

# Proposed Final Version

## § 114-3. - Citation procedures and fines for Inland Wetlands and Watercourses violations.

A.

This chapter is adopted pursuant to Connecticut General Statutes 7-152c and 22a-42g, as amended.

B.

The Inland Wetlands Agent is authorized to issue citations for violations of the City of Torrington Inland Wetlands and Watercourses Regulations to the extent and in the manner provided by this section. 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 Inland Wetlands Agent shall file and retain an original or certified copy of the citation.

C.

A citation may be issued for any violations of the City of Torrington Inland Wetlands and Watercourses Regulations.

D.

The citation for each such violation shall be \$100.00, payable to the Treasurer of the City of Torrington. Multiple violations may result in multiple fines on the same premises. For continuing violations, each day of violation shall be considered a separate offense, but only one citation needs to be served for either multiple or continuing violations arising from the same condition, act, or activity. The maximum fine for a violation under this article shall not exceed \$1,000.

E.

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 Subsection A of this section, the day of receipt of the citation shall be deemed to be four days after the day of mailing of the citation.

F.

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 Subsection E of this section, the Inland Wetlands Agent 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 Mayor as provided in Subsection I of this section, by delivering, in person or by mail, within 10 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.

G.

If the person who is sent notice pursuant to Subsection E of this section wishes 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 Treasurer. All fines shall be made payable to the Treasurer of the City of Torrington. 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 a written demand for a hearing within 10 days of the date of the notice described in Subsection E of this section shall be deemed to have admitted liability, and the Inland 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 provided for by this section and shall follow the procedures set forth in Subsection H of this section.

H.

Any person who requests a hearing shall be given written notice of the date, time, and place for the hearing. Hearings shall follow §1-11, Hearing procedures to contest violations, of the City of Torrington Code of Ordinances.

I.

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 Litchfield, together with an entry fee of \$8.00. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

J.

A person against whom an assessment has been entered pursuant to this article 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 in an amount equal to the entry fee for small claims cases pursuant to Connecticut General Statutes 52-259, in Superior Court, for the Judicial District of Litchfield, GA #18, which shall entitle such person to a hearing in accordance with the rules of the judges of Superior Court.

K.

The remedies set forth in this article shall be deemed to be in addition to such other remedies as are provided by law. The decision to assess fines under this article shall be an exercise of municipal discretion, and shall not prevent the Inland Wetlands Agent from instituting enforcement action, such as a cease and desist order or order to show cause, concurrently with the assessment of fines, and to seek such relief, including penalties, attorney's fees, and costs, as may be allowed by law.

# Current Ordinance

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Proposed additions are underlined in boldface

## § 114-2. Citation procedures and fines for zoning violations.

~~A.~~ A.—This chapter is adopted pursuant to Connecticut General Statutes 7-152c and 22a-42g, as amended.

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~~B.~~ The ~~Zoning Enforcement Officer~~ Inland Wetlands Agent is authorized to issue citations for violations of the City of Torrington ~~Zoning Regulations~~ Inland Wetlands and Watercourses Regulations to the extent and in the manner provided by this section. ~~The Planning and Zoning Commission shall adopt a written policy governing the timing and circumstances under which the Zoning Enforcement Officer may issue a 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 refuses to accept such mail, the citation may be sent by regular United States mail. The ~~Zoning Enforcement Officer~~ Inland Wetlands Agent shall file and retain an original or certified copy of the citation.

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~~C.~~ B.—A citation may be issued for any violations of the City of Torrington ~~Zoning Regulations~~ Inland Wetlands and Watercourses Regulations.

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~~D.~~ C.—The citation for each such violation shall be \$100.00, payable to the Treasurer of the City of Torrington. Multiple violations may result in multiple fines on the same premises. For continuing violations, each day of violation shall be considered a separate offense, but only one citation need be served for either multiple or continuing violations arising from the same condition, act, or activity. The maximum fine for a violation under this article shall not exceed \$1,000.

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~~The fine for each such citation shall be \$150.00, payable to the Treasurer of the City of Torrington.~~

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~~E.~~ D.—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 Subsection A of this section, the day of receipt of the citation shall be deemed to be four days after the day of mailing of the citation.

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~~F.~~ E.—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 Subsection ~~E~~ D of this section, the ~~Zoning Enforcement Officer~~ Inland Wetlands Agent 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 Mayor as provided in Subsection I of this section, by delivering, in person or by mail, within 10 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.

~~G.F.~~ F.—If the person who is sent notice pursuant to Subsection ~~E~~ F of this section wishes 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 Zoning Enforcement Officer. All fines shall be made payable to the Treasurer of the~~

~~City of Torrington. All fines shall be made payable to the Treasurer of the City of Torrington. Such payment shall be inadmissible~~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 days of the date of the notice described in Subsection ~~EF~~ of this section shall be deemed to have admitted liability, and the ~~Zoning Enforcement Officer~~Inland 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 provided for by this section and shall follow the procedures set forth in Subsection ~~HJ~~ of this section.

~~H.~~

~~G.~~ Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Hearings shall follow §1-11, Hearing procedures to contest violations, of the City of Torrington Code of Ordinances.

~~I.~~ 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 Litchfield, together with an entry fee of \$8.00. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

~~J.~~ A person against whom an assessment has been entered pursuant to this article 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 assessment, together with an entry fee in an amount equal to the entry fee for small claims cases pursuant to Connecticut General Statutes 52-259, in superior Court , for the Judicial District of Litchfield, GA #18, which shall entitle such person to a hearing in accordance with the rules of the judges of Superior Court.

~~K.~~ The remedies set forth in this article shall be deemed to be in addition to such other remedies as are provided by law. The decision to assess fines under this article shall be an exercise of municipal discretion, and shall not prevent the Inland Wetlands Agent from instituting enforcement action, such as a cease and desist order or order to show cause, concurrently with the assessment of fines, and to seek such relief, including penalties, attorney's fees and costs, as may be allowed by law.

~~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. The presence of the Zoning 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 on his or her behalf. The Zoning Enforcement Officer may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the City of Torrington Zoning Regulations. The hearing officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form 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 section.~~

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- ~~H. 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 Litchfield, together with an entry fee of \$8.00. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.~~
- ~~I. The Mayor shall appoint, subject to confirmation by the Board of Councilmen, one or more citation hearing officers to conduct the hearings provided by this section. Hearing officers shall serve for terms of two years, unless removed for cause. Neither the Zoning Enforcement Officer, the Building Inspector nor any employee of the City of Torrington exercising zoning authority may be appointed to be a hearing officer pursuant to this section.~~

(Added 3-3-1997)

## **Chapter 136 INLAND WETLANDS AND WATERCOURSES<sup>1</sup>**

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<sup>1</sup>Editor's note(s)—[The Inland Wetlands and Watercourses Regulations of the City of Torrington, adopted by the Inland Wetlands Commission, are on file in the office of the Commission and available for public inspection during regular office hours.]

Cross reference(s)—Inland Wetlands Commission, Ch. 33; flood damage prevention, Ch. 122; zoning, Ch. 200.