

RULES AND ORDINANCES COMMITTEE
MINUTES OF MEETING – TUESDAY, June 18, 2019 @ 7:00 PM

At approximately 7:00PM, Chairman Leonard opened the meeting. Present were Representatives Adelman, Anderson, Hentschel, & Sullivan. Also in attendance: members of the public and Rep. Peter Black.

1. To review Branford's Town Dock ordinance and, if appropriate, revise relative to time limits and rights of appeal. After discussion, the committee voted to approve and send to Town Counsel for review.

Motion to approve revision passed unanimously, contingent upon Town Counsel review.

3. Pursuant to Town Meeting Rules [A236-4.1(1)(d)] re: R&O's assigned duties, to consider and, if appropriate, adopt a uniform procedure for ordinance enforcement.

Motion to re-refer the Review passed unanimously.

4. To consider and, if appropriate, create the position of Tree Warden & and revise code sec. 16 re: Public Tree Protection in Branford.

Motion to approve the proposed Ordinance and changes passed unanimously, contingent upon Town Counsel review.

5. To review and, if appropriate, propose changes to the Town of Branford's Noise Ordinance §189, specifically re: trash collection.

Motion to re-refer the Review passed unanimously.

Upon motion made and seconded, the meeting was adjourned.
Dated this 21st day of June, 2019.

John F. Leonard
Chairman, R & O Committee

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BRANFORD, CONNECTICUT

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Code of the Town of Branford

Proposed

Chapter 126: Boats and Boating

Article II: Tie-ups; Loading and Unloading

§ 126-3 Rules and regulations.

The Board of Selectmen is authorized to adopt by majority vote such rules and regulations as it shall determine from time to time regarding the establishment of time limits for temporary tie-ups and for loading and unloading of boats at all Town-owned docks, piers, floats or other docking facilities.

§ 126-4 Enforcement.

The following officers and agents of the Town of Branford are authorized to act as Enforcement Officers for the provisions of this ordinance.

- (a) All officers of the Branford Police Department (per State of CT Statute)
- (b) Any agent of the Town duly appointed by the Board of Selectmen to enforce this ordinance.
- (c) The Town appointed Dockmaster
- (d) Any Town of Branford Community Service Officer

§ 126-5 Violations and penalties.

Any person who shall violate any rule or regulation established by the Board of Selectmen under the provisions of this article shall be fined no more than \$100 for each offence.

§ 126-6 - Enforcement Procedures

- (a) For Officers of the Branford Police Department, the enforcement procedures stipulated by State of CT Statute shall apply.
- (b) For any Town of Branford designated Enforcement Officer, the procedures for the issuance of warnings, issuance of citations and any requested hearings for violations of this ordinance shall follow the requirements of the Branford Town Code.

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ARTICLE II
TREE WARDEN & PUBLIC TREE PROTECTION

[Adopted _____ by the Board of Selectmen;

Proposed June 4, 2019

§ 16-5 Title.

This article shall be known and may be cited as the "Branford Tree Ordinance, Branford, Connecticut."

§16-6. Purpose.

It is the purpose of this ordinance to protect, preserve, and enhance the public trees that constitute the Town of Branford's community forest by establishing a framework for tree policies, regulations, and standards and by appointment of a tree warden with responsibility for care and control of public trees. The Town intends to be proactive in conserving the values associated with these trees; encouraging maintenance, minimizing unnecessary removals, and encouraging new street planting whenever possible. A healthy community forest benefits the public interest in many ways including the following: improved air quality, reduced storm water runoff and erosion, traffic calming, quieter neighborhoods, energy savings, wildlife habitat, increased property values and a generally improved quality of life. This article has been adopted in conjunction with the recommendations of the Town Tree Warden and Community Forest Commission.

§16-7. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CGS- Connecticut General Statutes

DBH – Diameter at Breast Height – The diameter of a tree measured at a point 4.5 feet above the ground.

PERSON- Any natural person, firm, partnership, corporation, limited liability company, society or association.

PROPERTY LINE - The outer edge of a Town road or highway right-of-way boundary.

PROPERTY OWNER - The owner of record or contract purchaser of any parcel of land.

PUBLIC ROAD – A street, road, public way or right-of-way owned by the Town, including the entire width between the street lines or right-of-way lines.

