

## **PART II**

# **GENERAL ORDINANCES**

## Chapter 109

### ADULT-ORIENTED BUSINESSES

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[HISTORY: Adopted by the Town of Thomaston 2-4-2016. Amendments noted where applicable.]

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#### § 109-1. Authorization.

This chapter is adopted pursuant to Connecticut General Statutes §§ 7-148(c)(7)(A)(ii), 7-148(c)(7)(E), 7-148(c)(7)(H)(xiii), and 7-148(c)(10)(A). This chapter is adopted concurrently with amendments to the Thomaston Zoning Regulations adopted by the Thomaston Planning and Zoning Commission pursuant to Connecticut General Statutes §§ 8-2(a) and 8-3, and is to be applied and construed consistent with said regulations.

#### § 109-2. General purpose and intent.

- A. The Town finds that the operation of adult-oriented businesses requires special regulation and supervision to protect, preserve and promote the health, safety and welfare of the patrons of such businesses, as well as the health, safety and welfare of the Town's residents. Further, protecting public order, preserving the character and preventing the deterioration of the Town's neighborhoods, promoting retail trade, maintaining property values, and ensuring sanitary and safe public places are desirable objectives of the community and its government.
- B. It is the purpose and intent of the Town, in enacting this chapter, to regulate adult-oriented businesses to promote the health, safety and general welfare of the residents of the Town and to establish reasonable and uniform regulations of such businesses in order to reduce or eliminate the adverse secondary effects of such adult-oriented businesses, to protect residents from increased crime, to preserve the quality of life, to preserve the property values and the character of surrounding neighborhoods and businesses, including but not limited to, the downtown retail and development districts and adjacent residential areas, to deter the establishment of any nuisance and the spread of blight, and to protect against the threat to public health from the spread of communicable and social diseases.
- C. It is not the intent of the Town, in enacting this chapter, to deny to any person rights to speech protected by the United States or State of Connecticut constitutions, nor is it the intent of the Town to impose any additional limitations or restrictions on the content of

any communicative materials including sexually oriented films, videotapes, books or other materials. Further, by enacting this chapter, the Town does not intend to deny or restrict the constitutionally protected rights of any adult to obtain or view any sexually oriented materials under the United States or State of Connecticut constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

### § 109-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ADULT ARCADE** — Any establishment where one or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

**ADULT BOOKS** — Any books, magazines, periodicals, pamphlets, or other printed materials that depict, display or describe specified anatomical areas or specified sexual activities.

**ADULT CABARET** — Any night club, bar, cafe, tavern, restaurant or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- A. Persons who appear nude or seminude;
- B. Live performances that are characterized by the exposure of specified anatomical areas; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

**ADULT ENTERTAINMENT** —

- A. Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a significant or substantial portion of such performance, any performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; and
- B. Any amusement machine that is regularly used for presenting material that is characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons thereof.

ADULT MINIMOTION PICTURE THEATER — Any enclosed building with a capacity of 50 or fewer persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.

ADULT MOTION PICTURE THEATER — Any enclosed building with a capacity of more than 50 persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.

ADULT NOVELTIES —

- A. Instruments, devices, toys or paraphernalia that are designed for or marketed primarily for stimulating human genital organs, sexual arousal or sadomasochistic use;
- B. Instruments, devices, gag gifts, toys or paraphernalia that depict, display or are shaped in the form of specified anatomical areas; and
- C. Oils, lotions, gels or creams that are designed for or marketed primarily for use upon specified anatomical areas and intended for stimulating human genital organs, sexual arousal or as an aid to enhance or promote specified sexual activities.

ADULT ORIENTED BUSINESS —

- A. An adult arcade, adult-oriented store, adult cabaret, adult minimotion picture theater, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio or sexual encounter establishment;
- B. Any premises to which the public, patrons, or members are invited or admitted and wherein an entertainer provides adult entertainment, or which premises are so physically arranged as to provide booths, cubicles, studios, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; or
- C. Any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

ADULT ORIENTED STORE — Any establishment having:

- A. A substantial or significant portion of its stock in trade in adult books, adult videos or adult novelties or any combination thereof;
- B. Any portion of its stock in trade in adult books, adult videos or adult novelties and in conjunction therewith has rooms, designated areas or facilities for the presentation, observation or use by patrons of any item sold or rented in such establishment.

ADULT THEATER — Any theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear nude or seminude or who appear in

live performances that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.

**ADULT VIDEOS** — Films, motion pictures, videocassettes, DVDs, software, slides or other photographic reproductions that depict, display or describe specified anatomical areas or specified sexual activities.

**EMPLOYEE** — Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of a sexually oriented business.

**ENTERTAINER** — Any person who provides adult entertainment within a sexually oriented business, whether or not a fee is charged or accepted for such entertainment and whether or not such entertainment is provided as an employee or independent contractor.

**ESCORT** — Any person who, for any form of consideration, agrees or offers to act as a social companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY** — Any person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**INSPECTOR** — The Police Chief, Fire Marshal, Building Official, Health Department Sanitarian, Zoning Enforcement Officer, their agent or representative, or any Town or state employee designated to make inspections for public safety, Town ordinance, fire code, building code, public health, zoning purposes, violations of this chapter, or for violations of other laws and ordinances of the Town or state.

**LIVE ADULT ENTERTAINMENT** — Any live performance by a person who appears nude or seminude or any live performance that is characterized by the exposure of specified anatomical areas.

**MASSAGE PARLOR** — Any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice. The definition of "massage parlor" shall not include the practice of massage:

- A. In any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility;
- B. By a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or massage therapist;
- C. By any registered nurse, licensed practical nurse or technician working under the supervision of a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist, or certified massage therapist who shall be present on the licensed premises during the time the service is rendered;

- D. By trainers for any amateur or professional athlete or athletic team or school athletic program; or
- E. By any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes.

MASSEUR — Any person who, for any form of consideration, performs massage activities as described in the previous definition of this section.

MINOR — Any person under the age of 18 years.

NUDE MODEL STUDIO — Any place where a person, for any form of consideration, regularly appears nude or seminude or displays specified anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A nude model studio shall not include a modeling class operated by an accredited public or private school or college.

NUDITY —

- A. The appearance of human bare buttocks, anus, genitals, pubic region or the areola or nipple of the female breast; or
- B. State of dress that fails to opaquely and fully cover human buttocks, anus, genitals, pubic region or areola or nipple of the female breast; but shall not include breast-feeding discreetly conducted in a public or private place.

OPERATOR — Any person operating, owning, managing, conducting or maintaining a sexually oriented business.

PERMITTED PREMISES — Any premises that require a sexually oriented business permit pursuant to this chapter, including any buildings, parking areas and all other portions of the property of which the permittee has control.

PERMITTEE — Any person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on an application for a permit.

PLACE OF WORSHIP — Any church, synagogue, mosque, temple or building that is used primarily for religious worship and related religious activities.

PUBLIC BUILDING — Any building owned, leased or otherwise held by the United States, the state, the Town, any other Town, any school, any fire department, and ambulance corps or any other agency or political subdivision of the United States or the state, which building is used for governmental purposes.

PUBLIC PARK AND RECREATION AREA — Public land that has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, golf course, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas, or similar public land within the Town that is under the control, operation, or management of the Town, any other Town or the state.

SCHOOL — Any public, private or parochial educational facility including, but not limited to, child day-care facilities (excluding home day care), nursery schools, preschools,

kindergartens, elementary schools, middle schools, junior high schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, alternative schools, junior colleges, colleges and universities. School includes the school grounds, but does not include any facility used primarily for another purpose and only incidentally as a school.

SEMINUDE — A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ACTIVITIES, EXEMPTIONS —

- A. Medical publications or films or bona fide educational publication or films;
- B. Any art or photography publications that devote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography;
- C. Any news periodical that reports or describes current events and which, from time to time, publishes photographs of nude or seminude persons in connection with the dissemination of the news; or
- D. Publications or films that describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or seminude persons when describing cultures in which nudity or seminudity is indigenous to the population.

SEXUAL ENCOUNTER ESTABLISHMENT — A business or commercial establishment that, for any form of consideration, offers a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas. A sexual encounter establishment shall not include an establishment where a state-licensed medical practitioner, psychologist, psychiatrist, or similar professional person engages in medically approved and recognized sexual therapy.

SPECIFIED ANATOMICAL AREAS —

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- A. Showing of human genitals in a state of sexual stimulation or arousal;
- B. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
- C. Fondling or touching of another person's genitals, pubic region, buttocks or female breasts;
- D. Lap dancing; or
- E. Excretory functions as part of or in connection with any of such activities.

**§ 109-4. Permit requirements.**

- A. After the effective date of this chapter, it shall be unlawful for any person to engage in, conduct or carry on or permit to be engaged in, conducted or carried on, in or upon any premises in the Town, the operation of an adult-oriented business without first obtaining a license from the Chief of Police of the Town of Thomaston and a special permit and site plan location approval from the Thomaston Planning and Zoning Commission, pursuant to the Thomaston Zoning Regulations, as amended. A license may be issued for only one adult-oriented business located at a fixed and certain place. Any person who desires to operate more than one adult-oriented business must have a license for each such business. It shall be a violation of this chapter for any owner, operator, entertainer or employee to knowingly work in or about, or to knowingly perform any service directly related to, the operation of any unpermitted adult-oriented business.
- B. Each license shall be specific to a location and may not be sold, assigned or transferred to any other location in any way. Abandonment or change of the adult-oriented business not consistent with the terms and conditions of the permit may result in revocation of a special permit.

**§ 109-5. Application.**

- A. The operator of each adult-oriented business shall first submit an application for a special permit to the Planning and Zoning Commission with application fees as listed in the Town land use fee schedule. If a permit is granted by the Planning and Zoning Commission, a license application shall then be submitted to the Chief of Police with a nonrefundable application fee of \$150. The application shall be made upon a form prepared by the Thomaston Police Department and approved by the Board of Selectmen and the Planning and Zoning Commission. The applications shall be signed and filed by a person having direct control or management of the proposed adult-oriented business. In instances where the applicant is a partnership, limited liability company or corporation, the application shall be signed and filed by a duly authorized partner, member, manager, officer, director, or majority shareholder of such entity, as the case may be. The application shall be sworn to be true and correct by the applicant.
- B. The applicant for a license shall furnish the following information:
  - (1) Name and business and residence address of the applicant, owner, operator, manager and any other person having direct control or management of the adult-oriented business, including all fictitious names. If the applicant is a partnership, the names of all general partners. If the applicant is a limited liability company, the names of all members and managers of such company. If the applicant is a corporation, the names of all officers, directors and shareholders holding a ten-percent or greater interest in the total number of shares of such corporation;



- (2) Written proof or affidavit that the applicant and employees are at least 18 years of age;
- (3) If a partnership, the application shall be accompanied by the partnership agreement, if any;
- (4) If a limited partnership, the application shall specify the name of the partnership, the date and state of the filing of its certificate of limited partnership, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the partnership agreement, if any, and by evidence that such partnership is in good standing under the laws of the state;
- (5) If a limited liability company, the application shall specify the name of the company, the date and state of the filing of its articles of organization, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the operating agreement, if any, and by evidence that such company is in good standing under the laws of the state;
- (6) If a corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of its bylaws, if any, and by evidence that such corporation is in good standing under the laws of the state.
- (7) If operating under a fictitious name, the application shall be accompanied by a copy of the applicant's recorded trade name certificate.
- (8) The applicant's adult-oriented business or adult entertainment license or permit history, which shall include, but not be limited to whether such person is currently licensed or has previously operated in this or another municipality or state under license; the names and locations of such businesses; whether the applicant has had such license suspended or revoked; the dates of and reasons for such suspension or revocation; and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation. Such history shall include any entity of which the applicant was a partner, member, officer, director or shareholder.
- (9) Any criminal convictions of the applicant, operator, employees and other persons directly involved in the management or control of the adult-oriented business, to any crime involving moral turpitude, prostitution, obscenity or other sex-related crimes in any jurisdiction within three years of the date of filing of the application. Such convictions within this time frame may result in denial of an application due to public safety risks. Such crimes include, but are not limited to, obscenity, child pornography, prostitution, patronizing a prostitute promoting or permitting prostitution and sexual assault, in the state, being Connecticut General Statutes §§ 53a-194, 53a-196, 53a-196a, and 53a-196b (obscenity); §§ 53a-196c and 53a-196d (child pornography); §§ 53a-82, 53a-83 and 53a-83a (prostitution, patronizing a prostitute, and patronizing a prostitute from a motor vehicle); §§ 53a-88 and 53a-89 (promoting or permitting prostitution); and §§ 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b and 53a-73a (sexual assault).

- (10) The location of the adult-oriented business to be operated by the applicant, including the street address, legal description of the property, and telephone number, if any;
  - (11) The exact nature of the entertainment to be conducted at the adult-oriented business;
  - (12) A sketch or diagram showing the floor plan of the premises drawn to a designated scale and with marked dimensions of the interior of the premises, including a statement of total floor space occupied by the business. Such sketch or diagram shall include, without limitation, all doors, windows, bars, stages, manager's stations, restrooms, dressing rooms, booths, cubicles, rooms, studios, compartments, stalls, overhead lighting fixtures and any areas where patrons are not permitted; and
  - (13) A signed statement by the applicant that he/she is familiar with the provisions of this chapter, is in compliance with them, and consents to the authority of the Town in licensing and regulating the proposed adult-oriented business.
- C. The Chief of Police, Planning and Zoning Commission or Zoning Enforcement Officer shall have the right to request additional information and documentation of the applicant and the proposed business to support or clarify any information previously provided. If a license to operate an adult-oriented business is granted, the information furnished in the application, including employee information, shall be updated within 30 days of any material changes. Such update shall be filed with the Chief of Police and the Planning and Zoning Commission.

**§ 109-6. Licensing procedure.**

- A. The Chief of Police shall be responsible for investigating, granting, denying, renewing, suspending and revoking all sexually oriented business applications and licenses pursuant to this chapter. Upon receipt of a properly completed application with all required attachments, the Chief of Police shall immediately forward copies of such application to the following Town officials for their investigation:
- (1) The Chief of Police shall investigate the criminal convictions, qualifications and suitability of the applicant to be licensed and shall inspect the premises for compliance with all laws and regulations.
  - (2) The Fire Marshal shall investigate the compliance of the proposed premises with all applicable fire codes and laws.
  - (3) The Building Official shall investigate the compliance of the proposed premises with all applicable building codes and laws.
  - (4) The Director of Health shall investigate the compliance of the proposed premises with all applicable public health codes and laws.

- (5) The Zoning Enforcement Officer shall investigate the compliance of the proposed premises with all applicable zoning regulations and laws and also compliance with all distance requirements set forth in the Thomaston Zoning Regulations.
- B. Within 30 days of the date the application was filed, all such investigations to be performed pursuant to this section shall be completed. At the conclusion of each investigation, each Town official shall indicate on the photocopy of the application his approval or disapproval of the application, state the reasons for any disapproval, date it, sign it, and return it immediately to the Chief of Police. The Chief of Police shall disapprove an application if he finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, article, regulation or other law in effect in the Town, including this chapter.
- C. Within 45 days of the date the application was filed, the Chief of Police shall render a decision approving or denying such application and shall file such decision with the Town Clerk and mail such decision to the applicant by certified mail, return receipt requested. If the Chief of Police denies the application, he shall state in writing the reasons for such denial. All copies of the investigations performed pursuant to this section shall be attached to the decision.
- D. The Chief of Police shall issue to the applicant a license to operate a sexually oriented business within 45 days of the date the application was filed if all requirements for a sexually oriented business described in this chapter are met, unless he finds that:
  - (1) The applicant is under 18 years of age.
  - (2) The applicant or any other person who will be directly engaged in the management and operation of the business has been convicted in this or any other state of any of the crimes specified in this chapter, regardless of the pendency of any appeal, within three years of the date the application was filed.
  - (3) Within five years of the date the application was filed, the applicant or his spouse has been denied a license by the Town to operate a sexually oriented business, has had a license revoked by the Town, or has failed to correct any material violation of this chapter for more than 30 days, of which the licensee has received written notice.
  - (4) Within three years of the date the application was filed, the applicant or his spouse has had a license to operate a sexually oriented business denied or revoked by another municipality or state.
  - (5) The applicant or his spouse is overdue on payment to the Town of any taxes, fees, fines or other penalties relating to the sexually oriented business or the licensed premises.
  - (6) The business as proposed by the applicant, if permitted, would not have complied with all applicable statutes, codes, ordinances, laws and regulations, including, but not limited to, the fire, building, health, and zoning codes of the Town, and this chapter. If the premises are not in compliance, the applicant shall be advised of the

reasons in writing and what, if any, measures the applicant can take to bring the premises into compliance for a license to issue.

- (7) The premises are not in compliance with all distance requirements set forth in the Thomaston Zoning Regulations.
  - (8) The applicant has failed to complete the license application as specified in this chapter, has failed to provide any supporting or clarifying documentation when requested by the Chief of Police, or has provided materially false or misleading information in the application.
  - (9) The application fee has not been paid.
  - (10) The granting of the application would violate a statute, ordinance or court order.
  - (11) The applicant, if a limited partnership, limited liability company or corporation, is not in good standing under the laws of the state.
- E. Any failure of the license to issue within 45 days of the date the application was filed shall constitute a denial subject to appeal.
  - F. If the sexually oriented business application is denied, the Town shall retain the permit fee for expenses incurred in the investigation of the application and shall return the remainder to the applicant.
  - G. When an application is denied solely for reasons stated in this section and such violation is correctable, the applicant shall be given an additional 30 days from the date of such notification of denial to bring the premises into compliance. Upon verification by inspection that the correction has been made, which shall be determined no later than 48 hours after receipt by the Chief of Police of written notice of such correction, a license shall be issued to the applicant so long as no new violations or other disqualifying factors have occurred within such 30 days.
  - H. As a condition of the license, the entire licensed premises shall be open to random physical inspections for compliance with this chapter by any inspector during all hours when the premises are open for business. Any refusal to allow such inspection shall constitute a violation of this chapter.
  - I. The license, if granted, shall state on its face the name and residence address of the person to whom it is granted, the expiration date, the address of the sexually oriented business, and the department or public official and telephone number to report any violation of this chapter. The license shall also include a notice that the subject premises are subject to random inspections by inspectors of the Town for compliance with this chapter.
  - J. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at all times.

**§ 109-7. License revocation.**

- A. The Chief of Police may revoke an adult-oriented business license upon determination that a licensee, operator or employee has materially violated any provision contained in this chapter or, upon report of the Zoning Enforcement Officer, any violation of Thomaston Zoning Regulations. The Chief of Police shall issue such revocation in writing stating the reasons and shall notify the licensee by certified mail, return receipt requested, addressed to the licensee at his/her business or residence address, or by service by any process server at the usual place of abode of the licensee or at the permitted premises. No sexually oriented business shall continue operations with a revoked permit. The Chief of Police shall revoke any license where any of the following occur:
- (1) It is discovered that materially false or misleading information or data was given on, or material facts were omitted from, any application for adult-oriented business permit.
  - (2) A license holder, operator, employee or other person directly involved in the management or control of the adult-oriented business has been convicted of any crime specified in this chapter.
  - (3) A license holder has one or more uncorrected material violations of this chapter pending for over 30 days, to which the licensee has received written notice.
  - (4) A license holder, operator or employee has knowingly allowed any live performance or conduct featuring any specified sexual activities as defined in this chapter to occur on the licensed premises.
  - (5) A license holder, operator or employee has knowingly allowed any illegal activity to occur on the licensee premises including, but not limited to, prostitution, gambling, or the possession, use or sale of controlled substances.

**§ 109-8. Appeal.**

- A. Within five days of receipt of notification of a denial, nonrenewal, suspension or revocation of a license, the licensee may contest such decision by submitting a written application to the Town Clerk requesting a public hearing before the Board of Selectmen.
- B. The public hearing shall be scheduled to take place no later than 30 days from the date of the application for such hearing. Not less than 10 days before the date of such hearing, a notice of hearing shall be sent to the licensee by certified mail, return receipt requested, and posted in a conspicuous place on the proposed or licensed premises.
- C. In such application, the licensee may request that the Chief of Police or any other Town official who investigated the application or inspected the premises shall be present at the public hearing. At such hearing, the licensee shall have the opportunity to present evidence on his behalf and shall have the right to cross examine all Town officials and witnesses. The Board of Selectmen shall conduct the hearing in order and form and with such methods of proof as it 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.

- D. Immediately following such hearing, the Board of Selectmen shall enter its vote to either sustain or overrule the denial, nonrenewal, suspension or revocation. Within five days after such hearing, the Board of Selectmen shall issue written notice of its final decision, stating the reasons therefor, and shall forward such decision to the licensee by certified mail, return receipt requested. If the denial, nonrenewal, suspension or revocation is overruled, the Chief of Police shall immediately issue such license or renewal of license, or revoke the suspension or revocation, as the case may be.
- E. The decision of the Board of Selectmen may be appealed to the superior court within 15 days of the mailing of the written notice of such decision.
- F. During the pendency of any appeal of a nonrenewal, suspension or revocation, the operations of the sexually oriented business may be maintained by the licensee, unless otherwise ordered by the Superior Court.

