice of the assessment to the person liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court, together with the appropriate entry fee. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes pursuant to C.G.S. 7-152c.

6. The First Selectman shall appoint one citation Hearing Officer to conduct hearings provided by this section. Hearing Officers shall serve for terms of two years, unless removed for cause. Neither the Wetland Enforcement Official nor any employee, agent or member of the Town of East Windsor Planning and Development Department or Inland Wetland Commission who exercises Wetland Commission Authority may be appointed as a Hearing Officer.

Said Ordinance shall become effective fifteen (15) days from publication thereof.



TOWN OF EAST WINDSOR

PLANNING AND DEVELOPMENT

Planning, Zoning, Zoning Board of Appeals, Conservation/Inland Wetlands, Economic Development

11 Rye Street, Broad Brook, CT 06016

PHONE: (860) 623-6030 FAX: (860) 623-4798

PLANNING & DEVELOPMENT WEB SITE ⇨ <http://www.eastwindsor-ct.gov>

SCHEDULE OF FINES FOR WETLAND VIOLATIONS

ADOPTED : , 2013 BY EAST WINDSOR INLAND WETLAND AND WATERCOURSES AGENCY

Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse: **\$150.00**
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse: **\$300.00**
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse: **\$350.00**
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit: **\$500.00**
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit: **\$750.00**
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse: **\$1000.00**
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above: **\$250.00**

Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan: **\$150.00**
2. Non-compliance with permit conditions: **\$150.00**
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas: **\$250.00**
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse: **\$500.00**



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SCHEDULE OF FINES FOR WETLAND VIOLATIONS

ADOPTED : , 2013 BY EAST WINDSOR INLAND WETLAND AND WATERCOURSES AGENCY

Nature of Violation (for activities with no active permit):

1. Conduct, without a permit, activities in the upland review area which do not pose an immediate danger to a wetland or watercourse: **\$ 50.00**
2. Conduct, without a permit, activities in the upland review area which may pose an immediate danger to a wetland or watercourse: **\$150.00**
3. Conduct, without a permit, activities in a wetland or watercourse which cause limited and/or correctable damage to a wetland or watercourse: **\$200.00**
4. Excavating, filling and/or draining of any portion of a wetland or watercourse, without a permit: **\$500.00**
5. Diverting, damming or otherwise changing the course of a watercourse, without a permit: **\$1000.00**
6. Conduct, without a permit, any activity which causes sediment to flow into any wetland or watercourse or otherwise causes the pollution of a wetland or watercourse: **\$1000.00**
7. Conduct, without a permit, in an inland/wetland or watercourse or regulated area, or any other regulated activity in a regulated area not listed above: **\$ 50.00**

Nature of Violation (for activities with an active permit):

1. Failure to install and maintain silt control measures, silt fence, haybales, riprap and other similar sediment controls measures in accordance with an approved plan: **\$100.00**
2. Non-compliance with permit conditions: **\$150.00**
3. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts upland review areas: **\$250.00**
4. Conduct, with a permit, which exceeds the scope of the wetlands permit and encroaches upon or impacts a wetland or watercourse: **\$500.00**



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TOWNS WHICH WERE REVIEWED FOR WETLAND FINE ORDINANCE

1. ELLINGTON
2. SHERMAN
3. EAST HARTFORD
4. SEYMOUR
5. SOUTH WINDSOR
6. NEW CANAAN
7. WESTPORT
8. WATERTOWN
9. BRANFORD
10. CROMWELL
11. BROOKFIELD
12. GREENWICH
13. WASHINGTON
14. THOMASTON
15. MADISON
16. MARBOROUGH