

RULES AND ORDINANCES COMMITTEE
MINUTES OF MEETING – TUESDAY, September 17, 2019 @ 7:00 PM

At approximately 7:00PM, Chairman Leonard opened the meeting. Present were Representatives Anderson, Hentschel, Ingraham & Sullivan.

1. To review Branford's Boating (Town Dock) ordinance and, if appropriate, revise relative to time limits and rights of appeal.

Motion to approve passed unanimously: previously reviewed by Town Council.

2. 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 approve passed unanimously, contingent upon Town Council review.

3. 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 passed unanimously: previously reviewed by Town Council.

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

Motion to "take no action" passed unanimously.

Upon motion made and seconded, the meeting was adjourned.

Dated this 20th day of September, 2019.

John F. Leonard
Chairman, R & O Committee

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2019 SEP 20 P 4: 03
TOWN CLERK'S OFFICE
BRANFORD, CONNECTICUT

Code of the Town of Branford

Proposed V6

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2019 SEP 20 P 4: 03

TOWN CLERK'S OFFICE
BRANFORD, CONNECTICUT

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) Any agent of the Town duly appointed by the Board of Selectmen to enforce this ordinance.
- (b) The Town appointed Dockmaster
- (c) 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 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.

***Passed RTM R&O Committee 9-17-19
& Reviewed by Town Counsel***

DRAFT

Version 2

Chapter 196

ARTICLE II

Citations for Violations of Town Ordinances
(Other than Zoning and Inland Wetlands Violations)

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2018 SEP 20 P 4:04

TOWN CLERK'S OFFICE
BRANFORD, CONNECTICUT

§ 126-21. Legislative authority.

Pursuant to Sections 7-148(c)(10)(A) and 7-152c of the Connecticut General Statutes, as such sections may be amended from time to time, the Town of Branford (the Town) hereby adopts the following procedure for citations issued for violations of town ordinances.

§ 196-22. Designation of Enforcement Officers.

Citations for violations of Town of Branford Ordinances other than Zoning and Inland Wetlands Violations shall be issued by Enforcement Officers so designated by ordinance or by the Board of Selectmen of the Town of Branford. ~~Any police officer of the Town of Branford shall hereby be also empowered to issue citations for violations of any general Ordinance of the Town of Branford.~~

§ 126-23. Appointment of Hearing Officers.

The Board of Selectmen shall appoint one or more persons who shall serve as hearing officers to conduct hearings into the violation of Town ordinances. The hearing officers shall be electors of the town, but no police officer or any employee or person authorized to issue citations for the violations of any Town ordinance shall be permitted to serve as a hearing officer. If specific hearing officers have not been appointed, then the Board of Police Commissioners shall act as the Hearing Officer when hearings are required.

§ 196-24. Definitions.

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

ENFORCEMENT OFFICER — A person other than a Police Officer empowered to issue citations pursuant to § 196-25 who has been so designated by ordinance or by the Board of Selectmen.

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.

HEARING OFFICER - Unless otherwise stipulated in any Town Ordinance or appointed by the Board of Selectmen the Board of Police Commissioners shall act as the Hearing Officer when hearings are required.

PERSON — A natural person, or a group of natural persons, corporation, partnership, limited partnership, limited liability company, or any such other entity or association which exists under law.

§ 196-25. Issuance of citations.

Citations for violations of Town Ordinances may be issued by a ~~Police Officer~~ or a Designated Enforcement Officers as stipulated in § 196-22.

- A. Initial Warning notice required. Before any Enforcement Officer may issue a citation, he or she must issue a written Warning 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 Enforcement 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) five business days after the date of the original mailing, regardless of whether such mailing was accepted.

- B. Citation process. An Enforcement Officer may issue a citation to any person to whom an initial notice has been delivered pursuant to § 196-25A if such Enforcement 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 Enforcement 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) five business days after the date of the original mailing, regardless of whether such mailing was accepted.

§ 196-26. Penalties for offenses; fines

Violations of Town Ordinances.

- A. The penalties, and or fines, for violations of Town Ordinances shall be stipulated within the wording of each specific Ordinance.

§ 126-27. Admission of liability.

If a cited person who is sent notice pursuant to § 126-25 wishes to admit liability for an alleged violation, the cited person may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees in person or by mail to the Treasurer of the Town of Branford at the address specified in the notice. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the cited person or other person making the payment. Any cited person who does not deliver or mail written demand for a hearing within 30 days of the date of the notice provided for in § 126-25 shall be deemed to have admitted liability, and the issuing official shall certify the cited person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines,

penalties, costs or fees provided for by the applicable ordinance and shall follow the procedures set forth in § 126-30 below.

§ 126-28. Hearing procedure.

Any cited person who requests a hearing shall be given written notice of the date, time and place for the hearing. The 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 initial notice of violation, issued by the issuing official or police officer shall be filed and retained by the town 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 hearing officer shall conduct a hearing in the order and form and with such methods of proof as the hearing officer 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 a decision at the end of the hearing. If the hearing officer determines that the cited person is not liable, then the matter shall be dismissed, and the hearing officer's determination shall be entered in writing accordingly. If the cited person is found liable for the violation, the hearing officer shall forthwith enter and assess the fines, penalties, costs or fees against the cited person as provided by the applicable ordinance.

§ 126-29. Attendance at hearing.

The presence of the issuing Citation Officer shall be required at the hearing if the cited person so requests. A designated town official, other than the hearing officer, may present evidence on behalf of the town. The cited person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The hearing officer may, however, accept from the cited person copies of police reports, investigatory and citation reports and other official documents by mail and may determine thereby that the appearance of the cited person at the hearing is unnecessary. If the cited person fails to appear and such appearance has not been determined by the hearing officer to be unnecessary, the hearing officer may enter an assessment by default against the cited person upon a finding of proper notice and liability under the applicable ordinance.

§ 126-30. Notice of assessment; judgment.

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 cited person 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 at New Haven together with such entry fee as may be required by the Superior Court. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same cited 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, against the cited person in favor of the town. Notwithstanding any other provision of the Connecticut 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 of such judgment may issue without further notice to the cited person.

§ 126-31. Appeals.

A cited person against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal. Any 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 a small claims case pursuant to Section 52-259 of the Connecticut General Statutes, in the Superior Court at New Haven, which shall entitle the cited person to a hearing in accordance with the rules of the judges of the Superior Court.

***Passed RTM R&O Committee 9-17-19
(contingent upon review by Town Counsel)***

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ARTICLE II
TREE WARDEN & PUBLIC TREE PROTECTION

[Adopted _____ by the Board of Selectmen;

2019 SEP 20 P 4: 04

Proposed June 4, 2019

TOWN CLERK'S OFFICE
BRANFORD, CONNECTICUT

§ 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.

***Passed RTM R&O Committee 9-17-19
& Reviewed by Town Counsel***