#### **§ 109-9. Operating requirements.**

##### **A. General requirements.**

- (1) No license holder, operator or employee of an adult-oriented business shall perform or permit to be performed, offer to perform, or allow patrons to perform any live performance or conduct featuring any specified sexual activities on the permitted premises, as defined in this chapter.
- (2) Every adult-oriented business shall comply with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, and zoning codes of the Town and state.
- (3) Every adult-oriented business shall be physically arranged in such a manner that the entire interior portion of any room or other area used for the purpose of viewing adult books, adult videos or adult novelties or other types of adult entertainment shall be clearly visible from the common areas of the premises. Visibility into such areas shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever. Such areas shall be readily accessible at all times to employees and shall be continuously open to view in their entirety. It shall be a violation of this chapter to install enclosed booths, cubicles, rooms or stalls within adult-oriented businesses, for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult-oriented motion pictures or other types of adult entertainment.
- (4) Every adult-oriented business, including common areas, entryways, parking areas, restrooms, and any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of adult entertainment, shall be well lighted. The entire premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted to access at an illumination of not less than one footcandle as measured at the floor or ground level. It shall be the duty of the operator and his agents to ensure that such illumination is maintained at all times that any patron is present on the premises.

- (5) No booths, cubicles, rooms or stalls used for the purpose of viewing adult-oriented motion pictures or other types of adult entertainment shall be occupied by more than one person at any one time. No holes shall be allowed in the walls or partitions that separate each such room from any adjoining room.
- (6) No adult-oriented business shall be conducted in such a manner that permits the observation of any material depicting specified anatomical areas or specified sexual activities from outside of the building that houses the adult-oriented business.
- (7) No adult-oriented business shall advertise the availability at such business of any activity that would be in violation of this chapter or any state or federal law. Nor shall any exterior sign, display, decoration, show window or other advertising of such business contain any material depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (8) No alcoholic beverage or other intoxicant shall be displayed, served, ingested or sold on the premises of any sexually oriented business unless permitted by the State Department of Consumer Protection, Liquor Control Division, and the Planning and Zoning Commission. No licensee, operator or employee shall be under the influence of any alcoholic beverage or other intoxicant while working at a adult-oriented business.
- (9) No gambling shall be permitted by any person in any adult-oriented business.

B. Employees.

- (1) The permittee and operator shall be responsible for the conduct of all employees while on the permitted premises. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the permittee and operator, when such permittee or operator knew or should have known of such act or omission, for purposes of determining whether the permit shall be revoked.
- (2) No permittee or operator shall knowingly employ in any adult-oriented business any person who, within three years of the commencement of such employment, has been convicted in this or any other state of any of the crimes specified in this chapter, regardless of the pendency of any appeal.

C. Minors.

- (1) No permittee, operator or employee of an adult-oriented business shall allow or permit any minor to enter into or in any way loiter in or on any part of the permitted premises, purchase goods or services at the permitted premises, or work at the permitted premises as an employee.
- (2) Every adult-oriented business shall display a sign outside each entrance of such business bearing the words "Adult-Oriented Business. Persons Under 18 Not Admitted" in legible letters between two and six inches tall.

D. Hours of operation. No adult-oriented business shall open to do business before 10:00 a.m., Monday through Saturday, nor shall remain open after 1:00 a.m. Tuesday through

Friday, nor after 2:00 a.m. Saturday, Sunday or any legal holiday as designated in Connecticut General Statutes § 1-4.

**§ 109-10. Live adult entertainment.**

- A. In addition to the requirements contained in this chapter, the following requirements shall apply to all adult-oriented businesses within the Town containing live adult entertainment:
- (1) No person shall perform live adult entertainment for patrons of an adult-oriented business except upon a stage at least 18 inches above floor level and separated from any and all such patrons by a minimum distance of four feet or as approved by the liquor division of the state department of consumer protection.
  - (2) Separate dressing room facilities for male and female entertainers shall be provided that shall not be occupied or used in any way by any persons other than such entertainers.
  - (3) No entertainer shall expose any specified anatomical areas to any patron of an adult-oriented business either before or after a performance including, but not limited to, when such entertainer is entering or exiting the stage.
  - (4) No entertainer, either before, during or after a performance, shall have physical contact with any patron of an adult-oriented business while on the licensed premises.
  - (5) No employee of any adult-oriented business shall engage in any live adult entertainment while acting as a waiter, host or bartender for such business.

**§ 109-11. Massage parlors.**

- A. Application procedure.
- (1) A special permit approval shall be obtained from the Planning and Zoning Commission to operate the facility along with permit fees as outlined in the land use fee schedule.
  - (2) A licensing application shall be submitted to the Chief of Police along with a nonrefundable application fee of \$150. A floor plan and other documentation as listed in this chapter shall be provided to the Chief of Police for licensing review, in consultation with the Building Official, Zoning Enforcement Officer and Fire Marshal.
- B. Facility requirements.
- (1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproof materials.
  - (2) Toilet facilities shall be provided in convenient locations. When five or more persons of different sexes are on the premises at the same time, separate toilet



facilities shall be provided. Toilets shall be designed as to the sex accommodated therein.

- (3) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.
- (4) Every portion of the massage parlor, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. Adequate lighting shall be provided, and each room or enclosure where a massage is administered shall have an illumination of not less than one footcandle as measured at the floor level while such room or enclosure is occupied.
- (5) All employees of the massage parlor shall be clean and wear clean outer garments, which use is restricted to the massage parlor. Provisions for a separate dressing room for each sex must be available on the permitted premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self closing.
- (6) All employees and masseurs shall be modestly attired. Diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. Clothing must cover the employee's or masseur's chest at all times. Hemlines of skirts, dresses or other attire may be no higher than three inches above the top of the knee.
- (7) All specified anatomical areas of patrons must be covered by towels, cloth or undergarments when in the presence of any employee or masseur. It shall be unlawful for any person in a massage parlor to expose his specified anatomical areas to any other person or for any person to expose the specified anatomical areas of another person.
- (8) It shall be unlawful for any person in a massage parlor to engage in any specified sexual activities or to place his/her hand upon, to touch with any part of his body, to fondle in any manner, or to massage any specified anatomical areas of any other person. All massage parlors shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner.
- (9) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- (10) No massage parlor shall place, publish, or distribute or cause to be placed, published, or distributed any advertising material that depicts any portion of the human body or contains any written text that would reasonably suggest to prospective patrons that any services are available other than those services described in this chapter, or that employees or masseurs are dressed in any manner other than described in this section.
- (11) All services enumerated in this chapter shall be performed in a cubicle, room, booth or area within the massage parlor, which cubicle, room, booth or area shall

have transparent doors or walls that all activity therein shall be visible from outside the same.

- (12) No massage parlor shall carry on, engage in, or conduct business on Sunday or on any other day before 8:00 a.m. or after 9:00 p.m.
- (13) A full schedule of service rates shall be posted in a prominent place within the massage parlor in such a manner as to come to the attention of all patrons. No charges other than the specified rates for specified services shall be allowed and all patrons shall be notified of the full cost of services prior to the rendering of any service.

**§ 109-12. Penalties for offenses.**

- A. Any licensee, operator, employee or other person who violates any of the provisions of this chapter shall be subject to a fine of \$250 as provided in the Town fee schedule for each such violation.
- B. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.
- C. In addition to any fines or penalties imposed in this section, this chapter may be enforced by injunctive procedure in the Superior Court. The Town may further recover from any violator any and all costs and fees, including reasonable attorney's fees, expended by the Town in enforcing the provisions of this chapter.
- D. This chapter shall not preclude any additional enforcement action taken by any appropriate Town, state or federal official conducted pursuant to any applicable ordinance, regulation or law of the Town or state or the United States of America.
- E. All remedies and penalties provided for in this section shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies set forth in this section to the fullest extent allowed by law.

## Chapter 110

### ALARMS

§ 110-1. Purpose.

§ 110-4. User fee for false alarms.

§ 110-2. Definitions.

§ 110-5. Penalties for offenses.

§ 110-3. Registration required;  
installation standards.

[HISTORY: Adopted by the Town of Thomaston 9-25-1991. Amendments noted where applicable.]

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#### § 110-1. Purpose.

It is the intent and purpose of this chapter to provide minimum standards and regulations applicable to users and installers of burglar, fire, holdup and automatic telephone dialer alarms within the Town of Thomaston, to provide penalties for noncompliance, and to encourage the installation of protective alarm systems in all dwellings and commercial structures.

#### § 110-2. Definitions.

The following definitions shall apply to this chapter:

**ALARM SYSTEM** — An assembly of equipment and devices (or a single device, such as a solid state unit, which may operate from a one-hundred-ten-volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which Police or Fire Department personnel are expected to respond. This includes all burglar alarms, fire alarms, holdup alarms and automatic telephone dialer alarms, except this does not include smoke detectors which do not signal outside an alarmed premises or alarm system on motor vehicles.

**ALARM USER** — Any person, firm or corporation on whose premises any alarm system is maintained within the Town.

**AUTOMATIC TELEPHONE DIALING DEVICE** — Refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message indicating the existence of the emergency situation that the alarm system is designed to detect.

**FALSE ALARM** — The activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence or carelessness of the owner or lessee of an alarm system or of his or her employees or agents. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes or other normally infrequent violent conditions or acts of God. Excluded from this definition are false alarms that are transmitted with a criminal, malicious or mischievous intent. Such violations will be prosecuted under the applicable Connecticut General Statutes.

**§ 110-3. Registration required; installation standards.**

- A. Any person, firm or corporation installing an alarm system within the Town shall register with the Thomaston Police Department at least 10 days prior to the system's anticipated installation. All existing alarm systems shall be registered with the Thomaston Police Department within 60 days of the effective date of this chapter.
- B. No alarm system shall be installed by other than a licensed person or other person meeting the requirements set forth in the Connecticut State Building Code. No alarm system shall be installed unless an electrical permit to install an alarm system has been obtained from the Building Official of the Town of Thomaston, or his or her designated representative, as required by Connecticut State Building Code.
- C. Alarm users having existing automatic telephone dialing devices shall comply with § 7-282b of the Connecticut General Statutes, as amended.
- D. No automatic telephone dialing device shall be programmed to dial 911.
- E. No person, firm or corporation shall install an automatic telephone dialing device within the Town of Thomaston terminating at the Thomaston Police Department after the effective date of this chapter.
- F. All alarm systems, as defined in this chapter, which sound an audible signal which may be heard outside of the protected premises shall be equipped with a device which shall limit the duration of such audible signal to not more than 30 minutes in accordance with § 22a-69-5.1 of the Regulations of Connecticut State Agencies, as amended.

**§ 110-4. User fee for false alarms.**

A maximum of three false alarms per calendar year shall be allowed from any alarm system of any person, firm or corporation. On receipt of a fourth and for each false alarm thereafter during the calendar year, a user fee shall be assessed by the Chief of Police in the amount of \$25. Alarms originating from any building owned or occupied by the Town of Thomaston shall be exempt from the user fee requirements.

**§ 110-5. Penalties for offenses.**

- A. Any person, firm or corporation found to be in violation of § 110-3E shall be fined \$100.
- B. Any person, firm or corporation who or which shall fail to pay a user fee which has been assessed as provided in § 110-4 of this chapter within 30 days of the date of notice of assessment shall be responsible for all attorneys' fees, court costs and legal fees of any nature incurred by the Town of Thomaston in any proceeding required to enforce the collection of said fees.

**Chapter 114**  
**ALCOHOLIC BEVERAGES**

**ARTICLE I**  
**Hours of Sale**

**§ 114-1. Sale on Sunday.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE II**  
**Liquor Permits**

**§ 114-2. Notice of liquor permit renewal.**

**GENERAL REFERENCES**

Alcoholic beverages in parks — See Ch. 204.

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**ARTICLE I**  
**Hours of Sale**  
**[Adopted 7-30-1935]**

**§ 114-1. Sale on Sunday.**

The sale of wine, beer and liquors shall be allowed on Sundays according to law.

**ARTICLE II**  
**Liquor Permits**  
**[Adopted 8-26-2015]**

**§ 114-2. Notice of liquor permit renewal.**

Any person who files an application pursuant to § 30-39 of the Connecticut General Statutes for renewal of a liquor permit which allows on-premises serving or consumption of alcoholic liquor in the Town of Thomaston shall simultaneously give written notice of such liquor permit renewal application to the Chief of Police, or his or her designee, who may respond in writing, not later than 15 days after receipt of such notice, to the Commissioner of Consumer Protection, with comments regarding the renewal application that is the subject of such notice, which comments shall be considered by the Commissioner prior to acting on such application.

**Chapter 121**  
**BAZAARS AND RAFFLES**

**§ 121-1. Act adopted.**

**[HISTORY: Adopted by the Town of Thomaston 8-17-1955. Amendments noted where applicable.]**

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**§ 121-1. Act adopted.**

Resolution adopted the provisions of Public Act 409 of the 1955 Session of the General Assembly (An Act Concerning Bazaars and Raffles) as provided by said Act.

## Chapter 128

### BUILDING CONSTRUCTION

#### ARTICLE I State Building Code

§ 128-1. Adoption of state code.

#### ARTICLE II Buildings on Unaccepted Streets

§ 128-2. Conditions for building permit issuance.

§ 128-3. Lots.

§ 128-4. Permits for certain building types.

§ 128-5. Appeals and variances.

§ 128-6. Statutory authority; intent.

#### ARTICLE III Building Permits Withheld for Delinquent Taxes

§ 128-7. Statutory authority.

§ 128-8. Evidence of payment.

§ 128-9. Exceptions.

§ 128-10. Appeals.

[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building permit fees — See Ch. 154, Art. II.  
Historic preservation — See Ch. 169.

Sewers and sewage disposal — See Ch. 228.  
Street numbers — See Ch. 240, Art. III.

#### ARTICLE I State Building Code [Adopted 9-23-1970]

§ 128-1. Adoption of state code. [Amended 5-29-2007]

The State Building Code, presently denominated "Basic Building Code," as adopted, promulgated and administered by the Department of Public Safety of the State of Connecticut, is hereby adopted as the Building Code of the Town of Thomaston. Any amendments to said code hereafter adopted by the State Building Inspector shall also apply to said code as adopted by this article, and any such amendment shall take effect 60 days after adoption and publication thereof by the State Building Inspector unless, during such time, the Town rejects any such amendment by ordinance. No requirements of law for the publication of ordinances shall be deemed to require the publication of the code hereby adopted, or of any such amendment, in any newspaper. The adoption of this code includes the adoption of any code, rule or regulation incorporated therein by reference. Said code is adopted by the Town of Thomaston by this article in conformity with the provisions of Connecticut General Statutes, § 29-252.

ARTICLE II  
**Buildings on Unaccepted Streets**  
**[Adopted 7-29-1988]**

**§ 128-2. Conditions for building permit issuance.**

- A. No building permit shall be issued for the erection or placement of a building or structure unless such building or structure is located on a lot having frontage on or direct access to:
- (1) A state highway, other than a limited access state highway; or
  - (2) A Town highway or street accepted pursuant to Connecticut General Statutes, § 13a-48, as amended (or any predecessor statute), and not discontinued pursuant to Connecticut General Statutes, § 13a-49 or 13a-50 (or any predecessor statutes); or
  - (3) A proposed public highway or street shown on a map approved by the Thomaston Planning and Zoning Commission pursuant to Connecticut General Statutes, § 8-26 or 8-29, as amended (or any predecessor statutes), filed in the office of the Town Clerk, and so constructed as to meet all specifications of said Commission and any Town ordinances or resolutions concerning construction and acceptance of public highways or streets, except for the final course of bituminous concrete paving and curbing, the construction and maintenance of which shall be adequately guaranteed by means of a bond acceptable to said Commission.
- B. For purposes of this article, the phrase "having frontage" or "direct access to" shall mean a lot satisfying the frontage or interior lot requirements of the Thomaston Zoning Regulations.

**§ 128-3. Lots.**

In addition to the provisions of § 128-2 of this article, no building permit shall be issued for the erection or placement of a building or structure on any lot which is created by a division of a tract of land constituting a subdivision or a resubdivision of land pursuant to Connecticut General Statutes, § 8-18, as amended (or any predecessor statute), unless such lot is shown on a map approved by said Commission and filed in the office of the Town Clerk or unless such lot is a nonconforming lot of record as defined by the provisions of the Thomaston Zoning Regulations and a zoning permit has been issued by said Commission or its Zoning Enforcement Officer.

**§ 128-4. Permits for certain building types.**

Notwithstanding the provisions of §§ 128-2 and 128-3 of this article, building permits may be issued for the erection, placement, or alteration of the following types of buildings or structures, provided that all applicable provisions of the Thomaston Zoning Regulations are satisfied:



- A. Farm buildings or structures not used, or capable of use, for human habitation; or
- B. Accessory use buildings or structures not used, or capable of use, for human habitation; or
- C. An addition to an existing building or structure as defined in Subsection A or B, or an existing occupied dwelling, provided that nothing herein shall require the issuance of a building permit for a building, structure or addition thereto, the purpose or effect of which is the conversion of a seasonal cottage to a year-round dwelling or to permit occupancy of any dwelling by additional families.

#### **§ 128-5. Appeals and variances.**

The Thomaston Zoning Board of Appeals is hereby authorized and empowered to hear and decide appeals and hear and decide requests for variances hereunder in the same manner and subject to the same procedures and standards as zoning appeals and variances under Connecticut General Statutes, § 8-6, as amended, and any further appeal of the Board's decision shall be in the same manner and subject to the same procedures and standards as under Connecticut General Statutes, § 8-8, as amended.

#### **§ 128-6. Statutory authority; intent.**

This article is enacted pursuant to Connecticut General Statutes § 8-27, as amended, and is intended to promote the development of a public street and highway system in the Town of Thomaston which is safe and convenient; to assure that all buildings and structures will have ingress and egress satisfactory for fire, police, ambulance and other emergency vehicles; to assure that buildings and structures are located on lots which meet the standards of the Thomaston Subdivision Regulations and the Thomaston Zoning Regulations; and to permit the issuance of building permits on proposed subdivision streets which are substantially completed to the Town's standards and adequately bonded, prior to formal acceptance of such streets by Town Meeting, after publication in a newspaper having circulation in the Town of Thomaston.

### **ARTICLE III Building Permits Withheld for Delinquent Taxes [Adopted 8-28-1996]**

#### **§ 128-7. Statutory authority. [Amended 9-29-2010]**

Pursuant to C.G.S. § 7-148(c)(2)(B), as amended, no building permit shall be issued for improvements to any property on which the property taxes, sewer rates, charges or assessments imposed by the Town of Thomaston or the Thomaston Water Pollution Control Authority are delinquent.

**§ 128-8. Evidence of payment. [Amended 9-29-2010]**

In order to obtain a building permit; a property owner, contractor or other applicant must present written evidence that all property taxes, sewer rates, charges or assessments, including interest, lien fees, attorney's fees and costs of collection, are current. Such documentation shall be in the form of a paid tax bill, canceled check, or Tax Collector's receipt.

**§ 128-9. Exceptions.**

This article shall not apply to the following situations:

- A. Improvements ordered or required by any governmental authority for reasons of public health or safety;
- B. Improvements required to bring the property into compliance with the State Fire Safety Code, C.G.S. § 29-291 et seq., as amended, the State Building Code, C.G.S. § 29-251 et seq., as amended, or the accessibility requirements of the Americans with Disabilities Act of 1990, 42 U.S.C § 12101 et seq., as amended;
- C. Improvements deemed necessary by the Building Official for the health or safety of the occupants or the public; and
- D. Improvements previously covered under a building permit issued prior to the effective date of this article, provided that such permit has not expired, been suspended or revoked.

**§ 128-10. Appeals.**

Any person aggrieved by a decision of the Building Official acting pursuant to this article may appeal to the Board of Selectmen, thence to the Superior Court for the Judicial District of Litchfield, pursuant to C.G.S. § 29-266, as amended.

## **Chapter 131**

### **CANNABIS ESTABLISHMENTS**

#### **§ 131-1. Definitions.**

#### **§ 131-3. Approval and enforcement.**

#### **§ 131-2. Cap on number of certain cannabis establishments.**

#### **§ 131-4. Penalties for offenses.**

**[HISTORY: Adopted by the Town of Thomaston 8-31-2022. Amendments noted where applicable.]**

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#### **§ 131-1. Definitions.**

For purposes of this chapter, the Town of Thomaston adopts the definitions used in General Statutes § 21a-420. Pursuant to General Statutes § 21a-420, "cannabis establishment" means a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, delivery service or transporter.

#### **§ 131-2. Cap on number of certain cannabis establishments.**

The Board of Selectmen of the Town of Thomaston shall not approve any permit application which would result in more cannabis retailers than would equal one cannabis retailer with one retail location per 25,000 residents of Thomaston.

#### **§ 131-3. Approval and enforcement.**

- A. If any permit or special permit is granted by the Planning and Zoning Commission for a cannabis retailer, a cannabis retailer permit application shall then be submitted to the Board of Selectmen with a nonrefundable fee set by the Board of Selectmen. The Board of Selectmen may, in its sole discretion, order an investigation by the Thomaston Police Department and request additional information be supplied by the applicant. The application shall be sworn to be true and correct by the applicant. Pursuant to § 131-2 of this Code, the Board of Selectmen shall not approve any cannabis retailer permit application that would result in more cannabis retailer location per 25,000 residents of Thomaston. The Board of Selectmen shall be guided by the Planning and Zoning Commission's regulations and recommendations when reviewing a cannabis retailer permit application. Applications shall be taken up and acted upon by the Board of Selectmen in the order in which the applications are received in complete form and approved by the Planning and Zoning Commission.
- B. If a cannabis retailer permit is granted by the Board of Selectmen, the information furnished in the application shall be updated by the permit holder within 30 days of any material changes.
- C. It shall be unlawful for any cannabis retailer to operate in Thomaston without obtaining both the applicable permit/special permit from the Planning and Zoning Commission

and the applicable permit from the Board of Selectmen. This chapter shall be enforced by the Board of Selectmen and Chief of Police.