SHRUB— Woody plants, usually branched from the base, generally less than 15 feet tall when mature.

TOWN PROPERTY— Any and all property owned by the Town of Branford including, for the purposes of this article, such limbs, roots or parts of trees and shrubs as extend into or overhang the limits of any municipal road or grounds.

TREE - A woody plant, usually with one main trunk, reaching a height of at least 15 feet when mature.

TREE ROOT ZONE- The area beneath and surrounding the tree where roots are or may be located. The zone may extend 2 to 3 times the diameter of the tree canopy.

§16-8. Tree Warden, appointment and qualifications.

The Town Tree Warden shall be appointed by the Board of Selectmen for a term specified and in accordance with CGS §23-58 as may be revised. The Town Tree Warden shall meet all state requirements specified for training and certification of successful completion of coursework, be a licensed arborist, or appoint a deputy tree warden who meets the requirements in accordance with CGS §23-59a as may be revised.

In order to make informed and knowledgeable decisions concerning public safety and the health of municipal trees, a licensed arborist shall be a part of the decision making process for all town trees. If the Tree Warden does not possess a current Connecticut arborist license, the town shall be required to contract the services of a Connecticut Licensed Arborist to work in a consulting role with the Tree Warden.

§16-9. Authority of Town Tree Warden.

The Tree Warden shall:

In accordance with CGS §23-59 & CGS §23-65 as may be revised:

- A. Have the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of the Town of Branford, except those along state highways under control of the Commissioner of Transportation and public parks or grounds which are under the jurisdiction of a board or commission given authority for such care and control by Town ordinance and of these the tree warden shall take the care and control if so requested in writing by such board or commission. Such care and control shall extend to such limbs, roots, and parts of trees and shrubs as extend or overhang the limits of any such public road or grounds. The tree warden shall expend all funds appropriated for setting out, care, and maintenance of all trees and shrubs.
- B. Enforce all provisions of law for the preservation of trees and of shrubs and of roadside beauty.
- C. Shall prescribe such regulations for the care and preservation of such trees and shrubs as the tree warden deems expedient, and provide therein for a reasonable fine for the violation of such regulations.
- D. Maintain a list of the Town of Branford Notable Trees, as identified by the Connecticut Notable Tree Project, and maintained in the database at the Connecticut College Arboretum.
- E. Maintain the inventories, as may be available, of town trees.

§16-10. Operations under the jurisdiction of the tree warden

- A. Whenever, in the opinion of the tree warden, the public safety demands the removal or pruning of any tree or shrub under the tree warden's control, the tree warden may cause such tree, shrub, or group of shrubs to be removed or pruned at the expense of the town, and the selectmen shall order paid to the person performing such work such reasonable compensation therefor as may be determined and approved in writing by the tree warden. Unless the condition of such tree, shrub or group of shrubs constitutes an immediate public hazard, the tree warden shall, at least ten days before such removal or pruning, post on each tree or shrub and may post on each group of shrubs a suitable notice stating the tree warden's intention to remove or prune such tree, shrub or group of shrubs. If any person, firm or

corporation objects to such removal or pruning, such person, firm or corporation may appeal to the tree warden in writing by letter or digital submission, who shall hold a public hearing at some suitable time and place after giving reasonable notice of such hearing to all persons known to be interested therein and posting a notice thereof on such tree, shrub or group of shrubs. Within three days after such hearing, the tree warden shall render a decision granting or denying the application, and the party aggrieved by such decision may, within ten days, appeal there from to the superior court. The tree warden may, with the approval of the selectmen remove any trees or other plants within the limits of public road or grounds under the tree warden's jurisdiction that are particularly obnoxious as hosts of insect or fungus pests.

