

Amendments to Ordinance Chapter 39, Citations

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WHEREAS; pursuant to Conn. Gen. Stat. § C.G.S. § 7-148(c)(10)(A), the Town of Weston is authorized to enforce violations of the Code of Ordinances by civil citation; and

WHEREAS; the existing Chapter 39 of the Code of Ordinances currently authorizes the enforcement of violations of certain Zoning and Inlands and Wetlands Regulations by citation and establishes a process for hearing and appeal of contested citations pursuant to Conn. Gen. Stat. § 7-152c; and

WHEREAS; in order to enforce violations of the Code of Ordinances by civil citation, the Town of Weston must amend Chapter 39 to authorize enforcement of violations of the Code of Ordinance by civil citation; and

WHEREAS; in order to enforce violations of the Code of Ordinances by civil citation, the Town of Weston must further amend Chapter 39 to apply the existing hearing and appeal procedure to citations issued for violation of the Code of Ordinances.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SELECTMEN THAT: Chapter 39, "Citations", is amended to authorize the enforcement of the Code of Ordinances by civil citation and to apply the existing process for hearing and appeal to such citations, as follows:

Article I: Zoning

§ 39-1 Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Zoning Regulations, with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an exclusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under Connecticut General Statutes § 8-12.

§ 39-2 Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Zoning Inspector, also known as the "Zoning Enforcement Officer" and "Compliance Officer," appointed by the Planning and Zoning Commission.

COMMISSION. The Planning and Zoning Commission of the Town of Weston.

REGULATIONS. The Zoning Regulations of the Town of Weston, as the same may be amended from time to time by the Planning and Zoning Commission.

§ 39-3 Issuance of citations.

The Code Enforcement Officer is hereby authorized to issue citations for violations of the Zoning Regulations of the Town of Weston to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation. 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, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-4 Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-5 Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for any violation of the Zoning Regulations.

§ 39-6 Amount of fine.

The fine for each such citation under this article shall be \$150 and shall be payable to the Treasurer of the Town of Weston. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article II: Wetlands and Watercourses

§ 39-7 Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Inland Wetlands and Watercourses Regulations, with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an exclusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under Connecticut General Statutes § 22a-44.

§ 39-8 Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Wetlands Enforcement Officer, also known as the "Compliance Officer," appointed by the Board of Selectmen.

COMMISSION. The Conservation Commission of the Town of Weston.

REGULATIONS. The Inland Wetlands and Watercourses Regulations of the Town of Weston, as the same may be amended from time to time by the Conservation Commission.[1]

§ 39-9 Issuance of citations.

The Code Enforcement Officer is hereby authorized to issue citations for violations of the regulations, to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation. 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, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-10 Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-11 Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for any violation of the Inland Wetlands and Watercourses Regulations.

§ 39-12 Amount of fine.

The fine for each such citation under this article shall be \$250.00 and shall be payable to the Treasurer of the Town of Weston for deposit into the general fund of the Town. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article III: Ordinances

§ 39-20: Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Code of Ordinances with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an exclusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under the Connecticut General Statutes.

§ 39-21: Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Compliance Officer of the Town of Weston.

CODE: The Town of Weston Code of Ordinances, as the same may be amended from time to time by the Board of Selectmen or Town Meeting.

§ 39-22: Issuance of citations.

A. The Code Enforcement Officer is hereby authorized to issue citations for violations of the Code to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation.

B. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation and to any lienholder pursuant to C.G.S. § 7-148gg, if applicable. If the person named in a citation sent by certified mail, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-23: Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-24: Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for violation of any Code provisions that have been designated specifically by the Town of Weston for enforcement by citation in the same manner in which they were adopted.

§ 39-25: Amount of fine.

The fine for each citation under this article shall be the General Penalty amount set forth in Section 1-6 of the Code, unless otherwise specified in the Code, and shall be payable to the Treasurer of the Town of Weston for deposit into the general fund of the Town. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article IV: Post Citation Procedures

§ 39-30 Nonpayment of fine; notice; request for hearing.

A. If a person who has been issued a citation under Article I, Article II or Article III does not make uncontested payment of the fine specified in the citation to the Treasurer within the time allowed in § 39-4, 39-10 or 39-23, then, at any time within 12 months from the expiration of the final period for the uncontested payment of the fines, the Code Enforcement Officer shall send a notice to the person cited informing such person:

1. Of the allegations against him or her and the amount of the fines;
2. That the person cited may contest liability before a hearing officer appointed by the First Selectman, as provided in this article, by delivering, in person or by mail, within 10 days from 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 rendered against him or her; and
4. That such judgment may issue without further notice.

§ 39-31 Liability by default.

Any person who does not deliver or mail such payment or who does not deliver or mail a demand for a hearing within the time specified shall be deemed to have admitted liability, and the Code 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 chapter and shall follow the procedures set forth below regarding notice of assessment.

§ 39-32 Hearings in contested cases.

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 the 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 or certified copy of the citation shall be filed at the hearing. The presence of the Code Enforcement Officer 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 person contesting liability has a right to due process and shall be provided fair opportunity to present evidence to the hearing officer. The person contesting liability may be represented by counsel. The Code 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 him or her upon a finding of proper notice and liability under the applicable provisions of the regulations and upon a finding of the number

of days that each violation occurred. 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 from 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 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 chapter.

§ 39-33 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 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 for the geographical area in which the Town is located, together with an entry fee as required by § 7-152c of the Connecticut General Statutes, as the same may be amended from time to time. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

§ 39-34 Appointment of hearing officers.

The First Selectman of the Town of Weston shall appoint one or more citation hearing officers to conduct the hearings provided by this chapter. Neither the Code Enforcement Officer, the Building Inspector, the Conservation Planner, nor any member of the Planning and Zoning Commission, nor any member of the Zoning Board of Appeals, nor any member of the Conservation Commission, nor any police officer, nor any Town employee may be appointed as a hearing officer pursuant to this chapter.

§ 39-35 Appeals to Superior Court.

A person against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen the assessment, together with an entry fee equal to the entry fee for a small claims case pursuant to § 52-259 of the Connecticut General Statutes, in the Superior Court for the geographical area in which the Town is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.