- D. No permit shall be issued by the Board of Selectmen until after the Election November 8, 2022, in order to allow for a petition to place a question on the ballot pursuant to Connecticut General Statutes, § 21a-422g.

**§ 131-4. Penalties for offenses.**

- A. Any cannabis retailer who violates any of the provisions of this chapter shall be subject to a fine of \$250 as provided in the Town fee schedule for each such violation. Each violation of this article shall be considered a separate offense, with each transaction being a separate offense.
- B. In addition to any fines or penalties imposed in this section, this chapter may be enforced by injunctive procedure in the Superior Court. The Town may further recover from any violator any and all costs and fees, including reasonable attorney's fees, expended by the Town in enforcing the provisions of this chapter.
- C. This chapter shall not preclude any additional enforcement action taken by any appropriate town, state or federal official conducted pursuant to any applicable ordinance, regulation or law of the Town or state or the United States of America.
- D. All remedies and penalties provided for in this section shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies set forth in this section to the fullest extent allowed by law.

## **Chapter 132**

### **CANNABIS USE**

#### **ARTICLE I** **Definitions; Use on Town Property**

#### **§ 132-3. Sale, gift, or transfer of cannabis products on Town property prohibited.**

#### **§ 132-1. Definitions.**

#### **§ 132-2. Cannabis product use prohibited on Town property.**

**[HISTORY: Adopted by the Town of Thomaston 10-6-2021. Amendments noted where applicable.]**

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#### **ARTICLE I** **Definitions; Use on Town Property**

#### **§ 132-1. Definitions.**

For purposes of this Chapter, the Town of Thomaston adopts the definitions used in Public Act 21-1 (June 2021 Special Session), Section 1.

#### **§ 132-2. Cannabis product use prohibited on Town property.**

It shall be unlawful for any person to use cannabis or cannabis- derived products, regardless of form or manner of ingestion, on any property owned or controlled by the Town of Thomaston. This prohibition includes but is not limited to: the lighting or carrying of a lighted cannabis or marijuana cigarette or cigar or pipe, use of a vaping device producing vapor of any cannabis product, or ingestion of a cannabis edible substance. Violation of this section shall be punishable by a fine of \$50 per offense.

#### **§ 132-3. Sale, gift, or transfer of cannabis products on Town property prohibited.**

It shall be unlawful for any person, organization, entity, or any other party to sell, give, trade, or in any other way transfer cannabis products of any sort to another person, organization, entity, or other party on property owned or controlled by the Town of Thomaston. Such products include but are not limited to: cannabis or marijuana cigarettes or cigars or pipes, vaping devices and vaping substances, and edible substances. Violation of this section shall be punishable by a fine of \$50 per offense.

## **Chapter 135**

### **CEMETERIES**

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| § 135-1. Cemetery Committee.             | § 135-8. Charges for opening and closing graves. |
| § 135-2. Conflicts of interest.          | § 135-9. Interments.                             |
| § 135-3. Peace and good order.           | § 135-10. Deeds.                                 |
| § 135-4. Cemetery workers.               | § 135-11. Lots.                                  |
| § 135-5. Monuments and other structures. | § 135-12. Transfer of lots.                      |
| § 135-6. Trees, shrubs and flowers.      | § 135-13. Access.                                |
| § 135-7. Plans and records.              |  |

**[HISTORY: Adopted by the Town of Thomaston 10-3-1904. Amendments noted where applicable.]**

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**§ 135-1. Cemetery Committee. [Amended 12-18-2000; 8-26-2015]**

- A. Said Committee shall have power to authorize and empower the Superintendent, to be chosen for that purpose, to execute deeds of conveyance of burial lots, and the signature of said member shall be sufficient signing of such deed of conveyance. Said Committee shall also receive and appropriate the proceeds of any such sales to defray the expenses of care and improving said grounds.
- B. Said Cemetery Committee shall annually elect a President, Secretary and Treasurer and appoint a Superintendent who shall have charge of all work done in the cemetery and at all times carry out any instructions he may receive from the Committee. The persons now in office as Cemetery Committee shall continue in office under these bylaws and regulations. The Board of Selectman shall have the power to fill any vacancy occurring until the next Town meeting. All final appointments shall be made at any annual Town meeting for the balance of the term.
- C. The number of members of the Cemetery Committee constituting a quorum necessary to conduct business shall be two members.

**§ 135-2. Conflicts of interest. [Amended 8-26-2015]**

The Committee, Superintendent, or any employee thereof shall have no pecuniary interest whatever in any work or material furnished for the cemetery, or be engaged in buying or selling lots in the cemetery, except for the Town. The Superintendent shall not sell monuments of any description, or in any manner be connected with any monumental works from which he/she may receive remuneration for any information he/she may furnish. Any employee who shall accept pay for the special care of any lot will be discharged. All business of this character must be done with the Superintendent or Committee.

**§ 135-3. Peace and good order. [Amended 8-26-2015]**

Visitors must not drive faster than conditions will allow and in no instance faster than five miles per hour. Improper conduct or violation of cemetery regulations will result in expulsion from the cemetery grounds, and a report will be filed with the cemetery committee.

**§ 135-4. Cemetery workers. [Amended 8-26-2015]**

Workers both employed by the cemetery and outside parties shall be under the supervision of the Superintendent or his/her designee. All rubbish shall be removed and the grounds or driveways shall be restored to acceptable standards as determined by the Superintendent.

**§ 135-5. Monuments and other structures. [Amended 8-26-2015]**

In the erection of monuments or other structures or improvements, a place shall be designated for the deposit of stones or other materials. Foundations shall be adequate to support structures and approved by the Superintendent.

**§ 135-6. Trees, shrubs and flowers.**

- A. Trees, shrubs and flowers may be planted on any lot, but no tree growing upon a lot shall be cut down or destroyed without the consent of the Cemetery Committee.
- B. The Cemetery Committee shall have the right to cause the removal of trees or shrubs that shall, by their roots, branches, or otherwise, become dangerous, detrimental or inconvenient to the adjacent lots or avenues. It may also cause to be removed any monumental structures or effigy or any inscription judged by it to be offensive or improper.

**§ 135-7. Plans and records. [Amended 8-26-2015]**

Where graves are not designated by stones, every lot owner should have a plan of the lot and interments thereon and a record of every interment, with name and date, and on ordering a grave opened, a transcript of this drawing designating where the grave is desired should be sent to the Superintendent.

**§ 135-8. Charges for opening and closing graves. [Amended 8-26-2015]**

For opening, closing and turbing graves, the charges will be set by the Cemetery Committee on a yearly basis.

**§ 135-9. Interments. [Amended 8-26-2015]**

Interments must not exceed one full burial with two cremains per lot, or four cremains per lot.

**§ 135-10. Deeds.**

The price of lots will include the expense of having the deed recorded, and no deed will be delivered until it has been placed upon the Town records.

**§ 135-11. Lots.**

No interment will be allowed upon a lot until it is fully paid for or a satisfactory guarantee given, and all lots shall be subject to the bylaws and rules which may from time to time be adopted by the Town of Thomaston.

**§ 135-12. Transfer of lots.**

In order to ensure a perfect record the Committee must be notified of all transfers of lots.

**§ 135-13. Access. [Added 8-26-2015]**

The Cemetery Committee shall keep the cemetery opened from dawn until dusk, weather permitting. Winter weather may necessitate closing the access road. No off-road vehicles are allowed on any portion of the cemetery's property.



## **Chapter 142**

### **DRIVEWAYS**

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| <p>§ 142-1. Permit required.</p> <p>§ 142-2. Conditions for approval.</p> <p>§ 142-3. Permit validity.</p> <p>§ 142-4. Inspections.</p> <p>§ 142-5. Validation.</p> <p>§ 142-6. Action on request for permit.</p> | <p>§ 142-7. Penalties for offenses.</p> <p>§ 142-8. Correction of defects by Town.</p> <p>§ 142-9. Permit fee.</p> <p>§ 142-10. Proximity to boundary lines.</p> <p>§ 142-11. Specifications.</p> |
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**[HISTORY: Adopted by the Town of Thomaston 4-7-1986. Amendments noted where applicable.]**

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**§ 142-1. Permit required. [Amended 5-29-2007]**

No person shall construct, resurface, or rebuild on Town property or Town right-of-way connecting private property with a highway any roadway without first obtaining a permit from the Town of Thomaston Building Official.

**§ 142-2. Conditions for approval.**

Approval of an application for a permit shall be subject to the following conditions: that the applicant is the owner of the property, or the contractor of said owner, and that any driveway approach constructed by him or her is for the bona fide purpose of securing access to his or her property and not for the purpose of parking or servicing vehicles on the Town highway right-of-way.

**§ 142-3. Permit validity. [Amended 5-29-2007]**

A permit becomes valid when the person completes the construction adhering to the guidelines set forth by the Town of Thomaston and a final inspection and approval have been completed by the Thomaston Superintendent of Highways and the Thomaston Building Official.

**§ 142-4. Inspections.**

Any driveway, approach, or improvement constructed within the right-of-way under permit shall be subject to inspection by the Town.

**§ 142-5. Validation.**

Validation of an application for permit shall be based upon the following guidelines:

- A. Sight line.
- B. Drainage.
- C. Culvert installation.
- D. Grade.
- E. Pavement.

**§ 142-6. Action on request for permit.**

Requests for permits shall be acted upon within 15 days.

**§ 142-7. Penalties for offenses. [Amended 2-4-2016]**

Any person who violates any provision of this chapter shall be fined not more than \$90 per day for each day of violation.

**§ 142-8. Correction of defects by Town.**

Any construction(s) carried out by the owner of the property that is performed at variance from the approved standards will be cause for the Town of Thomaston to correct any defects at the expense of the property owner.

**§ 142-9. Permit fee. [Amended 2-4-2016]**

A permit fee of \$25 shall be paid to the Town.

**§ 142-10. Proximity to boundary lines.**

No construction or alteration of a driveway shall be allowed within five feet of a boundary line.

**§ 142-11. Specifications. [Added 2-9-2006]**

- A. Authorization. This section is adopted pursuant to C.G.S. § 7-148(c)(6)(C).
- B. Driveway permit specifications. This chapter is amended to incorporate the Driveway Permit Specifications, Appendix A - Specifications for Driveways and Application for Driveway Permit, on file with the Town Clerk and Board of Selectmen, to be administered by the Superintendent of Highways or his designee.
- C. Delegation of authority. The Superintendent of Highways may revise and republish the Driveway Permit Specifications, Appendix A - Specifications for Driveways and Application for Driveway Permit, as necessary to protect the Town's highways and public safety, following a duly noticed public hearing and approval by the Board of Selectmen.

## Chapter 148

### ENTERPRISE ZONE

**§ 148-1. Enterprise Zone established;  
authority.**

**[HISTORY: Adopted by the Town of Thomaston 12-30-2014. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Taxation — See Ch. 247.

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**§ 148-1. Enterprise Zone established; authority.**

Pursuant to Connecticut General Statutes § 32-70, as amended by P.A. 14-217, Section 177, the Town of Thomaston hereby authorizes the establishment of the Thomaston Enterprise Zone in census tracts 09005349100 and 09005349200 as shown on a map entitled "Thomaston Enterprise Zone," as approved by Catherine Smith, Commissioner, dated November 24, 2014, the "map"), prepared by the Town of Thomaston with assistance from the Naugatuck Valley Council of Governments and incorporated by reference herein;<sup>1</sup> and authorizes the Board of Selectmen and First Selectman Edmond V. Mone to exercise all statutory authority and to do any and all acts necessary or convenient to establish and administer the Thomaston Enterprise Zone, including the appointment of a Community Enterprise Zone Board pursuant to Connecticut General Statutes § 32-70d, within 30 days after approval of Thomaston's application by the Commissioner of Economic and Community Development; and to execute and deliver any and all documents necessary or convenient for said purposes.

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1. Editor's Note: A copy of the Map is on file in the Town offices.

## **Chapter 154**

### **FEES**

#### **ARTICLE I Land Use Applications**

- § 154-1. Statutory authority.
- § 154-2. Purposes.
- § 154-3. Base application fees.
- § 154-4. Surcharge fees.
- § 154-5. Outside consultants.
- § 154-6. Enforcement and collection.
- § 154-7. When effective.

#### **ARTICLE II Building Permits**

- § 154-8. Authorization and fee schedule.
- § 154-9. Appeals.
- § 154-10. Waivers.

- § 154-11. Electronic permit processing fee.

#### **ARTICLE III Aquifer Protection Agency**

- § 154-12. Statutory authority.
- § 154-13. Authorization and fee schedule.
- § 154-14. Exemption and waivers.
- § 154-15. Extra assessments in addition to fees.
- § 154-16. Enforcement.
- § 154-17. Appeals.

**Appendix A**

**Appendix B**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I Land Use Applications [Adopted 11-27-2001; amended in its entirety 12-6-2017]**

##### **§ 154-1. Statutory authority.**

Pursuant to §§ 8-1c and 22a-42a(e) of the Connecticut General Statutes, as amended, the Town of Thomaston amends the ordinances previously adopted August 15, 1990, March 25, 1992, and June 29, 1999, November 27, 2001, and October 24, 2012 to amend its land use application fee schedules to cover the reasonable cost of administrative processing, technical review, legal notices, and transcription and publication required for various land use applications and to defray the reasonable cost of pre-approval and post-approval technical review and on-site inspections to ensure compliance with its municipal land use regulations.

**§ 154-2. Purposes.**

The purposes of this article are to:

- A. Ensure that the base application fees cover the current cost of processing an application, including legal notices, transcription and publication;
- B. Provide that the reasonable cost of pre-approval review and processing and post-approval review and inspection are paid by the applicant.
- C. Provide the Town's land use commissions with adequate technical assistance to review complex applications; and
- D. Ensure post-approval compliance with municipal land use regulations and conditions of approval through adequate technical advice and on-site inspections.

**§ 154-3. Base application fees.**

- A. The Planning and Zoning Commission, Zoning Board of Appeals, and Inland Wetlands and Watercourses Commission shall, by regulation, adopt base application fees to cover the reasonable cost of administrative processing, routine review, legal notices and publications. The Town's base application fees shall be as set forth in the current Thomaston Zoning Regulations, Subdivision Regulations, and Inland Wetland and Watercourses Regulations, as may be amended or revised by the respective commissions. Such fees shall be considered the minimum application fees required for a routine application. The current base application fees are attached hereto and incorporated herein as Appendixes A and B.<sup>1</sup>
- B. In accordance with C.G.S. § 22a-27j, an additional State of Connecticut land use application fee shall be charged for all zoning, subdivision, Zoning Board of Appeals and Inland Wetlands and Watercourse applications. Municipal applications are exempt from this fee.

**§ 154-4. Surcharge fees.**

- A. Pre-approval. When the actual cost of processing an application exceeds the base application fee due to the need for outside consultant services, the Planning and Zoning Commission, Zoning Board of Appeals and Inland Wetlands and Watercourses Commission may charge the applicant an additional surcharge fee to cover the estimated reasonable cost of such consultant services. Any portion of the estimated surcharge fee not expended by the Town on such services shall be refunded to the applicant.
- B. Post-approval. In addition, the Planning and Zoning Commission, Zoning Board of Appeals and Inland Wetlands and Watercourses Commission may charge the applicant an additional surcharge fee to cover the actual, reasonable cost of outside consultant services required to review and inspect a project once an approval has been issued in order to ensure compliance with the regulations and conditions of approval.

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1. Editor's Note: Appendixes A and B are included as attachments to this chapter.

**§ 154-5. Outside consultants.**

The term "outside consultant" means a professional who is not an officer or employee of the Town, including but not limited to engineering, traffic, hydrological, environmental, planning and legal professionals.

**§ 154-6. Enforcement and collection.**

The filing of an application constitutes the applicant's and the property owner's agreement to pay the base application fee and any additional surcharge fees. The base application fee shall

be paid at the time the application is filed. The surcharge fees shall be paid within 10 days of the date the invoice is mailed or delivered to the applicant. If such fees are not paid when due, the commission or board may deny the application as incomplete or withhold the issuance of any permit approved and commence legal action against the applicant and/or the property owner to recover the fee. In the event that the commission or board is compelled to retain legal counsel to recover the fee, the applicant and/or property owner shall be liable for the commission's or board's reasonable attorney's fee and costs of collection.

**§ 154-7. When effective.**

This article shall take effect within 15 days of publication of a summary of its provisions in a newspaper having a substantial circulation in the Town of Thomaston and shall apply to all applications filed pending at the time of its adoption and shall ratify all application fees previously charged by the Planning and Zoning Commission, zoning Board of Appeals, and Inland Wetlands and Watercourses Commission pursuant to the commission's or board's respective regulations.

**ARTICLE II**

**Building Permits**

**[Adopted 7-19-2006; amended in its entirety 4-21-2017]**

**§ 154-8. Authorization and fee schedule.**

Pursuant to the Connecticut State Building Code and Connecticut General Statutes, § 29-263, as amended, the Building Official of the Town of Thomaston shall collect and remit to the Town Treasurer fees for the building permits as outlined in the schedules below. Permit fees for work not listed in the schedules shall be calculated on the "estimated cost of construction" which means the estimated cost or value of erection, alteration, improvement, placement, moving, dismantling or demolition, including all labor and materials, of any building, structure or sign as determined by the Building Official and may require proof of the cost by signed contract or other means. The estimated cost of construction includes, but is not limited to, all work that is done by the owner of any property.

**A. Building permit fee schedule - residential.**

- (1) For the first \$1,000 of estimated cost of construction, or fraction thereof: \$25.
- (2) For each additional \$1,000 of estimated cost of construction: \$12.
- (3) Additional fee to be assessed for commencing any work prior to issuance of permit or for after-the-fact inspections as per Connecticut State Building Code § 108.4: \$50.
- (4) Penalty fee for any check not honored for any reason: \$25.

**B. Building permit fee schedule - commercial/industrial.**

- (1) For the first \$1,000 of estimated cost of construction, or fraction thereof: \$30.
- (2) For each additional \$1,000 of estimated cost of construction: \$12.

- (3) Additional fee to be assessed for commencing any work prior to issuance of permit or for after-the-fact inspections as per Connecticut State Building Code § 108.4: \$50.
  - (4) Penalty fee for any check not honored for any reason: \$25.
- C. Construction cost schedule for residential and commercial buildings. Fees for permits shall be calculated using the following "estimated cost of construction" schedule:
- (1) Living space area: \$70 per square foot.
  - (2) Basement: finished, \$25 per square foot; unfinished, \$15 per square foot.
  - (3) Accessory buildings, garages, freestanding or attached, and/or decks: \$25 per square foot.
  - (4) Covered porches or decks: \$30 per foot.
  - (5) Roofing: \$250 per square; strip and re-roof, \$350 per square.
  - (6) Siding, vinyl: \$200 per square; vinyl windows: \$150 each.
  - (7) Fireplace: masonry, \$8,000; pre-fab: \$3,500.
  - (8) Factory/industrial/mercantile/hazard: \$50 per square foot.
  - (9) Swimming pools: in-ground, \$35 per square foot; aboveground, \$15 per square foot.
  - (10) Fence for swimming pools: \$10 per linear foot (minimum four feet high).
  - (11) Certificate of occupancy: \$50.
  - (12) Certificates of approval: \$10.
  - (13) Demolition: cost or estimated value.
- D. Cost schedule for mechanical and miscellaneous work:
- (1) Electrical: \$3 per square foot of living space.
    - (a) New service: value of installation, either overhead or underground.
  - (2) Heating and cooling: \$3 per square foot of living space.
  - (3) Alarms: \$1 per square foot of living space.
  - (4) Plumbing: \$900 per fixture.
  - (5) Stoves and decorative appliances: estimated cost or value.
  - (6) Tents: \$25.



**§ 154-9. Appeals.**

Any person aggrieved by the decision of the Building Official with respect to the amount of any permit fee calculated hereunder may file a written appeal within 30 days with the Building Code Board of Appeals for the Town of Thomaston pursuant to Connecticut General Statutes § 29-266 as amended.

**§ 154-10. Waivers.**

The Board of Selectmen may, in its discretion, waive any permit fee due with respect to any application wherein the owner and applicant is the Town of Thomaston, the Board of Education, or any board, commission or authority of the Town of Thomaston or any locally based nonprofit, charitable 501(c)(3) or civic organization serving the Town of Thomaston.

**§ 154-11. Electronic permit processing fee. [Added 10-29-2024]**

Where a building permit or permits are filed for electronically, the applicant shall pay an electronic permit processing fee, in addition to the applicable building permit fee(s) required by Article II of this chapter. The additional electronic permit processing fee shall be reasonably related to the actual cost of the electronic processing to the Town. The electronic permit fee shall be set by, and from time to time amended by, a majority vote of the Board of Selectmen after a public hearing by that Board on the proposed fee.

ARTICLE III  
**Aquifer Protection Agency**  
**[Adopted 10-29-2024]**

**§ 154-12. Statutory authority.**

Pursuant to General Statutes § 22a-354a et seq., as amended, the Town of Thomaston establishes Aquifer Protection Agency registration and permit application fees to cover the reasonable costs of processing, review, notices, and transcription and publication required for various applications and to defray the reasonable cost of technical review and inspections to ensure compliance with the Thomaston Aquifer Protection Area Regulations.

**§ 154-13. Authorization and fee schedule.**

Pursuant to General Statutes § 22a-354a et seq., as amended, the Aquifer Protection Agency of the Town of Thomaston may, by regulation, establish, amend, and revise fees to cover the reasonable costs of processing, review, notices, and transcription and publication required for various applications and to defray the reasonable cost of technical review and inspections to ensure compliance with the Thomaston Aquifer Protection Area Regulations. Any adoption, amendment, or revision of such regulations establishing or revising fees shall proceed in compliance with General Statutes § 22a-354p, as may be amended. Registration or permit application fees shall be nonrefundable.