- B. Remove or cause to be removed all illegally erected signs or advertisements placed upon trees and/or shrubs within any public road or placed within his/her jurisdiction.
- C. Any Person other than the tree warden or his/her deputy, who desires to conduct any of the following activities within the limits of any parcel of municipal property or public road or grounds which may impact municipal trees or shrubs must apply for and receive a written permit from the Tree Warden prior to conducting any such activity.
 - a. Activity may include but is not limited to:
 - i. Removal, planting, treating, pruning, topping, or application of fertilizer, pesticides, or other treatments. These activities may be required to be conducted under the supervision of a CT licensed arborist in compliance with CGS §23-61B as may be revised.
 - ii. Disturbance within root zone of any tree or shrub which may result in damage to roots, existing vegetation, or soil which may negatively impact health of trees or shrubs. Such activities may include but are not limited to grading, excavating, snow plowing, filling, driving; storage of vehicles, materials, or equipment; or, dumping, stockpiling soil, debris, trash, signs, or other material; application or discarding of fertilizer, or other chemicals.
 - iii. Activities which deface, cut, mark, injure the tree such as; use climbing spurs on, affixing or fastening of any sign, playbill, picture, notice, advertisement, rope, wire, chain, or other materials on, around or through any public trees or shrubs, except in an emergency, such as storms or accidents. Draping of holiday lights are exempt unless the lights are attached by nails, staples or similar means, or lights are left on tree until they begin to restrict bark growth.
 - b. Applications for activities involved with construction and/or site development, must document in writing or on site plans, proposed protective measures and best practices, to insure protection of existing trees and shrubs and survival of proposed plantings. This must include watering plan/schedule, maintenance of surrounding vegetation, mulching schedule, etc.
 - c. The tree warden shall inspect or require inspection by qualified individual to ensure compliance with the permit.

- d. The tree warden shall have the right to require stump removal, and replacement of trees and shrubs or substitution of appropriate landscape material as a condition of a permit for removal of trees or shrubs.
- D. For the purpose of shading or ornamenting highway or grounds, the Tree Warden may at his/her discretion expend funds designated for planting, trimming, spraying, care and preservation of shrubs or ornamental or shade trees, on private property located within 10 feet of public road or grounds, with written consent of the property owner. All shrubs and trees planted under this provision shall be deemed public shrubs and trees and shall be under the care and control of the tree warden and may be removed only upon issuance of written permit by the Tree Warden.
- E. The Branford Department of Public Works is assigned the responsibility to assist the Tree Warden in his/her duties.

§16-11. Utility Maintenance

- A. The Tree Warden shall review all proposed public utility work affecting trees at the sites where work is proposed prior to determining whether a permit will be considered. All utility pruning shall be performed under the supervision of a Connecticut Licensed Arborist as required by Connecticut General Statutes. The Tree Warden shall post notice on all trees for which an application for removal or pruning has been requested by a public utility, unless the tree warden has determined that no permit will be issued. The Tree Warden or a person appointed by the tree warden shall, supervise the work as it is being performed.
- B. All trees to be removed will be posted by the tree warden for public information purposes. State law prohibits utilities from pruning or removing any tree or shrub that is not a hazard within or overhanging a set area around poles and wires without providing advance notice to abutting property owners. Such notice must include an option for the property owner to consent or object to the pruning or removal, and an opportunity to modify the utility's proposal. The notice will give property owners ten business days to raise concerns, and ultimately to appeal to PURA if the matter cannot be resolved. This process is defined in Chapter 283 Section 16-234 of the Connecticut General Statutes.
- C. Pruning practices will be consistent with the following:
 - a. The practice of ground to sky pruning for line maintenance is discouraged except where it is unavoidable as determined by the Tree Warden.
 - b. Stumps designated by the Tree Warden or other Town of Branford designee, as a hazard to vehicular and /or pedestrian traffic, shall be ground flush with surrounding surfaces.
 - c. Limbs are to be pruned to branch collar and topping of trees is not permitted. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Per ANSI pruning standards no more than 25% of a tree's foliage should be removed per trimming.

Exception: Tree severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this section at the determination of the Tree Warden.

§ 16-12. Interference with Town Tree Warden.

No person shall unreasonably hinder, prevent, delay or interfere with the Town Tree Warden or his/her agents while engaged in the execution or enforcement of this article.

§16-13. Penalties for offenses, conducted under jurisdiction of the tree warden.

The Tree Warden shall be authorized to issue citations to any person firm, or corporation, for the following violations, in compliance with the procedure as set forth in Chapter 196 and as authorized by CGS §23-59 and CGS §23-65 as may be revised. Each individual action shall be considered a separate offense of the provisions of this section.

