

New provisions are underlined:

Sec. 10-17. Roxbury Inland Wetlands and Watercourses Fine Ordinance

10.17.1. Purpose. The purpose of this Ordinance is to establish an additional means by which the Town of Roxbury may effectively enforce its Inland Wetlands and Watercourses Regulations by the implementation of a citation procedure for the imposition of fines for violations and continued noncompliance with the Regulations.

10.17.2. Authority. This Ordinance is authorized pursuant to Connecticut General Statute, Section 22a-42 g.

10.17.3. Definitions. The following word, terms, and phrases used in this Ordinance shall have the following meanings:

"Commission" means the Roxbury Inland Wetlands and Watercourses Commission, acting as the local wetland agency under Section 22a-36 et seq of the Connecticut General Statutes.

"Agent" means any designated representative or agent of the Town of Roxbury responsible for the supervision of the Inland Wetlands and Watercourses Regulations and who implements the policies and Regulations of the Commission.

"Regulations" shall mean the Inland Wetlands and Watercourses Regulations of the Town of Roxbury, as the same may be amended from time to time.

"Person" means any individual, persons, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

10.17.4. Issuance of Citation. The Commission or its Agent is hereby authorized to issue citations to any Person who commits a violation of the Regulations. In such instances, each citation will apply jointly and severally to the owner of the subject property and his/her agents, tenants, occupants, licensees, lessees, sublessees, contractors and subcontractors. Each day that any violation continues shall be deemed a separate offense, for which a separate citation may be issued

10.17.5. Delivery of Citation. Any such citation may be delivered either by hand delivery or by certified mail to the person named in such citation. The Commission or Agent issuing a citation shall retain a copy of the citation. In addition, a copy of the initial citation shall be reported to The Connecticut Department of Environmental Protection, pursuant to Sections 22a-39-14 of the Connecticut State Regulations.

10.17.6. Content of Citation. The citation shall inform such person: (1) of the allegations against such Person and the amount of the fines; (2) that the Person has a period of thirty (30) 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; (3) that payments shall be made payable to the Town of Roxbury, at the Roxbury Town Hall.

10.17.7. Failure to Pay. If the person cited does not pay the fine within thirty (30) days from the date of the citation, then at any time within twelve months from the expiration of the thirty (30) day period, the Agent shall send a notice to the person cited, by hand delivery or certified mail, 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 pursuant to Wetland Citation Hearing Procedure (“Hearing Procedure”) set forth below, by delivering, in person or by mail, within thirty (30) days from the date of the notice, a written demand for a hearing, pursuant to the Hearing Procedure Ordinance; (3) that if the person cited does not demand such a hearing, the Person shall be deemed to have admitted liability and an assessment of the fine may be issued without further notice.

10.17.8. Amount of Fine. The fine shall be up to one thousand dollars (\$1,000) per citation for activities in the wetlands or watercourses and up to five hundred dollars (\$500) per citation for activities within regulated areas or setbacks and other upland areas that otherwise impact the wetlands or watercourses. No such fine may be levied against the State of Connecticut or any employee of the State acting within the scope of his/her employment.

10.17.9. Additional penalties and remedies. At its discretion, the Commission may seek additional penalties and remedies in accordance with the Regulations.

10.17.10. No limitation on Authority. The provision of this Ordinance shall not be construed to limit or alter the authority, duty and responsibility of the Commission as granted and established under Connecticut's Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, the Regulations, and other legislation that may apply.

10.17.11. Existing Violations. Violations of the Regulations in existence at the effective date of this Ordinance shall be deemed violations under this Ordinance, and fines may be issued accordingly.

10.17.12. Special Land Acquisition Fund. Any fine collected by the Town of Roxbury pursuant to this Ordinance shall be deposited into the Town’s land acquisition fund.

10.17.13. Wetland Citation Hearing Procedure and Post Hearing Procedure.

(a) Establishment. There is hereby established, in accordance with Connecticut General Statutes Section 7-152c, a Wetland Citation Hearing Procedure for the Town of Roxbury for purposes of providing a hearing procedure under this Ordinance. The superior court has the authority to enforce the assessments and judgments provided for under this article.

(b) Appointment of Hearing Officer. The First Selectman, acting within his or her capacity as chief executive officer, shall appoint one (1) or more citation Hearing Officer(s), other than a member of the Commission, an employee of the Town, a policeman serving the Town of Roxbury or persons who issue citations, to conduct the hearings authorized by this Ordinance.

(c) Any Person who timely requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice of hearing, provided 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 initial notice of violation issued by the Agent or the Commission shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of section 52-180 of the Connecticut General Statutes and evidence of the facts contained therein. The presence of the issuing official or police officer shall be required at the hearing if such person so requests. A Person cited wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. The Agent or other designated municipal official or officials, may present evidence to the Hearing Officer on behalf of the Commission. If such Person cited fails to appear, the Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under this Ordinance. The Hearing Officer may accept copies of investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of the person supply said reports and documents is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he 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 decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the Person cited is liable for the violation, he shall forthwith enter and assess the fines against such Person as provided by this Ordinance.

(d) 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 or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

(e) A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Section 52-259 of the Connecticut General Statutes, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.