**§ 154-14. Exemption and waivers.**

Boards, commissions, councils, and departments of the Town of Thomaston are exempt from all Aquifer Protection Agency fee requirements. A registrant or applicant who is not exempt may petition the Aquifer Protection Agency to waive, reduce, or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination. The Agency may waive all or part of the application fee based on criteria established in the Agency's regulations.

**§ 154-15. Extra assessments in addition to fees.**

In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the registration or permit application, the applicant/registrant may be assessed an additional fee not to exceed an amount designed by the regulations to cover said costs. Said fees are to be estimated by the duly authorized agent and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant/registrant. For the purpose of this assessment, an "outside consultant" means a professional who is not an employee of the Town of Thomaston including but not limited to engineering, environmental, hydrogeology and hazardous materials management professionals.

**§ 154-16. Enforcement.**

The regulations of the Aquifer Protection Agency shall provide for the enforcement measures available to the Agency.

**§ 154-17. Appeals.**

Appeal of the Agency's regulation, order, decision or action shall be made in accordance with § 22a-354q of the General Statutes.

# FEES

## 154 Attachment 1

### Town of Thomaston

#### Appendix A

#### Fee Schedule

#### Planning and Zoning

[Amended 4-21-2017; 12-6-2017]

All fees include a state land use fee where applicable under CGS § 22a-27j, and contain additional base administrative costs for newspaper notices, mailings, filing fees and technical review where applicable. Fees with an asterisk (\*) may require special permit approval.

<b>Planning and Zoning Commission</b>	
Special permits	\$495
Site plan applications/revisions	\$150
Certificate of zoning compliance	\$30
Certificate of nonconformity	\$30
Change in use/certificate of use	\$90
Disturbed area (filling/grading/excavation) to be added to other permit fees	\$0 01 per square foot
Signs - residential and manufacturing	\$90
Signs - commercial	\$150*
Residential dwellings (new construction or conversions)	\$175 per unit
Multifamily dwellings (4+ units)	\$625 plus \$75 per unit in excess of 4 units
Residential additions and accessory buildings/structures	\$90 for the first 250 square feet plus \$30 for each additional 250 square feet
<b>Earth excavation and mining</b>	
0 to 100 cubic yards	No Fee
101 to 249 cubic yards	\$90
250 to 999 cubic yards	\$495*
1,000 cubic yards and over	\$595 plus \$100 for each additional 1,000 cubic yards*
<b>Commercial/manufacturing buildings and structures</b>	
<b>New construction</b>	
Under 500 square feet	\$120
Between 501 and 2,500 square feet	\$495
2,500 square feet and over	\$495 plus \$30 per each additional 500 square feet*
<b>Additions to existing structures</b>	
Under 500 square feet	\$120
500 square feet and over	\$350 plus \$30 per each additional 500 square feet*
<b>Subdivisions/re-subdivisions</b>	
3 or fewer lots	\$495
4 or more lots	\$495 plus \$150 per lot in excess of 3 lots
<b>Town engineering/professional review fees</b>	
Applicants are responsible for all reasonable costs incurred by the Town Engineer during the applications and review process	
Zone change applications	\$595 plus \$10 per acre over 5 acres
Zoning/subdivision regulation text amendment applications	\$595

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<b>Zoning Board of Appeals</b>	
Variance applications	\$495
Appeals of ZEO decisions	\$495 *Fees refunded for successful appeals *ZBA may partially refund fees for modified decisions or partially successful appeals
Automotive dealer/repairer applications	\$435 (No state fee required)
<b>Aquifer Protection Agency</b>	
Applications requiring public hearing	\$435
Applications not requiring public hearing	\$150
<b>Regulations/Publications</b>	
Planning and zoning regulations	\$15
Inland, wetlands and watercourses regulations	\$15
Zoning map	\$10
Comprehensive plan of development	\$25
Assessor's maps and other maps, color	\$10
Assessor's maps and other maps, noncolor	\$5

The Planning and Zoning Commission or its designated agent shall have the authority to reduce or waive fees for state or municipal projects or for other projects and/or applications as deemed appropriate.

## FEES

### *154 Attachment 2*

#### **Town of Thomaston**

#### **Appendix B**

#### **Fee Schedule**

#### **Inland Wetlands and Watercourses**

**[Amended 4-21-2017; 11-20-2019]**

#### 18.1. Method of payment.

In accordance with the provisions of § 22a-42a(e) of the Connecticut General Statutes, the Commission may require a filing fee to be deposited with the Commission. The amount of such fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including but not limited to the costs of certified mailings, publications of notices and decisions and monitoring compliance with permit conditions or Commission orders.

#### 18.2. Waiver of Fee.

No applications shall be granted or approved unless the correct application fee is paid in full or a waiver has been granted by the Commission.

#### 18.3. Petition to waive, reduce, delay or refund fees.

- a. Any applicant may petition the Commission to waive, reduce, allow for a delay, or refund payment of the fee.
- b. Petitions shall be in writing and state fully the facts and circumstances that the Commission should consider in making its determination.
- c. The Commission may waive all or part of any application fee if it determines that:
  1. The proposed activity or use would clearly result in a substantial public benefit to the environment, public health and safety.
  2. The applicant would be deterred from initiating the activity solely or primarily as a result of the amount of the application fee.
  3. The amount of the fee is clearly excessive in relation to costs for reviewing and processing the application.
- d. The Commission may partially refund fees for applications that are withdrawn prior to a decision by the Commission in which the conducting of site work or commencement of third party review has not occurred. The refund shall apply to

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activity fees only. Base fees, significant activity fees, state fees and any post-application fees are nonrefundable.

- e. The Commission shall state upon its record the basis for all actions and decisions under this section.

### 18.4. Definitions.

- a. Single-family - Activities carried out on property developed for housing or proposed to be developed or currently occupied by permanent residential housing of a single-family dwelling unit.
- b. Commercial uses - Activities carried out on property developed for industry, commerce, recreation or business or being developed to be occupied for such purposes, for profit or nonprofit.
- c. Subdivisions - Those activities carried out on property proposed to be developed for permanent residential housing.
- d. Other uses - Those activities other than those as listed above.

### 18.5. Exemptions.

All boards, commissions, councils and agencies of the Town are exempt from all fee requirements. All invoices related to newspaper notices, filing fees or other administrative costs mandated by state law shall be paid by the applying agency.

### 18.6. All applications before the Commission shall include the following fees, which shall be totaled to determine the final permit fee:

- a. Base fees, which serve as a minimum application fee, based on the type of activity. An additional fee prescribed by the State of Connecticut for all land use applications as required in C.G.S. § 22a-27j is included in the base fees.

#### Base Application Fees:

- 1. Regulated uses, Section 6.
  - Single-family: \$65 plus state fee.
  - Commercial: \$190 plus state fee.
  - Subdivision: \$175 plus state fee plus \$75 per lot.
  - All other uses: \$140 plus state fee.
- 2. Permitted and non-regulated uses, Section 4.
  - Uses of right and nonregulated uses: no charge.
  - Jurisdictional rulings: no charge.

## FEES

3. Map/regulation amendment.  
Petition by applicant, Section 15: \$435 plus state fee.
  4. Authorized agent administrative applications, Section 12: \$65 plus state fee. All activity fees shall be waived for applications under this section.
  5. Extension of permit, Section 7.9: \$35.
  6. Modifications to previously approved plans, Section 7.9: \$65 plus state fee.
  7. Transfer of permit, Section 11.10.e: \$10 plus state fee.
- b. Activity fees based on the size, scope and impact of the proposed project.

### Activity Fees:

1. Significant activities, Sections 2, 7.4 and 9.1: \$300.
2. Activities within a regulated upland review area:  
First 500 square feet of regulated activity: no charge.  
\$1.00 for every 25 square feet of regulated activity over 500 square feet.
3. Activities within a wetland or watercourse:  
\$1.00 for every five square feet of regulated activity up to 500 square feet.  
\$1.00 for every two square feet of regulated activity greater than 500 square feet.
4. Fee credit for mitigation activities;  
\$1.00 reduction of application fees for every two square feet of proposed mitigation area. Fees shall not be reduced to less than double the base fees plus significant activity fees, if applicable.

Acceptable mitigation projects shall include creation of new wetlands or watercourses on or off site, creation of conservation easements or other permanent protections to existing wetlands or watercourses, or similar projects acceptable to the commission.

- c. Additional fees for certain applications, when necessary.

### Additional Fees:

1. Post-activity application fee:  
For activities occurring without a permit, additional fees are added for permit applications resulting from enforcement to cover direct Town costs for enforcement actions and additional staff time:

Residential: \$100.

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Commercial/Other: \$200.

### 18.7. Regulated activity permit fee.

- a. No permit application shall be accepted until the application fee has been paid.
- b. The applicant shall have a period of 10 days after the Commission's approval to pay for any outstanding permit fees assessed by the Commission.
- c. Approved mitigation proposals shall be completed within two years of approval. If not completed, mitigation activity fee credits shall become null and void and immediately due to the Town. This period may be extended for up to one additional year upon request to the Commission prior to expiration.

### 18.8. Enforcement and collection.

- a. The filing of an application constitutes the applicant's and the property owner's agreement to pay the base application fee and additional surcharge fees. The base fee shall be paid at the time the application is filed with the Commission.
- b. If such fees are not paid when due, the Commission may deny the application as incomplete or withhold the issuance of any permit approval and commence legal action against the applicant and/or property owner to recover the fee.
- c. In the event the Wetlands Commission is compelled to retain legal counsel to recover the fee, the applicant and/or property owner shall be liable for the Commission's reasonable attorney's fee and costs of collection.



## **Chapter 161**

### **GARAGE AND TAG SALES**

- |   |   |
|---|---|
| § 161-1. Findings and intent.                     | § 161-11. Display of permit.                |
| § 161-2. Definitions.                             | § 161-12. Advertising.                      |
| § 161-3. Property permitted to be sold.           | § 161-13. Order to be maintained.           |
| § 161-4. Permitted required.                      | § 161-14. Inspections and enforcement.      |
| § 161-5. Application for permit.                  | § 161-15. Parking.                          |
| § 161-6. Permit fee.                              | § 161-16. Revocation and refusal of permit. |
| § 161-7. Permit conditions.                       | § 161-17. Exemptions.                       |
| § 161-8. Hours of operation.                      | § 161-18. Separate violations.              |
| § 161-9. Rescheduled sales or additional sales.   | § 161-19. Penalties for offenses.           |
| § 161-10. Investigation prior to permit issuance. |   |

**[HISTORY: Adopted by the Town of Thomaston 11-29-1989; amended in its entirety 12-6-2017. Subsequent amendments noted where applicable.]**

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#### **§ 161-1. Findings and intent.**

The Town of Thomaston, acting pursuant to Connecticut General Statutes § 7-148(c)(7)(H)(iii), finds and declares that:

- A. The intrusion of nonregulated garage sales is causing annoyance to citizens in residential areas in the Town of Thomaston and congestion of the streets in residential areas in the Town of Thomaston.
- B. The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment.
- C. The provisions of this chapter do not seek control of occasional sales by individuals selling a few of their household or personal items.
- D. The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the Town's citizens.

#### **§ 161-2. Definitions.**

For the purposes of this chapter, the following terms shall have the following meanings:

**GARAGE SALE** — All general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the Zoning Ordinance, for the purpose of disposing of personal property, including but not limited to all sales titled "garage," "tag,"

"lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market" or "rummage" sale. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

**PERSONAL PROPERTY** — Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

**§ 161-3. Property permitted to be sold.**

It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

**§ 161-4. Permitted required.**

No garage sale shall be conducted unless and until the persons desiring to conduct such sale shall obtain a permit therefor from the Zoning Enforcement Officer. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them.

**§ 161-5. Application for permit.**

Prior to issuance of any garage sale permit, the persons conducting such sale shall file a written application with the Zoning Enforcement Officer, at least five days in advance of the proposed sale (mailed applications must be postmarked at least seven days in advance of the sale), setting forth the following information:

- A. Full name, address and telephone number of the applicant.
- B. The location at which the proposed garage sale is to be held.
- C. The date or dates upon which the sale shall be held.
- D. The date or dates of any other garage sales within the current calendar year.
- E. An affirmative statement that the property to be sold was owned by the applicant as his/her own personal property and was neither acquired or consigned for the purposes of resale.

**§ 161-6. Permit fee.**

There shall be an administrative processing fee of \$5 for the issuance of such permit.

**§ 161-7. Permit conditions.**

The permit shall set forth and restrict the time and location of such garage sale. No more than two such permits may be issued to one location, residence and/or family household during

any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences.

**§ 161-8. Hours of operation.**

Such garage sales shall be limited to no more than the daylight hours of three consecutive days or two consecutive weekends (Saturday and Sunday).

**§ 161-9. Rescheduled sales or additional sales.**

- A. Sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions and an affidavit by the permittee to this effect is submitted, the Zoning Enforcement Officer may issue another permit to the applicant for a garage sale to be conducted at the same location within 30 days from the date when the first sale was to be held. No additional permit fee is required.
- B. Third sale permitted. A third garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the Zoning Enforcement Officer.

**§ 161-10. Investigation prior to permit issuance.**

Before issuing a permit, the Zoning Enforcement Officer may conduct an investigation as may reasonably be necessary to determine if there is compliance with this chapter.

**§ 161-11. Display of permit.**

Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public and the Zoning Enforcement Officer.

**§ 161-12. Advertising.**

- A. Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:
  - (1) Two signs permitted. Two signs of not more than four square feet shall be permitted to be displayed on the property of the residence where the garage sale is being conducted.
  - (2) Directional signs. Two signs of not more than two square feet are each permitted provided that the premises upon which the garage sale is conducted is not on a major thoroughfare and written permission to erect said signs is received from the property owners upon whose property such signs are to be placed.
- B. Time limitations. No signs or other form of advertisement shall be exhibited for more than two days prior to the day such sale is to commence.

- C. Removal of signs. Signs shall be removed within 24 hours of the conclusion of the garage sale. If not removed by the applicant, the Town may remove, collect and destroy such signs, and the record property owner(s) of the subject property shall be fined not less than \$25. Multiple sign violations for the same event shall be considered one violation for the purpose of this section.

**§ 161-13. Order to be maintained.**

The person to whom such permit is issued and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on said premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such persons shall obey the reasonable orders of any member of the Police or Fire Department of the Town of Thomaston in order to maintain the public health, safety and welfare.

**§ 161-14. Inspections and enforcement.**

A police officer or any other official designated by any Town ordinance to make inspections under the licensing or regulating ordinance or to enforce the same shall have the right of entry to any premises showing evidence of a garage sale for the purpose of enforcement or inspection and may close the premises from such a sale or arrest any individual who violates the provisions of this chapter.

**§ 161-15. Parking.**

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

**§ 161-16. Revocation and refusal of permit.**

- A. False information. Any permit issued under this chapter may be revoked or any application for issuance of a permit may be refused by the Zoning Enforcement Officer if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statement.
- B. Conviction of violation. If any person is convicted of an offense under this chapter, the Zoning Enforcement Officer is instructed to cancel any existing garage sale permit held by the person convicted and not to issue such person another garage sale permit for a period of two years from the time of conviction.

**§ 161-17. Exemptions.**

The provisions of this chapter shall not apply to or affect the following:

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the Town of Thomaston or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.
- D. Any bona fide church, nonprofit, charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis.
- E. A garage or tag sale occurring on the Saturday, Sunday or Monday of the Memorial Day or Labor Day holiday weekends.

**§ 161-18. Separate violations.**

Every article sold and every day a sale is conducted a violation of this chapter shall constitute a separate offense.

**§ 161-19. Penalties for offenses.**

Any person found guilty of violating the terms of this chapter shall be fined not less than \$25 nor more than \$100 for each offense.



## **Chapter 169**

### **HISTORIC PRESERVATION**

#### **ARTICLE I Demolition Permits for Historic Structures**

##### **§ 169-1. Permit required.**

##### **§ 169-2. Public notice.**

##### **§ 169-3. Objections.**

##### **§ 169-4. Statutory authority; other requirements.**

##### **§ 169-5. Exemptions.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories.  
Amendments noted where applicable.]**

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#### **ARTICLE I Demolition Permits for Historic Structures [Adopted 2-13-1991]**

##### **§ 169-1. Permit required.**

No person, firm, corporation or other entity shall demolish any building, structure, or part thereof without first obtaining a demolition permit from the Municipal Building Official. No such permit shall be issued until the applicant:

- A. Complies with the requirements of Connecticut General Statutes, § 29-406 et seq., the Connecticut State Building Code; and
- B. Complies with the provisions of § 169-2 of this article if the building, structure, or part thereof to be demolished has a ground floor exceeding 500 square feet in size or larger and is more than 50 years old.

##### **§ 169-2. Public notice.**

- A. If the area of the building, structure or portion thereof to be demolished exceeds 500 square feet in area and is more than 50 years old, the Building Official (or his designee) shall, within 10 days of receipt of the permit application, give public notice thereof as follows:
  - (1) By publication in a newspaper having a general circulation in the Town Thomaston, such notice to contain the following information: that an application has been filed for a demolition permit; the date of the filing of such application; the location of the property; the name of the owner of the property; and that unless written objection, stating the reasons therefor, is received by the Building Official within 15 days of the publication of the notice, the permit shall thereafter be issued. A copy of the notice shall be posted on the "public notices" bulletin board in the Town Hall, together with a representative photograph of the street elevation of the building, structure or portion thereof as supplied by the applicant;

- (2) By giving written notice of the pendency of such application by first class mail, postage prepaid, to the Thomaston Historical Society, the Connecticut Trust for Historic Preservation and the Connecticut Historical Commission and to such other persons or organizations who or which have filed a written request with the Building Official to be notified of the pendency of such applications. All such written requests to be notified of demolition permit applications shall be effective for a period of three years, at which time such requests may be extended for additional three-year periods by renewal in writing by the person or organization concerned. Failure to give such notice shall not, however, invalidate any demolition permit inadvertently issued in good faith.

- B. In the event that the Building Official is uncertain as to the age of the building, structure or portion thereof to be demolished, he shall consider it to be more than 50 years old.

### **§ 169-3. Objections.**

- A. With respect to any application subject to § 169-2 of this article, if such a written objection is received by the Building Official within 15 days following the publication of the legal notice, the Building Official shall delay issuance of the permit for a period of 90 days from the receipt of the application, but upon the expiration of such period, he shall issue the permit.
- B. Such written objection shall state the reasons therefor, the particular historical significance or architectural merit of the subject building, structure or portion thereof, and what good faith efforts will be taken by the objecting party to arrange for preservation of the building. The party objecting to the issuance of a demolition permit shall mail or deliver a copy of its written objection to the applicant for the demolition permit and to the owners of the property for which the demolition permit is sought. If a timely and proper objection is not received by the Building Official, he may issue the permit forthwith.

### **§ 169-4. Statutory authority; other requirements.**

This article is adopted pursuant to Connecticut General Statutes, § 29-406(b), and is not intended to limit any additional requirements imposed by the Connecticut General Statutes, the Connecticut State Building Code, or any statutory or regulatory authority now or hereafter granted to the Building Official.

### **§ 169-5. Exemptions.**

Nothing contained in this article shall be deemed to prohibit the Building Official from issuing demolition permits exempt from the requirements of § 169-2 of this article where delay would pose a threat to public health, safety and welfare or where a demolition order has been issued by the Building Official, the Fire Marshal, the Torrington Area Health District or the Zoning Enforcement Officer.



## Chapter 173

### INLAND WETLANDS AND WATERCOURSES

#### ARTICLE I

##### Fines; Citation and Hearing Procedures

##### § 173-1. Authorization.

##### § 173-2. Definitions.

##### § 173-3. Wetlands violations.

##### § 173-4. Citation procedure.

##### § 173-5. Hearing procedure.

##### § 173-6. Appeals.

##### § 173-7. Additional remedies.

[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Inland Wetlands and Watercourses Commission — See  
Ch. 10, Art. IX.

Floodplain management regulations — See Ch. 280.

#### ARTICLE I

##### Fines; Citation and Hearing Procedures

[Adopted 3-13-2008]

##### § 173-1. Authorization.

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

##### § 173-2. Definitions.

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

**HEARING OFFICER** — Any person(s) appointed by the Board of Selectmen pursuant to Connecticut General Statutes § 7-152c(b), as amended, to conduct hearings of contested citations issued pursuant to this article. No person who serves as a Zoning Enforcement Officer, Wetlands Enforcement Officer, building official, police officer, an employee or person who issues citations, or a member of the Inland Wetlands and Watercourses Commission shall serve as a hearing officer.

**WETLANDS AGENT** — Also known as the "Wetlands Enforcement Officer," that person appointed by the Thomaston Inland Wetlands and Watercourses Commission to enforce the Inland Wetlands and Watercourses Regulations pursuant to Connecticut General Statutes § 22a-42a(c)(2) and § 22a-44, as amended.

**WETLANDS VIOLATION** — Any violation of the Thomaston Inland Wetlands and Watercourses Regulations originally adopted March 5, 1979, revised to May 1, 2006, as amended, as determined by the Thomaston Inland Wetlands and Watercourses Commission or its duly authorized Wetlands Enforcement Officer.