Until such time as regulations are adopted per CGS Section 23-59, any person who violates any provision of this article or who fails to comply with any notice issued pursuant to the provisions of this chapter shall be subject to the following fines;

- A. For the following violations, \$50 for each separate offense, treated as an infraction:
 - a. Attaching notices, advertisements, flyers, and similar items to trees, shrubs, rocks, or other natural objects;
 - b. Cutting, painting, or marking trees, shrubs, rocks, or other natural objects, except to protect them or the public (such as blazing a trail);
 - c. Using climbing spurs to climb an ornamental or shade tree;
- B. For removal or damage to a tree that necessitates removal – Court action
- C. For the following violations, \$250 for each separate offense, first offense treated as an infraction, subsequent offense treated as a class C misdemeanor, punishable by a fine of up to \$500 and up to three months in prison:
 - a. Depositing or throwing any advertisement or, with certain exceptions, refuse paper, camp or picnic refuse, junk, or other material on tree roots or other parts, or
 - b. Affixing to trees, rocks, or natural objects a paper or advertisement other than a legally posted notice.

ARTICLE III

§16-14. Scenic Roads

Removal or Damage of Trees on State Scenic Roads: Authority to issue citations.

In accordance with CGS §13a-140 and, when authorized in writing by the Scenic Road Committee, the Tree Warden may issue a citation to any person who cuts, removes, damages or prunes any tree, shrub or vegetation

situated partially or wholly within the limits of any state highway designated as a scenic road pursuant to General Statutes §13b-31c if such person has not obtained permission from the Commissioner of the Department of Transportation or has violated any other provision of CGS §13a-140(a), provided that nothing herein shall authorize a citation against a public service company, as defined in CGS §16-1, that has cut or trimmed trees and branches or undertaken other pruning or removal in order to protect its lines, wire, conduits, cables and other equipment from encroaching vegetation. Any such citation shall be issued in compliance with the procedure as set forth in Chapter 196.

§16-15. Amount of citation.

The amount of each citation shall be:

- A. Damage to or removal of each shrub or tree up to 4" DBH; \$50
- B. Non lethal damage to each tree over 4" DBH; \$250
- C. Lethal damage or destruction of each tree over 4" DBH, \$250 + \$20 for each additional diameter inch or portion thereof up to \$1000 total, payable to the Treasurer of the Town of Branford. Citation shall be issued in compliance with process as set forth Chapter 196: Penalties and Citations.

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Draft November 5, 2018

BRANFORD TOWN CLERK

**ENFORCEMENT CITATIONS FOR VIOLATION OF
ZONING AND INLAND WETLANDS AND WATERCOURSES REGULATIONS AND TREE WARDEN
ORDINANCE AND REGULATIONS**

§ 196.1. Designation of Citation Officers.

- A. Citations for Violations of Inland Wetlands and Watercourses Regulations. Any police officer, the Wetlands Enforcement Officer of the Town of Branford, or any other person authorized by the First Selectman of the Town of Branford is hereby empowered to issue citations for violations of the Inland Wetlands and Watercourses Regulations of the Town of Branford in accordance with this article.
- B. Citations for Violations of Zoning Regulations. Any person authorized by the Planning and Zoning Commission of the Town of Branford is hereby empowered to issue citations for violations of the Zoning Regulations of the Town of Branford in accordance with this article.
- C. Citations for Violation of Tree Ordinance and Tree Warden Regulations. The designated Town Tree Warden appointed by the First Selectman of the town of Branford is hereby empowered to issue citations for violations of Article II – Tree Warden & Public Tree Protection and such Regulations that may be promulgated by the Tree Warden under CGS Section 23-59, which are approved by the First Selectman.

§ 196.2 Definitions and Interpretations

- A. Definitions. As used in this article, the following terms shall have the meaning indicated:
- Certified Mail – Any form of mail, whether by the United States Postal Service or a private mail carrier, whereby the intended recipient is requested to provide a signed receipt showing that he or she received the mailing.
- Citation Officer – A person empowered to issue citations pursuant to § 196.1.
- Hand Delivery – The direct delivery of a document to a recipient by a Citation Officer, or any form of delivery to the last-known address of an intended recipient by the United States Postal Service or by any private mail carrier whereby the carrier provides a written confirmation of delivery to the Citation Officer.
- Wetlands Regulations - The Inland Wetlands and Watercourses Regulations of the Town of Branford.
- Zoning Regulations – The Zoning Regulations of the Town of Branford
- B. Interpretations. Capitalized terms in § 196.4.A shall have the meanings ascribed to them in the Wetlands Regulations, which are incorporated herein by reference.