**§ 173-3. Wetlands violations.**

- A. The Wetlands Enforcement Officer is authorized to issue citations for wetlands violations as authorized by this article. The citation may be served by hand delivery Marshal, or by certified mail, return receipt requested, to the owner or lawful occupant of the premises where the violation exists. The cost of such service will be paid by the violator. If the person named in the citation refuses to accept certified mail, the citation shall be sent by first class mail to the person's last known address of record.
- B. The fine for each violation shall be \$100. 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 wetlands violation under this article shall not exceed \$1,000. No such fine shall be levied against the State of Connecticut, the Town of Thomaston or any employee, officer, agency or department of the state or the Town acting in his official capacity.
- C. The fine shall not become due until 30 days following the date of issuance of the citation.
- D. The Wetlands Enforcement Officer shall have the authority to issue a written warning prior to issuing a citation. The issuance of a written warning shall not limit the Wetlands Enforcement Officer from issuing a citation for the same violation.

**§ 173-4. Citation procedure.**

- A. Any person receiving such a citation shall be allowed a period of 30 days from receipt of the citation to make an uncontested payment of the fine specified in the citation to the Town Treasurer. If the citation has been sent by regular mail pursuant to the provisions of this article, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.
- B. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town Treasurer within the time allowed under this article, the Wetlands Enforcement Officer shall send a notice to the person cited by certified mail, return receipt requested, informing such person:
  - (1) Of the allegations against such person and the amount of the fines;
  - (2) That the person cited may contest liability before a hearing officer appointed by the Board of Selectmen of the Town of Thomaston as provided in this article, by delivering, in person or by certified mail, return receipt requested 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 such person; and
  - (4) That such judgment may issue without further notice.
- C. If the person who is sent notice pursuant to this article wishes to admit liability for any alleged violations, such person may, without requesting a hearing, pay the full amount of

the fine, either in person or by mail, to the Wetlands Enforcement Officer. All fines shall be made payable to the "Treasurer of the Town of Thomaston." 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 written demand for a hearing within 10 days of the date of the notice described in this article shall be deemed to have admitted liability, and the Wetlands 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 article and shall follow the procedures hereinafter set forth in this article.

**§ 173-5. Hearing procedure.**

- A. 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 notice, provided the Hearing Officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. The presence of the Wetlands Enforcement Officer shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability may appear at the hearing and may present evidence. The Wetlands Enforcement Officer may present evidence on behalf of the municipality. If the person who was issued the citation fails to appear, the Hearing Officer may enter an assessment by default against such person upon finding of proper notice and liability under the applicable provisions of the Inland Wetlands and Watercourses Regulations. The Hearing Officer may accept written information by mail from the person who was issued 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 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 the 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 article.
- B. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by certified mail, return receipt requested, 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 Judicial District of Litchfield, GA #18, together with the applicable entry fee. 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 allowable court costs against such person in favor of the municipality. 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 on such judgment may issue with further notice to such person.

**§ 173-6. Appeals.**

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 a small claims cases pursuant to Connecticut General Statutes § 52-259, in the 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 the Superior Court.

**§ 173-7. Additional remedies.**

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 Wetlands Enforcement Officer 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.

**Chapter 204**  
**PARKS AND RECREATION AREAS**

**ARTICLE I**  
**Conduct in Public Parks**

**§ 204-7. Permits for special events.**

**ARTICLE II**  
**Nystrom's Pond**

**§ 204-1. Short title.**

**§ 204-2. Definitions.**

**§ 204-3. Park buildings and property.**

**§ 204-4. Refuse and trash.**

**§ 204-5. Behavior.**

**§ 204-6. Penalties for offenses.**

**§ 204-8. Dogs/pets at Nystrom's Park.**

**§ 204-9. Authorization.**

**§ 204-10. Facility fees.**

**§ 204-11. Regulations.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

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**ARTICLE I**  
**Conduct in Public Parks**  
**[Adopted 2-2-1978]**

**§ 204-1. Short title.**

This article shall be known and may be cited as the "Thomaston Ordinance Regulating Conduct in Public Parks."

**§ 204-2. Definitions.**

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

**PARK** — A park, reservation, playground, beach, recreation center or any other area in the Town owned by the Town (and devoted to active or passive recreation).

**TOWN** — The Town of Thomaston.

**§ 204-3. Park buildings and property.**

No person in a park shall:

- A. Disfiguration and removal. Wilfully mark, deface, disfigure, tamper with, or displace or remove any building, bridges, tables, benches, fireplaces, railings, signs, notices or placards, whether temporary or permanent, monuments, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

- B. Removal of natural resources. Dig or remove any beach sand, whether submerged or not, or any soil, rocks, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation, by tool, equipment, blasting or other means or agency.

**§ 204-4. Refuse and trash.**

No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. Such trash or refuse shall not be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

**§ 204-5. Behavior.**

No person in a park shall:

- A. Intoxicating beverages. Have brought alcoholic beverages, nor shall any person have in his possession or drink alcoholic beverages at any time in the park.
- B. Games of chance. Gamble or participate in or abet any game of chance.
- C. Loitering and boisterousness. Sleep or protractedly lounge on the seats or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.
- D. Interference with others. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity while in the park.

**§ 204-6. Penalties for offenses.**

Any person who violates any provision of this article pertaining to conduct in the public parks of Thomaston shall be fined not more than \$50, or a sentence of imprisonment not to exceed 40 days, or both, and shall be guilty of a misdemeanor.

**§ 204-7. Permits for special events.**

The provision of § 204-5A and B of this article to the contrary notwithstanding, the Board of Selectmen shall be authorized to issue a permit to an individual or an organization for a special use of a public park, which usage may be inconsistent with said section. Any such permit shall be specifically limited as to time, place and duration and shall not be issued until such time as the applicant shall file a cash bond of \$50 with the Board of Selectmen to insure the removal of trash and debris from said permit situs.

ARTICLE II  
**Nystrom's Pond**  
[Adopted 6-14-2006]

**§ 204-8. Dogs/pets at Nystrom's Park. [Added 7-29-1988; amended 6-6-2018<sup>1</sup>]**

- A. The rules governing dogs/pets at Nystrom's Park are as follows:
- (1) Dogs/pets are not allowed on the track at any time.
  - (2) Dogs/pets are not allowed on the soccer field at any time.
  - (3) Dogs/pets are not allowed in the baseball field at any time.
  - (4) Dogs/pets are not allowed in the tennis courts at any time.
  - (5) Dogs/pets are not allowed in the swimming area between Memorial Day and Labor Day.
  - (6) Dogs/pets are allowed in the swimming area between Labor Day and Memorial Day.
  - (7) Dogs/pets are allowed in all other open space areas which are not designated athletic areas. Those areas include the parking lots, the walkway around the park, and open areas adjacent to the athletic fields and the beach area.
  - (8) Dogs/pets must be on a leash in approved areas at all times.
  - (9) Dogs/pets must be curbed by the handler at all times.
  - (10) All dog/pet waste must be removed from the Park.
- B. A violation of these rules shall be an infraction punishable by a citation and a \$100 fine.
- C. The Board of Selectmen shall post these rules at one or more prominent locations in Nystrom's Park.
- D. These rules shall not apply to a properly identified "guide dog" or "assistance dog" accompanied by a blind, deaf or mobility impaired person, or a properly identified dog trainer, pursuant to Connecticut General Statutes § 46a-64, as amended.

**§ 204-9. Authorization.**

This article is adopted pursuant to Connecticut General Statutes, § 7-148(c)(6)(A), (7)(B), (7)(H) and (10), as amended.

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1. Editor's Note: This ordinance also moved § 204-8 from Article I to Article II.

**§ 204-10. Facility fees. [Amended 6-6-2018]**

The facility fee for use of the beach/picnic area at Nystrom's Park from Memorial Day through Labor Day, Sunday through Saturday, shall be \$2 per person for Thomaston and Litchfield residents and \$4 per person for nonresidents, to be collected at the entrance to the beach/picnic area, and shall be used to defray the cost of maintenance, repairs, replacements, utilities, insurance, toilet facilities and life guards. Infants and children in strollers, and senior citizens (62 years and older), shall be admitted free of charge.

**§ 204-11. Regulations. [Amended 5-29-2007]**

The Recreation Commission and the Board of Selectmen are authorized to adopt reasonable regulations governing the hours of operation and use of Nystrom's Pond, including its parking area and recreation facilities, by the public, the violation of which shall be subject to a penalty not to exceed \$100 per violation, provided that the regulations are published in a newspaper having a circulation in the Town of Thomaston and posted at the entrance to the Nystrom's Pond parking area.



## Chapter 210

### PEDDLING AND SOLICITING

- |  |   |
|--|---|
| § 210-1. Definitions.                                    | § 210-10. Expiration and renewal of license.      |
| § 210-2. Exemptions and exclusions.                      | § 210-11. Use of streets.                         |
| § 210-3. License required.                               | § 210-12. Use of Town property.                   |
| § 210-4. License application and accompanying documents. | § 210-13. Use of private property.                |
| § 210-5. Investigation; issuance or denial of license.   | § 210-14. Records.                                |
| § 210-6. Certain acts prohibited.                        | § 210-15. Penalties for offenses.                 |
| § 210-7. Suspension and revocation of license.           | § 210-16. Compliance with statutory requirements. |
| § 210-8. Duty of police to enforce.                      | § 210-17. Prior licenses.                         |
| § 210-9. Application fee; exemption for veterans.        | Fee Schedule                                      |

[HISTORY: Adopted by the Town of Thomaston 6-8-1988. Amendments noted where applicable.]

#### GENERAL REFERENCES

Bazaars and raffles — See Ch. 121.

Garage and tag sales — See Ch. 161.

#### § 210-1. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

**APPLICANT** — Refers to peddlers, hawkers, canvassers, solicitors and/or vendors.

**CANVASSER or SOLICITOR** — Any person, whether principal or agent, who goes from place to place in the Town of Thomaston, from house to house, or from street to street obtaining or attempting to obtain orders for the sale of any goods or services, which goods or services shall be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether the individual is collecting advance payments or not. Also, any person who, for himself or herself or for any other person, hires, occupies, or uses any place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

**NONPROFIT** — Recognized by the Internal Revenue Service and/or the State of Connecticut. (Refer to § 210-2D.)

**PEDDLER or HAWKER** — Any person, whether principal or agent, who goes from place to place in the Town of Thomaston selling, bartering, vending or peddling, or carrying for sale

or barter, or exposing therefor, any goods, wares, or merchandise either on foot or from any animal or vehicle.

PERSON — Any individual, partnership, corporation, association, club, organization and/or group.

TOWN — The Town of Thomaston.

VENDOR — Any person, whether principal or agent, who shall engage in a temporary or transient business in the Town of Thomaston selling goods, wares and/or merchandise and who, for the purpose of carrying on such activities and/or business, shall hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and/or merchandise.

### **§ 210-2. Exemptions and exclusions.**

The following persons and activities shall be exempt from licensing under the regulations provided by this chapter:

- A. Salespersons selling goods to authorized retail and/or wholesale establishments.
- B. Sales by farmers and gardeners of the produce from their farms and gardens or the sale, distribution and delivery of milk, teas, coffee, spices, groceries, meats and bakery goods.
- C. Sales on approval or conditional sales of merchandise, or to the taking of orders for merchandise for future delivery when full payment is not required at the time of solicitation as provided in § 21-37 of the Connecticut General Statutes.
- D. Persons exempted by the statutes of the State of Connecticut or persons who act for and on behalf of any recognized nonprofit organization or political, charitable, civic, social service, volunteer fire, religious, or school-sponsored organizations of the Town of Thomaston.
- E. Sales at any event conducted by the Town of Thomaston.
- F. Newspaper carriers and/or vendors of newspapers.

### **§ 210-3. License required.**

Unless specifically exempted in § 210-2, it shall be unlawful for any individual to engage in the business and/or activity as defined in this chapter within the corporate limits of the Town of Thomaston without first obtaining a license as provided herein.

### **§ 210-4. License application and accompanying documents.**

- A. All applications shall be requested between the hours of 8:00 a.m. and 5:00 p.m. Applicants for a license must file with the Police Chief or designated agent a sworn application in writing, in duplicate, on a form which shall contain the following information:

- (1) Name and mailing and street address, along with a description of the applicant and/or principal.
  - (2) A brief description of the nature of the business, including services to be rendered and the goods to be sold.
  - (3) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
  - (4) The length of time for which the request to conduct business is desired.
  - (5) If a vehicle is to be used, a description of said vehicle, license number and other means of identification, if requested.
  - (6) Upon request, a photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, clearly showing the head, shoulders and other distinguishing features of the applicant.
- B. All applications shall be sworn to by all persons required to sign the same. Applications shall be signed by the applicant, if an individual, by all partners, if a partnership, and by the president, if a corporation.
- C. Before any license shall be duly issued, the applicant shall file a bond in the sum of \$500 or, in lieu thereof, an irrevocable letter of credit from a bank with the Town of Thomaston. The bond shall be a surety bond executed by a surety company authorized to enter into such bonds in the State of Connecticut. This bond applies to canvassers and solicitors as defined in § 210-1.
- D. All said bonds shall be approved by the Town Attorney and the Police Chief and further conditioned that the applicant shall comply fully with all of the provisions of this chapter and all other ordinances of the Town of Thomaston and statutes and regulations of the State of Connecticut.
- E. The Police Chief or designated agent shall have the authority, as vested by this chapter, to waive the requirements under Subsections A(6) and B.

**§ 210-5. Investigation; issuance or denial of license.**

- A. Investigation. Upon receipt of such application, the Police Chief may cause investigation into the business conduct of the applicant as deemed necessary for the protection of the public welfare. Such investigation may include inquiries to various police departments, the Better Business Bureau and the State Consumer Protection Agency. Upon a finding that the facts stated in the application are true and complete, the Police Chief or designated agent shall issue a dated and signed license to be valid subject to revocation as hereinafter provided. The Police Chief shall have 72 hours, excluding weekends and holidays, to act upon an application. Failure to act within this time period shall constitute approval.

- B. Issuance. The license shall include the full name of the applicant and of the principal, a picture of the applicant and a statement that the issuance of such a license does not constitute an endorsement by the Town of Thomaston of the applicant or the product or service of the applicant. Such license shall be carried on the applicant and shall be exhibited to any individual requesting to see the same at any time while said applicant is engaged in the business and/or activity authorized by such license or at any time at the request of the Police Chief, any Town police officer, or any member of the Board of Selectman. The license shall bear the words either "licensed peddler" or "licensed vendor." No license issued under the provisions of this chapter shall be used by any person other than the one to whom it was issued.
- C. Denial. The Police Chief may deny an application for license for any of the following reasons:
- (1) The applicant has violated any of the required or prohibited practices as set forth in this chapter.
  - (2) An applicant's previous license has been revoked for any reason.
  - (3) The applicant's failure to act in the past or refusal to act in the future in accordance with the provisions of this chapter.
  - (4) The applicant's failure to obtain and exhibit upon request other licenses required by the State of Connecticut.
  - (5) The applicant's failure to provide the required information for the above application.

**§ 210-6. Certain acts prohibited.**

No license holder shall:

- A. Imply that having a license constitutes an endorsement or recommendation from the Town of Thomaston. No person shall advertise in any manner that he has obtained a license from the Town.
- B. Use any false or deceptive inducements.
- C. Fail to conduct himself in an orderly manner or fail to comply with the provisions of this chapter.
- D. Fail to exhibit the license at all times.
- E. Transfer said license to any other person, firm, corporation or organization.

**§ 210-7. Suspension and revocation of license.**

- A. Any license issued under the provisions of this chapter may be suspended and/or revoked, after notice and hearing by the Police Chief, for violation of this chapter or any

other ordinance of the Town of Thomaston, or for any other violation of the General Statutes of the State of Connecticut, or for any of the following reasons:

- (1) Upon receipt by the Police Chief or designated agent of a complaint verified by a reliable person or persons concerning false advertising or misrepresentation by such licensee during the course of conducting specified business and/or activity.
  - (2) Upon a finding that the license should not have been issued because of any fact unknown to the Town of Thomaston at the time of issuance of the license.
  - (3) Fraud or false statements made either in the application for license or in the conduct of the license holder's business and/or activity. **[Amended 5-29-2007]**
  - (4) Conviction of any crime or misdemeanor involving moral turpitude.
  - (5) Conducting specified business activities in an unlawful manner, or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Every suspension or revocation of a license shall be in writing and state the reason for such suspension or revocation and be dated. A notice in writing shall immediately be sent by the Police Chief by certified or registered mail to the licensee and to the principal address shown on the application. Such suspension or revocation shall be effective as to the time of sending such notice; provided, however, that the person whose license has been suspended or revoked may, within five days after sending of such notice, appeal to the Board of Selectmen for reinstatement by a request in writing for such relief directed to the Police Chief. The Board of Selectmen shall give the individual so appealing a hearing within 14 days after receipt of such request. Failure to hold such hearing within the fourteen-day period shall cause an automatic reinstatement of said license. **[Amended 5-29-2007]**

**§ 210-8. Duty of police to enforce.**

It shall be the duty of the Police Department of the Town of Thomaston to require any person seen peddling or vending, and who is not known by such police officer to be duly licensed, to produce a valid license and to enforce the provisions of this chapter against any person found to violate the same.

**§ 210-9. Application fee; exemption for veterans.**

- A. At the time of filing an application for a license as required by this chapter, the applicant shall pay a nonrefundable application fee of \$150, payable to the Town of Thomaston, to cover the cost of investigation and processing of said application. **[Amended 6-29-1994; 5-29-2007]**
- B. Any resident of the State of Connecticut who has resided within the state for two years preceding the date of application for a license and who is a veteran with an honorable discharge who served in time of war as defined in the Connecticut General Statutes shall be exempt from said application fee required under this section.

**§ 210-10. Expiration and renewal of license.**

- A. All new licenses issued on or after September 1, 1990, and on or before June 30, 1991, or an existing license renewed on or after September 1, 1990, and on or before September 1, 1991, shall expire on June 30. The license fee, as set forth in the Fee Schedule,<sup>1</sup> shall be prorated for the number of full and partial calendar months for which the license is issued or renewed. Thereafter, all licenses shall be issued or renewed for one year to expire at 12:00 midnight on June 30 of the next succeeding year at the full license fee set forth in the Fee Schedule. [Amended 8-15-1990; 5-29-2007]
- B. If a license is not renewed within one year of expiration, the applicant will be required to submit a new application and comply with all the requirements of such new application, including an application fee as set forth in § 210-9A.

**§ 210-11. Use of streets.**

- A. Unless otherwise permitted by state statutes or ordinances of the Town of Thomaston, no applicant shall:
- (1) Have an exclusive right to any location on or any area abutting and/or adjoining any public or private street.
  - (2) Be permitted a stationary location on any public or private street.
  - (3) Be permitted to operate on any street where the business and/or activity might impact, impede or inconvenience the public or impair the public safety and/or transit.
- B. The term "public and/or private street(s)" shall include all areas within the Town's street rights-of-way or street lines, whether public or private, or within the street line or right-of-way of any state highway other than a limited access highway. For the purpose of this section, the judgment of any Town police officer or state trooper, exercised in good faith, shall be deemed conclusive as to whether the public is impeded or inconvenienced or the public safety impaired.
- C. An applicant holding a valid license under this chapter shall be presumed to have a stationary location if:
- (1) Such individual remains in the general location while not in the act of selling; or
  - (2) Such individual is in one general location for more than two hours per day.

**§ 210-12. Use of Town property. [Amended 5-29-2007]**

Unless otherwise permitted by state statute or ordinance of the Town of Thomaston, no applicant shall have use of any Town property other than as permitted by this chapter to conduct business. Any person who acts for on behalf of any nonprofit organization, political, charitable, civic or social organization, or volunteer fire, religious, service or school-sponsored

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1. Editor's Note: The Fee Schedule is included at the end of this chapter.

organization or any person who transacts business at an event conducted by such organization or by the Town shall be exempt from the prohibition of this section, provided that such person receives the prior authorization of the Police Chief or designated agent or the Chairperson of the Thomaston Recreation Commission.

**§ 210-13. Use of private property.**

No license shall be issued for conducting business and/or activity on private property without the written consent of the property owner affected and the certification of the Town of Thomaston Zoning Enforcement Officer that the use complies with all applicable zoning regulations of the Town of Thomaston.

**§ 210-14. Records. [Amended 5-29-2007]**

A complete listing of all individuals and/or applicants issued licenses shall be made available by the Police Chief or designated agent to the Town Clerk in order that residents may obtain information concerning the individual and/or activity to whom or to which such license has been granted.

**§ 210-15. Penalties for offenses.**

Any person found to be violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$50 per transaction. Each transaction or sale shall be deemed a separate offense.

**§ 210-16. Compliance with statutory requirements.**

Prior to being eligible for issuance of the license required by this chapter, all applicants must have fulfilled all of the requirements of the state statutes and hold in possession all applicable state licenses.

**§ 210-17. Prior licenses.**

Licenses in effect on the effective date of this chapter shall continue to be controlled by the ordinance in effect at the time of issuance, but upon expiration such licenses shall be renewed subject to the conditions of this chapter.

## PEDDLING AND SOLICITING

### *210 Attachment 1*

#### **Town of Thomaston**

#### **Fee Schedule**

- |   |       |
|---|-------|
| 1. Application Fee<br>Nonrefundable § 210-9A  | \$150 |
| 2. Peddlers/Hawkers<br>1 year renewable § 210-10A   | \$200 |
| 3. Canvassers/Solicitors<br>1 year renewable § 210-10A<br>Bond of \$500 required § 210-4C   | \$250 |
| 4. Vendors<br>1 year renewable § 210-10A  | \$150 |
| 5. Bond<br>Required only on No. 3 above § 210-4C  | \$500 |
| 6. Temporary Vendor's Weekend Permit (application fee \$5)<br>A temporary weekend permit for vendors may be issued by the Chief of Police or designated agent for a fee not to exceed \$10. All other requirements in this chapter shall apply. Only one permit of this type shall be issued to said applicant once during any calendar year. |       |



**Chapter 228**  
**SEWERS AND SEWAGE DISPOSAL**

**ARTICLE I**  
**Collection of Charges**

**§ 228-1. Duties of Sewer Commission Clerk.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Sewer Commission — See Ch. 10, Art. III.

Water Pollution Control Authority regulations — See Ch. 325.

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**ARTICLE I**  
**Collection of Charges**  
**[Adopted 4-28-1966]**

**§ 228-1. Duties of Sewer Commission Clerk.**

The Clerk of the Sewer Commission of the Town of Thomaston shall be the collector of the Thomaston sewerage system connection and use charges and shall, as such, collect all sewerage system connection and use charges in accordance with the provisions of the General Statutes relating to the collection of property taxes. Said Clerk, as such collector, shall have the power, in addition to all other powers conferred on him by law, to recover any such charges in a civil action in the name of the Town against any person liable therefor. Said Clerk shall do all bookkeeping in connection with sewerage connection and use charges now being done as an extra duty by the Tax Collector.



## Chapter 235

### SOLID WASTE

#### ARTICLE I Storage and Disposal

- § 235-1. Purpose.
- § 235-2. Definitions.
- § 235-3. Designated disposal facility.
- § 235-4. Acceptable solid waste.
- § 235-5. Rules and regulations.
- § 235-6. Penalties for offenses.

#### ARTICLE II Recycling; Refuse Collection

- § 235-7. Purpose; statutory authority.

- § 235-8. Definitions.
- § 235-9. Source separation and recycling.
- § 235-10. Registration of refuse collectors.
- § 235-11. Revocation of permit.
- § 235-12. Collection restrictions.
- § 235-13. Residential permits.
- § 235-14. Refuse collection.
- § 235-15. When effective.
- § 235-16. Severability; captions.
- § 235-17. Inspections.
- § 235-18. Report of violations.
- § 235-19. Penalties for offenses.

[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]

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#### ARTICLE I Storage and Disposal [Adopted 4-15-1987]

##### § 235-1. Purpose.

The Town of Thomaston, acting pursuant to Connecticut General Statutes, §§ 7-148(c)(4)(H) and 22a-220a, as amended, hereby adopts the following rules and regulations governing the storage, collection and disposal of solid waste generated within its political boundaries for purposes of complying with the provisions of a certain long-term agreement between the Town of Thomaston (the "Town") and the Connecticut Resources Recovery Authority ("CRRA"), authorized by Special Town Meeting held January 5, 1987, and executed by the Board of Selectmen on January 13, 1987.

##### § 235-2. Definitions.

The following terms shall have the following meanings:

**CONTRACTUAL STANDARDS** — Those criteria for acceptable solid waste to be delivered to the CRRA Mid-Connecticut System established in the CRRA contract.

**DISPOSAL CHARGE** — That charge per ton levied under the CRRA contract for disposal of solid waste delivered to the Mid-Connecticut System.

**HAZARDOUS WASTE** — Sewage, pathological or biological remains, radioactive or toxic waste, or any waste which requires special handling under federal, state or local regulations, including those wastes regulated under 42 U.S.C. §§ 6921 to 6925 and adopted by the United States Environmental Protection Agency under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6901, and including but not limited to cleaning fluids, crankcase oils, cutting oils, solvents, paints, acids, caustics, poisons, drugs, fine powdery earth used to filter cleaning fluid or waste of a similar nature.

**MID-CONNECTICUT SYSTEM** — The solid waste disposal and energy recovery facility designed and constructed by Combustion Engineering, Inc., pursuant to an agreement with CRRA and located in Hartford; the Thomaston Transfer Station which services that facility, whether owned or operated by CRRA, the Town or their agent or contractor; and any landfill provided or designated by CRRA.

**SOLID WASTE** — Unwanted or discarded materials as defined by Connecticut General Statutes, § 22a-260(7), as amended, excluding sewage.

**§ 235-3. Designated disposal facility.**

The Town of Thomaston hereby designates the Mid-Connecticut System as the disposal area for solid waste generated within the political boundaries of the Town and meeting the CRRA contractual standards, whether residentially, commercially or otherwise generated. On or after the effective date of this article, each person, firm or corporation collecting, or disposing of, solid waste generated within the Town shall deliver all such waste to the Thomaston Transfer Station or directly to the Mid-Connecticut System Hartford facility (or designated landfill), unless otherwise directed by the Board of Selectmen, and shall pay the disposal charge therefor to the Town Treasurer.

**§ 235-4. Acceptable solid waste.**

In order to comply with the provisions of the Town's agreement with CRRA, all solid waste delivered to the Mid-Connecticut System must meet all contractual standards, including but not limited to the following:

- A. It must be solid waste emanating from within the political boundaries of the Town of Thomaston.
- B. It must not be of such a quantity, quality or other nature as to materially impair the operation or capacity of the Mid-Connecticut System or any portion thereof, normal and reasonable wear and usage excepted.
- C. It must not be of such a quantity, quality or other nature as to materially impair the strength or the durability of the structures, equipment or works which are a part of the Mid-Connecticut System or any portion thereof.
- D. It must not be of such a quantity, quality or other nature as to create flammable or explosive conditions in the Mid-Connecticut System or any portion thereof.
- E. It must not contain chemical or other properties which are deleterious, as determined by CRRA, or capable of causing material damage to any part of the system or to personnel.

F. It must not include any hazardous waste.

**§ 235-5. Rules and regulations.**

After due notice, public hearing, and publication, the Board of Selectmen is authorized to adopt, and from time to time amend, rules and regulations concerning the following, provided that such regulations are consistent with federal and state law and the purposes of this article and are reasonably related to public health, safety or welfare:

- A. The licensing of refuse collectors within the Town;
- B. The establishment of fees to be charged all generators of solid waste within the Town;
- C. The method and manner of collecting, storing and disposing of solid waste;
- D. Source separation of types of solid waste and recycling measures; and
- E. The use of the Thomaston Transfer Station.

**§ 235-6. Penalties for offenses.**

Any person, firm or corporation violating the provisions of this article, or any rule or regulation adopted pursuant thereto, may be fined not more than \$100 per occurrence in addition to any other penalty provided by law.

**ARTICLE II  
Recycling; Refuse Collection  
[Adopted 12-27-1990]**

**§ 235-7. Purpose; statutory authority. [Amended 5-29-2007]**

This article is adopted by the Town of Thomaston as part of a comprehensive program to provide for the safe and sanitary disposal of solid waste generated within the Town, to ensure compliance by the Town's residents and solid waste collectors with the requirements of Connecticut General Statutes, Chapter 446D, providing for the separation, collection, processing and marketing of recyclable solid waste, and is adopted pursuant to Connecticut General Statutes §§ 7-148(c)(4)(H), 22a-220 and 22a-220a, as amended.

**§ 235-8. Definitions.**

For the purpose of this article the following words and phrases have the following meaning:

**APARTMENT COMPLEX** — A multifamily structure of four or more dwelling units grouped into one or more buildings.

**COMMERCIAL ESTABLISHMENT** — Any enterprise engaged in a nonmanufacturing or nonprocessing business, including but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters.

CONDOMINIUM COMPLEX — Any group of dwelling units which are covered by Connecticut General Statutes, Chapter 825, as amended.

FIRST SELECTMAN — The First Selectman of the Town or his duly appointed designee.

INDUSTRIAL ESTABLISHMENT — Any establishment engaged in manufacturing or processing, including but not limited to factories, foundries, mills, processing plants, refineries and the like.

INSTITUTIONAL ESTABLISHMENT — Any establishment engaged in service to persons, including but not limited to hospitals, nursing homes, group homes, schools and universities.

RECYCLABLE MATERIALS — Those items designated by the Board of Selectmen for segregation from the municipal solid waste stream which shall include but not be limited to corrugated cardboard, glass food and beverage containers, leaves, metal food and beverage containers, office paper, newspapers, storage batteries, waste oil, plastic bottles and beverage containers, and scrap metal.

RESIDENTIAL ESTABLISHMENT — Any premises used primarily as a domestic dwelling, including but not limited to single- and multiple-family homes, apartments and condominiums.

SINGLE STREAM — A system in which all fiber (newspaper, cardboard, mixed paper, catalogs, magazines and junk mail) and containers (glass, metal and plastic) are placed, unsorted, in one large wheeled "toter" by residents, collected by the hauler and sorted at a regional recycling center. [Added 10-27-2009]

TOWN — The Town of Thomaston.

#### § 235-9. Source separation and recycling.

- A. Each person, business or institution that generates solid waste shall separate from other solid waste designated recyclable materials as defined above and by such rules as may be adopted by the Board of Selectmen.
- (1) All persons, businesses or institutions who or which generate solid waste within the Town are required to separate recyclable materials from solid waste.
  - (2) Solid waste placed for collection which contains recyclable materials shall neither be collected by refuse collectors nor accepted for disposal at any refuse processing facility.
  - (3) For premises serviced by private or municipal refuse collection, recyclable materials shall be separated from refuse and placed for collection in a separate container on the designated day.
  - (4) Apartment and condominium complexes as well as commercial, industrial, and institutional establishments shall provide for, or require their refuse collector to provide for, the separation of municipal solid waste and each recyclable material accumulated on the premises.

- B. Except as otherwise provided in § 235-13, residents shall use a municipally registered hauler to collect materials for delivery to the municipally designated and approved recycling facility for recycling in the following manner:
- (1) Clean, unsoiled newspaper and corrugated cardboard shall be packed in paper grocery or shopping bags or securely tied in flat bundles.
  - (2) Glass food containers and plastic bottles, as well as all types of metal food containers, shall be rinsed clean and placed in the recycling container.
  - (3) Haulers may choose to collect and tip recyclables by the single stream method. If this collection method is chosen, haulers shall inform their customers of this choice. A hauler choosing to tip recyclables single stream must also collect recyclables single stream, in a closed container provided by the hauler to each customer. **[Added 10-27-2009]**
  - (4) Leaves, waste oil, storage batteries, and any other recyclables designated by the Board of Selectmen shall be separated from solid waste and other recyclables and delivered to the municipal dropoff center or other designated area so as to not constitute a nuisance or otherwise be objectionable. Leaves may be bagged and placed on the curbside on designated municipal leaf collection days.
- C. Except as otherwise provided in § 235-13, businesses shall use a municipally registered hauler to collect said designated materials for recycling or shall be required to deliver designated materials as defined by the Board of Selectmen to any municipal dropoff center.
- (1) It shall be the responsibility of the owners or operators of all commercial, industrial and institutional establishments and apartment and condominium complexes to provide, at their own expense, for the storage, collection and transportation of recyclables. In the case of apartment condominium complexes, the Board of Selectmen may provide for municipal collection of solid waste and recyclables on terms and conditions no less favorable than those afforded to other residential establishments. Such operations shall be carried out in such a manner as to avoid the creation of a public nuisance.
  - (2) Persons or establishments whose solid waste is not collected by contractors are responsible for compliance with the recycling provisions of Connecticut General Statutes, § 22a-241b, as amended. Compliance shall be monitored by all refuse collectors and refuse facility operators. Suspected violators shall be reported to the First Selectman's office for appropriate action.
  - (3) The quantities and destination of these designated recyclables (nonresidential) not delivered to a municipal designated facility or dropoff shall be reported by the contractor or responsible parties to the Town on a monthly basis as prescribed by the Board of Selectmen.

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1. Editor's Note: This ordinance also redesignated former Subsection B(3) as Subsection B(4).

- D. It shall be a violation of this article for any person other than a municipally registered hauler or municipal employee to collect, pick up or cause to be collected or picked up such materials from the curb or other designated point of collection or municipal dropoff center. Each unauthorized collection in violation hereof shall constitute a separate and distinct offense. This subsection shall not apply to any nonprofit, charitable organization which sponsors a municipal recycling collection (e.g., newspapers) with prior approval of the Board of Selectmen.

**§ 235-10. Registration of refuse collectors.**

- A. Any hauler providing solid waste collection is hereby required to register with the First Selectman's office on or before April 15 of each year and apply for a permit to haul solid wastes or to collect recyclables.
- B. Any hauler will be required to provide recycling collection to any customers receiving solid waste collection and is further required to register with the First Selectman's office as is prescribed by Connecticut General Statutes, Section 22a-241b, as amended. The Board of Selectmen shall be the licensing and registration authority of refuse collectors engaged in the collecting or transporting of municipal solid waste and recyclable materials within the Town. It shall administer the issuance and revocation or suspension of permits and registrations as set forth in this article.
- C. Additional rules may be adopted by the Board of Selectmen, from time to time, consistent with the provisions of this article.
- D. Following the filing of a proper application and payment of the prescribed fee, the First Selectman shall grant such permit(s) as hereinafter set forth for refuse collectors, vehicles and dumpsters within a reasonable time unless he finds one or more of the following conditions to exist: **[Amended 5-29-2007]**
- (1) The applicant has been irresponsible in the conduct of solid waste collection and transportation operations based upon previous suspension of permit or violations of state statutes or municipal ordinances, whether of this Town or any other municipality.
  - (2) The applicant lacks suitable equipment, personnel or liability insurance with which to collect solid waste in a safe, nuisance-free manner in compliance with this article.
- E. Each permitted refuse collector shall obtain a separate registration for each vehicle he operates with the Town of Thomaston. Registration shall not be transferable from vehicle to vehicle.
- F. All permits shall be issued for a period not to exceed one year and shall be renewable on or before the 15th day of April of each year. The permit fee shall be \$25 per vehicle.
- G. The permit issued shall be conspicuously displayed on the left front of the body of the vehicle licensed or as may otherwise be directed by the licensing authority.



- H. Each permittee shall display at all times on the doors of each vehicle his name and a local phone number.
- I. Permits are not transferable. When any permittee shall sell or transfer all or part of his route to any other refuse collector, he shall first notify the First Selectman in writing of his intent to sell, and the transferee shall simultaneously make application for the appropriate permits to operate in Town.
- J. As a prerequisite to the issuance of renewal of any permit, a refuse collector must, along with his permit/renewal application, furnish the First Selectman the number of customers



within the Town that such refuse collector intends to service as well as the names of other municipalities serviced.

- K. The applicant must maintain public liability operations and motor vehicle insurance on each vehicle in an amount not less than \$1,000,000 combined single limit.

**§ 235-11. Revocation of permit.**

- A. A permit to engage in refuse collection and to use any waste disposal and/or processing facilities provided by the Town is a privilege, not a right. Failure to comply with the provisions of this article shall be grounds for revocation or suspension by the First Selectman of any permit or registration issued hereunder, in addition to any other penalty imposed by law.
- B. Revocations or suspensions shall only become effective five days after receipt of written notice from the First Selectman.
- C. If a refuse collector objects to the First Selectman's action described in this article to revoke or suspend his permit or registration, he may, within five days of receipt of said notice, file a written request with the Town Clerk for review by the Board of Selectmen. Failure to file such request in a timely manner shall render the First Selectman's action final and binding upon the refuse collector.
- D. Timely filing of such request for review shall operate as an automatic stay of the First Selectman's action.
- E. The Board of Selectmen shall act as an appeals board, and said Board shall, within 15 days, hear and decide the matter. The decision of such Board shall be final and binding upon the collector.

**§ 235-12. Collection restrictions.**

It shall be a violation of this article for any person other than a Town-registered refuse collector to pick up, collect or interfere with the picking up or collecting of recyclable materials placed for collection at the curbside or designated recycling center. Each act of scavenging shall constitute a separate violation of this article. All items which are designated for collection as stated in this article shall be set out for collection no earlier than 6:00 p.m. on the evening prior to the scheduled collection day. Emptied containers shall be removed from the curbside no later than 8:00 p.m. on the day of collection.

**§ 235-13. Residential permits.**

Residents of the Town who wish to dispose directly of their own solid waste and recyclables must apply to the First Selectman's office for a sticker to be able to dispose of refuse or recyclable materials at municipal facilities. The sticker shall be displayed in such a manner as the First Selectman may prescribe. Such permit may be revoked or suspended as set forth in this article, and appeals therefrom may be taken in the manner set forth in said article.

**§ 235-14. Refuse collection.**

- A. Each refuse collector shall deliver all refuse collected within the territorial limits of the Town at such place or places as the Board of Selectmen may from time to time designate and may not comingle such refuse with refuse collected in other towns without the prior consent of the Board of Selectmen.
- B. Each refuse collector must collect recyclable materials from each of its customers in the manner prescribed in this article.
- C. All vehicles registered to collect and transport refuse shall be maintained free of obnoxious odors and accumulated refuse.
- D. Refuse collectors shall furnish to their customers, upon request, a list of rates for the various services provided.

**§ 235-15. When effective.**

The provisions of this article concerning recyclables shall take effect as of January 1, 1991, in accordance with the requirements of Connecticut General Statutes, § 22a-241b, as amended, but shall be implemented only after notice to the Town of Thomaston by the Connecticut Resource Recovery Authority of its accessibility to collectors of recyclables generated in the Town. All other provisions of this article shall take effect 15 days after publication of a summary of this article in accordance with Connecticut General Statutes, § 7-157(b), as amended.

**§ 235-16. Severability; captions.**

In the event any provision, section, sentence, clause or part of this article shall be held invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect or impair any remaining part of this article, it being the intent that such remainder shall remain in full force and effect. Sections and captions contained herein are intended only for the purpose of convenient reference and do not convey the legislative intent of the Town.

**§ 235-17. Inspections.**

The Town reserves the right to inspect solid waste placed at curbside or delivered to the municipal dropoff center to determine compliance with this article.

**§ 235-18. Report of violations.**

The Town also requires registered collectors or haulers to report any violations of this article to the First Selectman.

**§ 235-19. Penalties for offenses.**

Any person, business or institution who or which violates or neglects to comply with this article or any rules adopted pursuant hereto shall, upon conviction thereof, be punishable by a fine not to exceed \$100, except that the maximum fine for failure to comply with §§ 235-10, 235-11 and 235-12 hereof shall not exceed \$100 for each violation.

## **Chapter 238**

### **STORM SEWERS**

#### **ARTICLE I** **Illicit Discharges and Connections**

- |   |  |
|---|--|
| <p>§ 238-1. Purpose/intent.</p> <p>§ 238-2. Definitions.</p> <p>§ 238-3. Applicability.</p> <p>§ 238-4. Responsibility for administration.</p> <p>§ 238-5. Severability.</p> <p>§ 238-6. Ultimate responsibility.</p> <p>§ 238-7. Discharge prohibitions.</p> <p>§ 238-8. Revocation of MS4 access.</p> <p>§ 238-9. Industrial or construction activity discharges.</p> <p>§ 238-10. Monitoring of discharges.</p> <p>§ 238-11. Requirement to prevent, control, and reduce</p> | <p>stormwater pollutants by the use of best management practices.</p> <p>§ 238-12. Watercourse protection.</p> <p>§ 238-13. Notification of spills.</p> <p>§ 238-14. Enforcement.</p> <p>§ 238-15. Appeal of notice of violation.</p> <p>§ 238-16. Enforcement measures after appeal.</p> <p>§ 238-17. Cost of abatement of the violation.</p> <p>§ 238-18. Injunctive relief.</p> <p>§ 238-19. Violations deemed a public nuisance.</p> <p>§ 238-20. Criminal prosecution.</p> <p>§ 238-21. Remedies not exclusive.</p> <p>§ 238-22. Adoption of article.</p> |
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[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]

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#### **ARTICLE I** **Illicit Discharges and Connections** **[Adopted 10-10-2018]**

##### **§ 238-1. Purpose/intent.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of Thomaston through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by local regulation and federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. In addition to the foregoing, this article is adopted to pursuant to Connecticut General Statutes § 7-148(c)(6)(B) and § 7-148(c)(8)(A).

##### **§ 238-2. Definitions.**

For the purposes of this article, the following shall mean:

**AUTHORIZED ENFORCEMENT OFFICIALS** — The Public Works Superintendent, the Planning and Zoning Commission, the Inland Wetlands and Watercourses Commission, the Board of Selectmen or their designees.

**BEST MANAGEMENT PRACTICES (BMPS)** — Schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state consistent with state, federal or other equivalent and technically supported guidance. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.

**CLEAN WATER ACT** — The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY** — Any activity associated with construction at a site including, but not limited to, clearing and grubbing, grading, excavation, and dewatering.

**HAZARDOUS MATERIALS** — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLEGAL DISCHARGE** — Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § 238-7 of this article.

**ILLICIT CONNECTIONS** — An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyance which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**INDUSTRIAL ACTIVITY** — Activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26(b)(14).

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT** — A permit issued by EPA [or by a state under authority delegated pursuant to 33 USC § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**NONSTORMWATER DISCHARGE** — Any discharge to the storm drain system that is not composed entirely of stormwater.

**PERSON** — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**POLLUTANT** — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**PREMISES** — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**STORM DRAINAGE SYSTEM** — Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**STORMWATER** — Waters consisting of rainfall runoff, including snow or ice melt, during a rain event.

**STORMWATER POLLUTION PREVENTION PLAN** — A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**WASTEWATER** — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility or property.

### **§ 238-3. Applicability.**

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement official.

### **§ 238-4. Responsibility for administration.**

The authorized enforcement officials shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement officials may be delegated in writing by the authorized enforcement officials to persons or entities acting in the beneficial interest of or in the employ of the officials.

### **§ 238-5. Severability.**

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.