§ 196.3 Issuance of Citations

- A. Initial Notice Required. Before any Citation Officer may issue a Citation, he or she must issue a written notice informing the recipient of the nature of the violation. Any such initial notice may be served either by hand delivery or by certified mail to the person named in such citation. If the person to whom such notice has been sent by certified mail refuses to accept such mail, the original or a certified copy of the original notice may be sent by regular United States mail. The Citation Officer shall file and retain an original or certified copy of the initial notice, as well as any delivery confirmation or return receipt from certified mail, whether or not the mail was accepted. The date of delivery of the initial notice shall be deemed to be the earlier of: (1) the actual date of delivery, or (2) three business days after the date of the original mailing, regardless of whether such mailing was accepted.

B. Citation Process. A Citation Officer may issue a citation to any person to whom an initial notice has been delivered pursuant to § 196.3.A if such Citation Officer finds that the violation described in the initial notice has not been fully abated by the end of the second day after the date of delivery of such notice. Any such citation may be served either by hand delivery or by certified mail to the person named in such citation. If the person named in a citation sent by certified mail refuses to accept such mail, the original or a certified copy of the original citation may be sent by regular United States mail. The Citation Officer shall file and retain an original or certified copy of the citation, as well as any delivery confirmation or return receipt from certified mail, whether or not the mail was accepted. The date of delivery of the citation shall be deemed to be the earlier of: (1) the actual date of delivery, or (2) three business days after the date of the original mailing, regardless of whether such mailing was accepted.

§ 196-4 Penalties for Offenses; Fines.

A. Violations of Wetlands Regulations. The following fines may be assessed by citation for a violation of the Wetlands Regulations:

1. For conducting or allowing the conduct of regulated activities within any portion of an inland Wetland or Watercourse without a Permit or in violation of any Permit, including Deposition of any Material, Removing of any Material, Discharging, polluting, excavating, filling, draining, grading, clearcutting, removal of vegetation, planting invasive vegetation, or other activities resulting in direct impacts, to any portion of an inland Wetland or Watercourse: a fine of \$1000 for each offense.
2. For conducting, permitting the conduct of, undertaking, permitting the existence of, or allowing any Regulated Activity outside of an inland Wetland or Watercourse without a Permit or in violation of any Permit, which causes, directly or indirectly, Pollution, draining/drying, erosion, filling, damage to native vegetation, or other negative impacts to an inland Wetland or Watercourse or any portion thereof: a fine of \$750 for each offense.
3. For noncompliance with Permit conditions and/or limitations or with enforcement orders, where such noncompliance is not described in subsections A or B of this section: a fine of \$1000 for each offense.
4. For conducting any other Regulated Activity without the issuance of a Permit, where such activity is not described in subsections A, B or C of this section: a fine of \$500 for each offense.

Each day on which a violation of the Wetlands Regulations continues to exist shall be deemed a separate and distinct violation.

B. Violations of Zoning Regulations. A fine of \$150 per day may be assessed by citation for any violation of the Zoning Regulations for as long as such violation continues to exist.

C. Violations of the Branford Tree Warden and Public Tree Protection Ordinance and Tree Warden Regulations adopted pursuant to Section 23-59 of the Connecticut General Statutes.

§ 196.5. Period for uncontested payment of fines.

Any person receiving a citation shall be allowed a period of thirty (30) days from his or her receipt of the citation to make an uncontested payment of the fine specified in the citation. Such fines shall be made payable to the Treasurer of the Town of Branford. If such fine is not paid within the 30-day period, further actions may be taken pursuant to Section 7-152c of the Connecticut General Statutes.

§ 196.6. Appeals and Hearings.

Any person who receives a citation may challenge his or her liability therefor and request a hearing thereon in accordance with the provisions of Section 7-152c of the Connecticut General Statutes.