**§ 238-6. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

**§ 238-7. Discharge prohibitions.**

- A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except:
- (1) Uncontaminated ground water discharges including, but not limited to, pumped groundwater, foundation drains, water from crawl space pumps and footing drains; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street washwater associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated groundwater infiltration [as defined at 40 CFR 35.2005(20)], springs, diverted stream flows and flows from riparian habitats and wetlands.
  - (2) Any nonstormwater discharge to the MS4 authorized by a permit issued pursuant to Sections 22a-430 or 22a-430b of the Connecticut General Statutes is also authorized under this article.
- B. Prohibition of illicit connections.
- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
  - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
  - (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

**§ 238-8. Revocation of MS4 access.**

- A. Revocation due to illicit discharges in emergency situations. The authorized enforcement officials may, without prior notice, revoke MS4 discharge access to a person when such revocation is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a revocation order issued in an emergency, the authorized enforcement agency may take

such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

- B. Revocation due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement officials will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement officials for a reconsideration and hearing.
- C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement officials.

**§ 238-9. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement officials prior to the allowing of discharges to the MS4.

**§ 238-10. Monitoring of discharges.**

- A. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- B. Access to facilities.
  - (1) The authorized enforcement officials or their designees shall be permitted to enter and inspect facilities or properties subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
  - (2) Facility operators and property owners shall allow the authorized enforcement officials or their designees ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
  - (3) The authorized enforcement officials or their designees shall have the right to set up or require of the facility operator or property owner to set up on any permitted facility or property such devices as are necessary in the opinion of the authorized enforcement officials to conduct monitoring and/or sampling of the facility's stormwater discharge.

**§ 238-11. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

The authorized enforcement officials or their designees will adopt requirements identifying best management practices, as defined in § 238-2 herein, for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater or the storm drain system. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

**§ 238-12. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. Such use or maintenance shall also conform to the Inland Wetlands and Watercourses Regulations of the Town of Thomaston,<sup>1</sup> as may be amended.

**§ 238-13. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or watercourse, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement officials no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

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1. Editor's Note: See Ch. 173, Inland Wetlands and Watercourses.

**§ 238-14. Enforcement.**

- A. Notice of violation. Whenever the authorized enforcement official finds that a person has violated a prohibition or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) Payment of a fine of no less than \$50 per day that a violation exists without corrective action by the violator;
  - (6) Suspension of any discharge to the MS4 system consistent with § 238-8 of this article; and
  - (7) The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Where elimination is not possible within 15 days of source confirmation, a schedule for its elimination will be set for no more than 90 days.
- C. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**§ 238-15. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the Board of Selectmen or their designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Board of Selectmen or their designee shall be final.

**§ 238-16. Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of the decision of the Board of Selectmen or their designee upholding the decision of the authorized enforcement official, then representatives of the authorized enforcement officials shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property, at the expense of the violator. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the

government agency or designated contractor to enter upon the premises for the purposes set forth above.

**§ 238-17. Cost of abatement of the violation.**

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including a 10% additional fee for administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the Board of Selectmen or their designee by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The Town may agree to a reasonable payment plan for any assessments in writing.

**§ 238-18. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement officials may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**§ 238-19. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§ 238-20. Criminal prosecution.**

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, in addition to enforcement provisions in § 238-14 of the ordinance. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

**§ 238-21. Remedies not exclusive.**

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement officials to seek cumulative remedies.

**§ 238-22. Adoption of article.**

This article shall be in full force and effect 15 days after its final passage, adoption, and publication of a summary of its provisions in accordance with Connecticut General Statutes § 7-157(b). All prior ordinances and parts of ordinances in conflict with this article are hereby repealed.

## Chapter 240

### STREETS AND SIDEWALKS

#### ARTICLE I Excavations

- § 240-1. Statutory authority.
- § 240-2. Regulations.
- § 240-3. Delegation of authority.

#### ARTICLE II Private Snow Removal

- § 240-4. Authority.
- § 240-5. Definitions.
- § 240-6. Prohibited acts.
- § 240-7. Penalties for offenses.

#### ARTICLE III Street Numbers

- § 240-8. Purpose.
- § 240-9. Assignment of street numbers.
- § 240-10. Affixing of street numbers.
- § 240-11. Penalties for offenses.

#### ARTICLE IV Drainage

- § 240-12. Authority.
- § 240-13. Definitions.
- § 240-14. Change of grade or interference with drainage.
- § 240-15. Unlawful discharges.
- § 240-16. Penalties for offenses.

#### ARTICLE V Snow and Ice on Sidewalks

- § 240-17. Authority.
- § 240-18. Municipal liability limited.
- § 240-19. Abutting owner's liability.
- § 240-20. Statute of limitations.
- § 240-21. Snow and ice removal by abutting owner.
- § 240-22. Failure to remove; lien.
- § 240-23. Penalties for offenses.

[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Driveways — See Ch. 142.  
Vehicles and traffic — See Ch. 260.

Road excavation permit regulations — See Ch. 315.

#### ARTICLE I Excavations

[Adopted 12-3-1969; amended 10-27-1992; 2-9-2006]

#### § 240-1. Statutory authority.

This amendment is adopted pursuant to C.G.S. § 7-148(c)(6)(B) and (C) and amends the ordinance regulating street excavation adopted December 3, 1969, and amended October 27, 1992.

**§ 240-2. Regulations.**

This article is amended to incorporate the Road Excavation Permit Regulations and the Application for Road Excavation Permit on file with the Town Clerk and the Board of Selectmen, to be administered by the Superintendent of Highways or his designee.<sup>1</sup>

**§ 240-3. Delegation of authority.**

The Superintendent of Highways may revise and republish the Road Excavation Permit Regulations and the Application for Road Excavation Permit as necessary to protect the Town's highways and public safety, following a duly noticed public hearing and approval by the Board of Selectmen.

ARTICLE II  
**Private Snow Removal**  
**[Adopted 6-29-1994]**

**§ 240-4. Authority.**

Pursuant to the provisions of §§ 7-148(c)(6) and (7) and 7-163a of the General Statutes of the State of Connecticut, as amended, the Town of Thomaston hereby adopts the following article regulating private snow removal.

**§ 240-5. Definitions. [Amended 5-29-2007]**

For purposes of this article, the terms "highway" and "street" shall have the same definition as set forth in Section 13a-1 of the Connecticut General Statutes, as amended. The term "sidewalk" shall mean the paved area adjacent to the highway or street intended for pedestrian use.

**§ 240-6. Prohibited acts.**

No person shall throw or put, or cause to be thrown or put, any snow or ice from a private premises into the highway, street or sidewalk in the Town of Thomaston, in such a manner as to cause inconvenience or hazard to public travel. No person shall cause or plow snow from a private premises across any highway, street or sidewalk to the opposite side of any highway or street.

**§ 240-7. Penalties for offenses.**

The Police Department shall be responsible for the enforcement of this article. Any person who shall violate this article shall be deemed guilty of committing an infraction and shall be fined \$50 for each violation.

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1. Editor's Note: The Road Excavation Permit Regulations are included in the Town Code as Ch. 315.



ARTICLE III  
Street Numbers  
[Adopted 1-25-1995]

**§ 240-8. Purpose.**

The purpose of this article is to promote public safety and convenience by providing a street number system whereby addresses may be identified for emergency response by police, fire and medical services.

**§ 240-9. Assignment of street numbers.**

Pursuant to § 7-148(c) of the General Statutes of Connecticut, as amended, the Assessor shall assign street numbers to all buildings, parts of buildings, and house lots fronting on any street or highway within the Town and may change numbers, if necessary, to have a more orderly numbering system. When a new street is laid out, the Assessor shall promptly assign numbers to each lot on said street, which shall not imply acceptance of such street as a public highway. Whenever the Assessor has assigned a street number to a property, the Assessor shall promptly notify the owner of record by mail. The Assessor shall maintain maps showing the street numbers assigned to each property, which shall be open for public inspection.

**§ 240-10. Affixing of street numbers.**

Each owner shall affix to said building or part thereof, or to some object appurtenant thereto, the street number or numbers assigned by the Assessor. All numbers shall be at least four inches high and affixed so as to be visible from the street or highway. Numbers shall be affixed within 60 days of receipt of notice.

**§ 240-11. Penalties for offenses.**

Failure to comply with the provisions of this article shall constitute an infraction, punishable by a fine of \$50 for noncompliance.

ARTICLE IV  
Drainage  
[Adopted 9-24-1997]

**§ 240-12. Authority.**

Pursuant to the provisions of § 7-148(c)(6)(B) and (C) of the General Statutes of the State of Connecticut, as amended, the Town of Thomaston hereby adopts the following article regulating the discharge of drainage from private property to its public highways.

**§ 240-13. Definitions.**

For purposes of this article, the following terms have the meaning indicated:

HIGHWAY and STREET — Have the same definition as set forth in § 13a-1 of the Connecticut General Statutes, as amended.

SHOULDER — That portion of the highway between the boundaries of the highway and the paved or traveled portion of the highway.

SIDEWALK — That area adjacent to the highway or street intended for pedestrian use.

PERSON — The same definition as set forth in § 1-1(k) of the Connecticut General Statutes, as amended, and includes any person's contractor, employee, or agent.

**§ 240-14. Change of grade or interference with drainage.**

No person shall excavate, fill or change the grade of any land located within the bounds of any public highway of the Town of Thomaston, and no person shall obstruct or interfere with the drainage of water from, on or within the bounds of any such highway.

**§ 240-15. Unlawful discharges.**

No person shall discharge any drainage of surface water from private property onto any public highway, street, shoulder or sidewalk, and no person shall connect any private drainage pipes, gutter, leaders or ditches to the public highway drainage system without a permit from the Town of Thomaston.

**§ 240-16. Penalties for offenses.**

Any person who violates this article shall be guilty of an infraction and shall be fined \$90 for each day of violation.

ARTICLE V  
Snow and Ice on Sidewalks  
[Adopted 11-28-2006]

**§ 240-17. Authority.**

The provisions of C.G.S. § 7-163a, as amended, are hereby readopted and set forth in §§ 240-18, 240-19 and 240-20 of this article. Sections 240-21, 240-22 and 240-23 of this article are readopted pursuant to C.G.S. §§ 7-148(c)(6)(C) and 7-152c(c)(10), as amended.

**§ 240-18. Municipal liability limited.**

Notwithstanding the provisions of C.G.S. § 13a-149 or other general statute or special act, the Town of Thomaston shall not be liable to any person injured in person or property caused by the presence of ice or snow on a public sidewalk, unless the Town of Thomaston is the owner or person in possession and control of land abutting such sidewalk, other than land used as a highway or street; provided, however, that the Town of Thomaston shall be liable for its affirmative acts with respect to such sidewalk.

**§ 240-19. Abutting owner's liability.**

The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the Town of Thomaston had prior to the effective date of this article and shall be liable for personal injury or property damage where a breach of said duty is the proximate cause of said injury or damage.

**§ 240-20. Statute of limitations.**

No action to recover damages for personal injury or property damage caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

**§ 240-21. Snow and ice removal by abutting owner.**

All owners, tenants or occupants of premises adjoining and fronting on any sidewalk within the Town of Thomaston shall provide for the removal of snow and ice from such sidewalk. Snow and ice shall include, but is not limited to, any fall of snow, sleet or ice or any combination thereof and any ice caused by the freezing of rain or melted snow or ice. Such ice and snow shall be removed, or caused to be removed, by such owner, tenant or occupant within 12 hours of the cessation of the cause thereof. If such snow or ice cannot be wholly removed by the employment or application of usual and normal methods of removal, such owner, tenant or occupant shall remove so much thereof as is reasonably practicable and shall spread sand or other appropriate abrasive material over the entire surface of such unremovable snow or ice as remains on such sidewalk as shall be reasonably necessary to keep the same in a safe condition for public travel.

**§ 240-22. Failure to remove; lien.**

Upon default or neglect of such owner, tenant or occupant to remove such snow and ice and spread sand or other appropriate abrasive material in conformity with the requirements of this article, the Selectmen may cause the same to be done, and the expenses incurred by the Selectmen in so doing shall be payable to the Town by such owner, tenant or occupant and shall be a lien upon the premises adjoining such sidewalk, provided that the Selectmen shall cause a certificate of lien to be recorded in the Town Clerk's office within 60 days of completion of such removal or other work done by the Selectmen in conformity herewith.

**§ 240-23. Penalties for offenses.**

Each person, firm or corporation, being the owner, tenant or occupant of premises adjoining or fronting on any such sidewalk, who or which shall violate any of the provisions of this article or refuse or neglect to comply with the same shall be deemed guilty of an infraction and shall be subject to a fine of \$50 for each day the violation continues, which may be enforced by means of a citation issued by the Police Department.

## **Chapter 247**

### **TAXATION**

#### **ARTICLE I**

##### **Exemption for Solar Energy Systems**

**§ 247-1. Exemption authorized.**

**§ 247-11. Tax abatement schedule.**

**§ 247-12. Application.**

**§ 247-13. Procedure.**

**§ 247-14. Conditions of approval.**

**§ 247-15. Tax assessment agreement.**

**§ 247-16. General provisions.**

#### **ARTICLE II**

##### **Delinquent Motor Vehicle Property Taxes**

**§ 247-2. Authorization.**

**§ 247-3. Method of payment.**

#### **ARTICLE V**

##### **Tax Payments, Refunds and Fees**

**§ 247-17. Refunds.**

**§ 247-18. Payments.**

**§ 247-19. Administrative fee for delinquent motor vehicle taxes.**

#### **ARTICLE III**

##### **Exemption for Certain Vehicles Owned by Persons with Disabilities**

**§ 247-4. Authorization.**

**§ 247-5. Tax exemption.**

**§ 247-6. Definition.**

**§ 247-7. Application for exemption.**

#### **ARTICLE VI**

##### **Tax Liens**

**§ 247-20. Assignment of tax liens.**

#### **ARTICLE IV**

##### **Tax Incentive Program**

**§ 247-8. Authority; administration.**

**§ 247-9. Statement of purpose.**

**§ 247-10. Eligibility.**

#### **ARTICLE VII**

##### **Required Filings**

**§ 247-21. Waiver of information reporting penalty.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

#### **ARTICLE I**

##### **Exemption for Solar Energy Systems**

**[Adopted 3-5-1979]**

**§ 247-1. Exemption authorized.**

The Town of Thomaston hereby authorizes the property tax exemption for solar energy systems, including solar energy heating or cooling systems pursuant to § 12-81(56)(a), (b) and (c) of the Connecticut General Statutes and solar energy electricity-generating systems pursuant to § 12-81(57)(a), (b) and (c) of the Connecticut General Statutes.

ARTICLE II  
**Delinquent Motor Vehicle Property Taxes**  
**[Adopted 6-29-2004]**

**§ 247-2. Authorization.**

This article is adopted pursuant to Connecticut General Statutes, § 12-146 as amended by P.A. No. 03-6.

**§ 247-3. Method of payment.**

All delinquent motor vehicle property taxes shall be paid in cash or by certified check, bank or money order.

ARTICLE III  
**Exemption for Certain Vehicles Owned by Persons with Disabilities**  
**[Adopted 12-15-2004]**

**§ 247-4. Authorization.**

Pursuant to Connecticut General Statutes, § 12-81c, as amended, the Town of Thomaston hereby adopts the following article.

**§ 247-5. Tax exemption.**

The following motor vehicles and related personal property, as approved by the Thomaston Tax Assessor, are hereby exempted from personal property taxation:

- A. Any ambulance-type motor vehicle which is owned by a nonprofit ambulance company and used exclusively for the purpose of transporting any medically incapacitated individual, except any such vehicle used to transport any such individual for profit;
- B. Any personal property and equipment which is owned by a nonprofit ambulance company and used exclusively for its nonprofit charitable purposes; and
- C. Any motor vehicle owned by a person with disabilities or owned by a parent or guardian of such a person, which vehicle is specially equipped with a raised roof, roll-bar system, raised doors, special control station, dropped floor, kneeling system, wheelchair lift, ramp, hand controls, cart lift and any other permanently installed device or mechanism necessary to permit its operation by such owner or to permit its use by the parent or guardian on behalf of such person.

**§ 247-6. Definition.**

For the purpose of this article, the term "motor vehicle" shall have the same definition as in Connecticut General Statutes, § 14-1(a)(51), as amended.

**§ 247-7. Application for exemption.**

Applications for the tax exemption shall be filed annually with the Assessor no later than October 31 following the assessment date with respect to which such exemption is claimed. For vehicles purchased on or after October 2 and before July 31 of the assessment year for which such exemption is requested, said application shall be made no later than 30 days after purchase. Failure to file such an application as prescribed herein with respect to any assessment year shall constitute a waiver of the right to claim such exemption for that assessment year.

## ARTICLE IV

**Tax Incentive Program****[Adopted 5-29-2007; amended in its entirety 12-6-2017]****§ 247-8. Authority; administration.**

The Thomaston Tax incentive Program is established pursuant to C.G.S. §§ 12-65b and 12-65h, as may be amended, and shall be administered by the Board of Selectmen in cooperation with the Thomaston Economic Development Commission, with support from the Planning and Zoning Commission, Assessor and Tax Collector.

**§ 247-9. Statement of purpose.**

The purpose of the Thomaston Tax Incentive Program (the "Program") is to attract, retain and expand qualified businesses, to create employment opportunities, and to promote responsible economic growth to ensure Thomaston's future as a desirable community in which to live and work.

**§ 247-10. Eligibility.**

- A. The Town of Thomaston may enter into written tax agreements with the owners and/or lessees of real property adjusting the assessments of real property improvements to be dedicated and used for any of the following purposes:
- (1) Office facilities;
  - (2) Retail businesses or any property to be rehabilitated for retail use;
  - (3) Recreation, including sports and tourism facilities;
  - (4) Transportation facilities and associated parking structures;
  - (5) Warehousing, storage and distribution facilities;
  - (6) Manufacturing firms as defined in the Economic Development and Manufacturing Assistance Act of 1990, as amended, including research and development facilities;
  - (7) Hospitals and other health care facilities as defined in C.G.S. § 19a-506c, as amended;
  - (8) Multiunit housing developments of four or more dwelling units;
  - (9) Mixed-use developments as defined in C.G.S. § 8-13m, as amended.
- B. Only legally existing uses and facilities, or facilities approved for such uses by the Planning and Zoning Commission, are eligible to participate in the Program. Home occupations, most residential uses, and other uses which do not fall within the above categories are not eligible to be considered for the Program.
- C. Benefits granted through any state incentive programs shall be applied prior to local abatements.

**§ 247-11. Tax abatement schedule.**

- A. The Board of Selectmen may enter into a tax agreement with any party owning or proposing to acquire an interest in real property in the Town of Thomaston, adjusting the assessment of the real property; which is the subject of the agreement; and all improvements thereon or therein and to be constructed thereon or therein, subject to any of the limitations in the tables below. The tables list the minimum value of an improvement that qualifies a project for an abatement as well as the maximum abatement amount and the maximum abatement period.
- B. Real property tax incentive options.
- (1) The following tables, in combination with bonus abatement credits and conditions in § 247-12, shall be used as guidance by the Economic Development Commission in the final determination of abatement term recommendations to the Board of Selectmen.

<b>Table "A"</b>				
<b>Value of Improvements; Eligible Years of Abatement</b>				
<b>Min. Value of Improvements</b>	<b>\$25,000+</b>	<b>\$250,000+</b>	<b>\$2,500,000+</b>	<b>\$5,000,000+</b>
<b>Abatement Duration (Years)</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>10</b>

<b>Table "B"</b>										
<b>Annual Percentage of Tax Abatement Eligibility For Real Estate and Personal Property New to Town Grand List</b>										
<b>Years/ Percentage Abatement</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
3	75%	40%	25%	0	0	0	0	0	0	0
5	75%	50%	40%	25%	25%	0	0	0	0	0
7	85%	75%	60%	40%	40%	25%	25%	0	0	0
10	90%	85%	75%	75%	50%	50%	40%	40%	25%	25%

- (2) The Board of Selectmen shall determine the specific abatement for each project based upon the benefits to the Town. The final valuation shall be determined by the Town of Thomaston Assessor.

**§ 247-12. Application.**

- A. Any eligible owner and/or lessee may apply under the Program in writing to the Economic Development Commission by filing the "Application for Tax Abatement under the Tax Incentive Policy." The applicant shall provide all required information in sufficient detail to allow the Economic Development Commission to determine costs and benefits associated with the implementation of the requested tax agreement. Personal or confidential financial information shall be submitted on a confidential addendum which, together with tax returns, financial statements, trade secrets or other



proprietary information, shall not be subject to public inspection or disclosure under the Freedom of Information Act, C.G.S. Ch. 14.

- B. On the recommendation of the Economic Development Commission, the Board of Selectmen may enter into a tax agreement under this policy only if the proposed agreement will:
- (1) Cause a business to locate in Thomaston;
  - (2) Cause a business to replace expand or remodel existing buildings;
  - (3) Cause a business to construct new buildings;
  - (4) Cause an increase in or preserve existing employment opportunities.
  - (5) Cause a substantial investment in new equipment or other personal property subject to taxation;
  - (6) Cause a business to utilize a distressed or abandoned property;
  - (7) Cause a property owner to make a significant rehabilitation investment within the Downtown Development District;
  - (8) Provide a product, need or service to the local community; or
  - (9) Improve or renovate historic structures.
- C. In addition to the foregoing, the Board of Selectmen may consider the following factors:
- (1) Compatibility of the proposed project with the Town's resources and infrastructure, including roads and utilities; and
  - (2) The proposed project developer/owner's business, zoning, safety, and environmental track record.
- D. Within the uses specified in § 247-10, priority will be given to those applications which are or propose to locate in the Downtown Development District as shown on the Thomaston Zoning Map and/or which propose to use or rehabilitate existing commercial and industrial buildings.
- E. If the applicant is a lessee, or if an owner is applying on behalf of a lessee, tax benefits shall accrue to the benefit of the lessee, shall be reflected in a recorded lease with a term equal to, or greater than, the period for which benefits shall accrue, and shall be so demonstrated to the Board of Selectmen.
- F. To the extent feasible, the applicant shall commit to hire Town residents for new positions created as a result of the proposed project. Up to an additional 5% abatement each year for the term of the abatement may be awarded for creation of a minimum of 10 new permanent jobs within the Town and retention of these jobs for the term of the abatement. A further 5% per year for the term of the abatement may be awarded if at least 35% of 10 minimum new jobs created are filled and maintained for the term of the abatement by Thomaston residents. Annual employment reporting shall be required to confirm the terms of these additional abatements.

- G. Applicants shall estimate the number of anticipated new hires, the skills required and the timing of new hires.
- H. Applicants shall provide a copy of its affirmative action/hiring statement or plan.
- I. The applicants shall provide architectural plans for any proposed new construction or improvements within the Downtown Development District. Up to an additional 10% abatement for the term of the total abatement may be granted for improvements reflecting the architectural history and historic character of the Town of Thomaston, and upon favorable recommendation from the Thomaston Historical Commission.
- J. In no cases shall a total tax abatement exceed 90% of real estate or property new to the grand list in any year.

**§ 247-13. Procedure.**

- A. The Economic Development Commission with the advice of the Assessor and the Planning and Zoning Commission shall review and evaluate each tax incentive application. After thorough review by the Commission, the application, along with a written analysis, shall be referred to the Board of Selectmen. After review, the Board of Selectmen may submit any application recommended to a Town Meeting for final action, reject the application, or refer it back to the Commission for additional information. The final form of agreement must be reviewed by Town Counsel prior to final action by the Town Meeting.
- B. The Board of Selectmen may modify, amend, or waive the terms of the agreement in keeping with the intent and purpose of the Program and the best interests of the Town of Thomaston.
- C. There is no right to appeal under this article.

Figure A: Tax Abatement Qualified Activities Checklist

<input type="checkbox"/> Cause a new business to locate in Thomaston (1)	OR	<input type="checkbox"/> Existing business in Thomaston
<input type="checkbox"/> Cause a business to construct new buildings (3)	AND OR	<input type="checkbox"/> Cause a business to replace, expand or remodel existing buildings (2)
		<input type="checkbox"/> Cause a business to utilize a distressed or abandoned property (6)
		<input type="checkbox"/> Cause a property owner to make a significant rehabilitation investment within the Downtown Development District (7)
		<input type="checkbox"/> Improve or renovate historic structures (9)
<input type="checkbox"/> Cause an increase in or preserve existing employment opportunities (4)		
<input type="checkbox"/> Cause a substantial investment in new equipment or other personal property subject to taxation (5)		
<input type="checkbox"/> Provide a product, need or service to the local community (8)		

## § 247-14. Conditions of approval.

- A. Improvements shall be completed within 24 months of approval and signing of any such tax agreement. In the event that improvements are not completed within the specified time frame, then any agreement entered into pursuant to this policy shall immediately terminate and the full amount of the tax, including accrued interest, that would otherwise be due shall immediately become due and payable, unless alternative arrangements are authorized in writing by the Board of Selectmen.
- B. If an applicant falls to comply with the payment of taxes upon the due date determined by the Board of Selectmen, then any agreement entered into pursuant to this policy shall immediately terminate and the full amount of the tax, including the accrued interest that would otherwise be due shall immediately become due and payable.

- C. Any person or firm who or which is delinquent in any taxes and/or fees due the Town of Thomaston or the State of Connecticut or in violation of local zoning or inland wetlands regulations at the time of application shall be ineligible for abatement approval under this policy.
- D. Any tax assessed and levied upon motor vehicles shall not be subject to any such agreement pursuant to this policy.
- E. The applicant agrees to maintain and make available upon request to the Assessor supporting documentation, including but not limited to income tax returns, business records, Invoices, bills of sale, and bills of lading pertaining to the improvements for which the applicant is claiming exempt status.

**§ 247-15. Tax assessment agreement.**

- A. Any tax agreement entered into pursuant to this policy shall not be subject to assignment or transfer without the prior written consent of the Board of Selectmen. In the event that any such agreement is assigned or transferred without the written consent of the Board of Selectmen, the agreement shall terminate as of the effective date of assignment or transfer, and the full amount of the tax that would otherwise be due the Town of Thomaston shall immediately become due and payable.
- B. Any tax agreement entered into pursuant to this policy shall be recorded in the Thomaston land records and shall constitute a priority lien against the property benefited until the conditions of the tax abatement have been fulfilled and the agreement has expired.
- C. Any person or firm who or which becomes delinquent in any taxes and/or fees due the Town of Thomaston or the State of Connecticut or in violation of local zoning or inland wetlands regulations shall be considered in default of the agreement. Upon default under the terms of the agreement, or material misrepresentation in the application, the taxes abated shall immediately become due and payable, with interest as provided by law, and may be liened, and the lien may be foreclosed in the same manner as provided by law for tax property liens generally. All tax abatement agreements shall contain a provision that any business granted a tax abatement shall repay the Town the amount of any abatement contained in such agreement if such business does not meet the obligations contained within the agreement.
- D. Any tax agreement will commence either with the assessment date following the issuance of a certificate of occupancy or the partial year in which a certificate of occupancy is issued, on a pro-rated basis, at the option of the applicant. A partial year abatement shall be considered year one in accordance with § 247-11, Table B.

**§ 247-16. General provisions.**

- A. Nothing in this policy shall require the Town of Thomaston to enter into a tax agreement. The final decision as to any tax abatement is at the sole discretion of the Town of Thomaston.

- B. The Board of Selectmen may terminate an abatement granted hereunder prior to the expiration thereof in the event a fraud or misrepresentation by an applicant regarding any statements or representations contained in the application, addendum, or any supporting documentation.
- C. A tax agreement shall expire and terminate as provided herein or as set forth in the agreement.
- D. The Economic Development Commission is authorized to develop the application, addendum, agreement, and promotional and program materials and to develop policy regulations and guidelines, subject to approval by the Board of Selectmen.

#### ARTICLE V

##### **Tax Payments, Refunds and Fees**

**[Adopted 3-31-2010; amended in its entirety 12-6-2017]**

##### **§ 247-17. Refunds.**

Pursuant to C.G.S. § 12-129, the Tax Collector is authorized to retain any payment in excess of the amount due of any property tax, interest or lien fee payment which is less than \$5, whenever the Tax Collector determines that the administrative cost of issuing the refund is likely to exceed that amount of the refund.

##### **§ 247-18. Payments.**

Pursuant to C.G.S. § 12-144c, the Tax Collector is authorized to waive the payment of any property tax, interest or lien fee which is \$10 or less, whenever the Tax Collector determines that the administrative cost of collection is likely to exceed the amount due.

##### **§ 247-19. Administrative fee for delinquent motor vehicle taxes.**

Pursuant to C.G.S. § 12-166, the Tax Collector may charge an administrative fee of \$2, to be added to the tax levied on each motor vehicle when a motor vehicle tax is delinquent and a report concerning the vehicle subject of the delinquent tax is generated to the Connecticut Department of Motor Vehicles. The purpose of the fee is to defray the Tax Collector's administrative costs and to recover the Town's payment to the Commissioner of Motor Vehicles for participation in the reporting program. The amount of this administrative fee may be changed from time to time to be equal to the amount which the Town must pay per vehicle to the Commissioner of Motor Vehicles pursuant to C.G.S. § 14-33.

## ARTICLE VI

**Tax Liens****[Adopted 1-25-2012; amended in its entirety 12-6-2017]****§ 247-20. Assignment of tax liens.**

Pursuant to C.G.S. § 12-195h, the Tax Collector is authorized to assign for consideration such real property tax liens as deemed appropriate for assignment by the Tax Collector and the Board of Selectmen, the amount of such consideration to be determined by the Tax Collector and the Board of Selectmen.

## ARTICLE VII

**Required Filings****[Adopted 8-26-2015]****§ 247-21. Waiver of information reporting penalty.**

Effective with the grand list of October 1, 2014, and thereafter, rental property income and expense information required to be filed with the assessor pursuant to § 12-63c of the Connecticut General Statutes shall be requested by the assessor at least 45 days prior to the June 1 filing deadline. The information required for the calendar year preceding the deadline is due at the assessor's office on June 1. If the owner fails to file, or submits information in incomplete or false form with intent to defraud, the owner shall be penalized an amount equal to 10% of the assessment on the grand list preceding the June filing deadline. This penalty may be waived by the assessor if the current owner provides verification that the property was acquired after the assessment date to which such penalty would otherwise be applied. This penalty may also be waived if, on or before September 30 of said assessment year, such information is provided to the assessor which complies with § 12-63c of the Connecticut General Statutes.

## **Chapter 260**

### **VEHICLES AND TRAFFIC**

#### **ARTICLE I**

##### **Traffic Control and Parking Meters**

- § 260-1. Definitions.
- § 260-2. Regulations.
- § 260-3. Use of parking meters.
- § 260-4. Notice of violation.
- § 260-5. Evidence.
- § 260-6. Penalties for offenses.
- § 260-7. Collection of coins.
- § 260-8. Intent; use of funds.

#### **ARTICLE II**

##### **Junked Vehicles**

- § 260-9. Definitions.
- § 260-10. Prohibited acts; declaration of nuisance.
- § 260-11. Notice of violation.
- § 260-12. Responsibility of property owner or occupant.

- § 260-13. Request for hearing.
- § 260-14. Removal by Town.
- § 260-15. Penalties for offenses.

#### **ARTICLE III**

##### **Winter Parking Ban**

- § 260-16. Authority.
- § 260-17. Definitions.
- § 260-18. Parking prohibited under certain conditions.
- § 260-19. Removal of vehicles.
- § 260-20. Parking ticket.

#### **ARTICLE IV**

##### **Police Traffic Duties**

- § 260-21. Authorization.
- § 260-22. Police protection required at construction sites.

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Traffic Control and Parking Meters**

**[Adopted 10-5-1953]**

##### **§ 260-1. Definitions.**

For the purpose of this article, the following definitions shall be used:

**OPERATOR** — The person operating or in control of a vehicle on a public highway.

**PARKING** — The standing of a vehicle, whether occupied or not, upon a highway, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations or traffic signs or signals.

**PARKING METER** — A mechanical device for measuring time limits for parking vehicles, which device consists of a standard upon which a case is set containing a timing mechanism and signal indicating legal parking and which will indicate clearly the time to elapse until the period expires during which parking is permitted in the parking meter space which the parking meter controls. The signal shall also indicate when the time for legal parking has expired in that space.

**PARKING METER SPACE** — The space beside which is located a parking meter within which space a vehicle may be properly parked.

**TRAFFIC AUTHORITY** — The Board of Selectmen of the Town of Thomaston.  
[Amended 5-29-2007]

**VEHICLE** — Any device in, upon, or by which any person or property is or may be transported upon a public highway.

### **§ 260-2. Regulations.**

The Traffic Authority of the Town of Thomaston may adopt, establish and promulgate such regulations of traffic and parking upon the public streets of the Town as in its opinion public necessity and convenience require. Such regulations may include the setting of time limits for parking on any or all of the public streets of Thomaston, and if, in the opinion of said Traffic Authority, the installation of parking meters on certain of said streets is necessary or desirable for the proper and reasonable regulation of parking, the Traffic Authority is hereby authorized to provide for such installation of parking meters by either lease or purchase.

### **§ 260-3. Use of parking meters.**

- A. If the Traffic Authority shall at any time provide for the installation of parking meters requiring the deposit or insertion of a coin, or the turning of a key, handle or other device, or requiring any other act or action to be performed by the operator of a vehicle using the parking meter space controlled by a particular parking meter to set said parking meter in operation, so that the time limit for legal parking may be indicated, the failure of such operator to insert a proper coin or coins or to turn the key, handle or other device, or to perform such other act or action as may be so required, shall constitute a violation of this article.
- B. It shall be unlawful for any person to deposit or cause to be deposited in any parking meter any slug device or substitute for a proper coin of the United States, or to deposit or cause to be deposited in any parking meter additional proper coins of the United States for the purpose of increasing or extending the legal parking time which has been established by the Traffic Authority for the parking meter space adjacent to which said parking meter is placed.
- C. It shall be unlawful for any person not so authorized to deface, damage, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the direction of the Traffic Authority or to aid or abet in doing the same.



**§ 260-4. Notice of violation.**

Whenever any vehicle shall be found parked in any parking meter space overtime and beyond the period of legal parking time established for such place by the Traffic Authority, or shall be found parked therein during any period when parking is prohibited or shall be found parking

in violation of any provision of any rule or regulation of the Traffic Authority, any police officer may attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this article or of a rule or regulation of the Traffic Authority and instruct such owner or operator to report to the police headquarters of the Town of Thomaston, or at such other place as the Traffic Authority may from time to time designate, in regard to such violation. Each such owner or operator may, within 24 hours of the time when such notice was attached to such vehicle, pay to the Clerk of the Town Court of Thomaston, or his designated agent, who may be any officer in charge of police headquarters, as the penalty for and in full satisfaction of such violation, the sum of \$1. The failure of such owner or operator to make such payment within such time limit shall render such owner or operator subject to the penalty hereinafter provided for violation of the provisions of this article.

**§ 260-5. Evidence.**

In any prosecution or proceeding hereunder, the registration number displayed on the registration plate on the motor vehicle shall constitute in evidence a prima facie presumption that the person to whom such registration plate was issued was the person who parked such vehicle at the place where such violation occurred. The fact that a parking meter adjacent to the parking meter space in which a vehicle may be found parked at a time when the regulations of the Traffic Authority require the use of a parking meter indicates either that the meter had not been set in operation by the operator of said vehicle or that the time limited for parking has expired shall be conclusive evidence that the parking of said vehicle has been in violation of this article, unless an examination by the Police Department demonstrates that the parking meter was defective or out of order.

**§ 260-6. Penalties for offenses.**

Any violation of this article or failure to comply with the provisions of such rules or regulations as may be adopted by the Traffic Authority in connection with traffic, parking or parking meters shall be punished by a fine not exceeding \$100 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

**§ 260-7. Collection of coins.**

It shall be the duty of the Traffic Authority to designate a person or persons to make regular collections of the coins deposited in parking meters.

**§ 260-8. Intent; use of funds.**

This article is adopted solely in the interest of public safety, convenience and welfare. It is intended to relieve traffic congestion. All funds received from parking meters are intended to partially provide for the cost of supervision, regulation and control of traffic and the parking of vehicles and the cost of purchase, lease, supervision, protection, inspection, installation, operation, maintenance, control and use of parking meters.

ARTICLE II  
**Junked Vehicles**  
[Adopted 6-18-1987]

**§ 260-9. Definitions.**

For the purpose of this article, the following definitions shall be used:

**JUNKED VEHICLE** — Any vehicle, as defined by this section, which does not have lawfully affixed thereto an unexpired registration plate or number or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

**PRIVATE PROPERTY** — Any real property within the Town which is privately owned and which is not public property as defined in this section.

**PUBLIC PROPERTY** — Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, or any other publicly owned property or facility.

**TOWN** — The Town of Thomaston.

**VEHICLE** — Any vehicle which is self-propelled and designed to travel along the ground, including but not limited to automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers. The term "vehicle" also means any trailer or camper, self-propelled or otherwise, required to be registered by the Department of Motor Vehicles prior to having access to public roads.

**§ 260-10. Prohibited acts; declaration of nuisance.**

No person shall park, store or leave or permit the parking, storing or leaving of a junked vehicle of any kind, whether attended or not, upon any property within the Town. The presence of a junked vehicle, or parts thereof, on any such property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this article. This section shall not apply to any vehicle enclosed within a building on private property; or to any vehicle held in connection with a business enterprise lawfully licensed and properly operated in the appropriate business zone pursuant to the zoning laws of the Town; or to any vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways; or any antique vehicle retained by the owner; or an operable vehicle retained by the owner for work on the owner's property.

**§ 260-11. Notice of violation.**

Whenever the Chief of Police is informed in writing that any nuisance as defined in § 260-10 of this article exists in the Town, a notice in writing shall be served upon the occupant of the private property where the nuisance exists, or, if there is no such occupant, then upon the owner of the private property, notifying him of the existence of the nuisance and requesting its removal in 30 days. The notice shall state that upon failure to comply with such request, the Police Department or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the private property. Such notice shall be made

by certified mail and by publication in a newspaper having a substantial circulation in the Town.

**§ 260-12. Responsibility of property owner or occupant.**

Upon proper notice and opportunity to be heard, the owner of the junked vehicle and the owner or occupant of the private property on which the same is located, any or all of them, shall be responsible for its removal. In the event of removal and disposition by the Town, the owner, or the owner or occupant of the private property where the same is located, shall be liable for the expenses incurred.

**§ 260-13. Request for hearing.**

- A. Persons to whom such notices are directed may file a written request for hearing before the Board of Selectmen of the Town within 21 days after the date of the notice for the purpose of defending the charges made by the Town.
- B. The hearing shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of the hearing at least five days in advance thereof. At any such hearing, the Board of Selectmen and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

**§ 260-14. Removal by Town.**

- A. If the violation described in the notice has not been remedied within the thirty-day period for compliance, and in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of the violation is affirmed by the Board of Selectmen, the Police Department or its designee may take possession of the junked vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such persons to enter upon private property for the purpose of removing a junked vehicle under the provision of this article.
- B. Such removal may be made by a Town truck or by a commercial tow truck to a commercial garage or an automobile wrecking yard or to any suitable place for the disposal of rubbish. The Town may thereafter take an action for the recovery of the cost of such removal if the proceeds of any sale are insufficient to cover such cost, provided that nothing herein shall be construed to require the sale of a junked vehicle.

**§ 260-15. Penalties for offenses.**

Any person violating any of the provisions of this article shall be subject to a fine of not more than \$50. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

ARTICLE III  
**Winter Parking Ban**  
[Adopted 11-28-2006]

**§ 260-16. Authority.**

Pursuant to the provisions of C.G.S. §§ 7-148(c)(7)(B) and 14-251 and Ch. 249, as amended, the Town of Thomaston hereby amends and restates its ordinance concerning the winter parking ban.

**§ 260-17. Definitions.**

For purposes of this article, the terms "highway," "motor vehicle," "operator," "parking" and "traffic control sign" shall have the same definitions as set forth in C.G.S. Ch. 249, as amended.

**§ 260-18. Parking prohibited under certain conditions.**

No owner or operator of any motor vehicle shall park said vehicle on any highway in the Town of Thomaston during any snow, sleet, ice, freezing rain, or hail storm and within a period of 24 hours thereafter, during the period from November 1 to April 15.

**§ 260-19. Removal of vehicles.**

Where reasonably practical, the Police Department shall attempt to notify the owner or operator of any motor vehicle in violation of § 260-18 to remove the motor vehicle immediately. If the motor vehicle is not moved in a reasonable time, the Police Department is authorized to remove, or have removed by a commercial towing service, any motor vehicle parked in violation of § 260-18 to a local garage or place of safety. Such removal shall be at the risk and expense of the owner or operator of the vehicle. Motor vehicles so removed shall be stored in a safe place and shall be restored to the owner or operator upon payment of a reasonable fee for said storage and towing.

**§ 260-20. Parking ticket.**

It is hereby further provided that the Police Department is further authorized to issue a parking ticket for failure to remove any motor vehicle which is parked in violation of § 260-18 of this article. Said parking ticket shall be attached to the subject vehicle, shall direct the owner or operator to appear or mail to the Police Department, within 72 hours, the sum of \$25. Each day of violation shall constitute a separate offense.

ARTICLE IV  
**Police Traffic Duties**  
**[Adopted 10-27-2009]**

**§ 260-21. Authorization.**

This article is adopted pursuant to Connecticut General Statutes, § 7-148(c)(4)(A), 7-148(c)(6)(C), 7-148(c)(7)(B) and 7-148(c)(10).

**§ 260-22. Police protection required at construction sites.**

- A. For any of the following described activities resulting in complete or partial blockage of any public highway or street where a public highway or street is being excavated or obstructed, sworn police personnel shall be hired by the person, firm, corporation or company causing such excavation or obstruction through the Town in order to ensure public safety in the area of work being performed.
- B. This requirement shall apply to construction projects, public utility work, or other activity in the highway or street right-of-way whereby public safety may be endangered. This provision shall not apply when Connecticut Department of Transportation, Thomaston Highway Department or Thomaston Water Pollution Control Authority employees perform traffic duty.
- C. It shall be mandatory that police protection be secured for all traffic details before a permit may be issued by the Highway Superintendent for public highway or street excavation. Failure to comply with this article shall result in a \$250 fine for which each day of violation shall be deemed a separate offense.

## **Chapter 267**

### **WATER**

#### **ARTICLE I Water Consumption Records**

##### **§ 267-1. Authorization to obtain records.**

**[HISTORY: Adopted by the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

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#### **ARTICLE I Water Consumption Records [Adopted 1-12-1994]**

##### **§ 267-1. Authorization to obtain records.**

Pursuant to C.G.S. §§ 7-246 and 7-251, the Thomaston Water Pollution Control Authority is authorized to obtain from the Connecticut Water Company, its successors and assigns, and any other water utility providing water service to the residents of the Town, all necessary records to determine the consumption of water by customers of such utilities, such records being deemed necessary or desirable to the operation of the municipal sewer system. The Water Pollution Control Authority may enter into such contracts and agreements as it deems necessary and appropriate with such water utilities for the purpose of obtaining access to such records.

## **PART III**

## **REGULATIONS**



## **Chapter 280**

### **FLOODPLAIN MANAGEMENT**

#### **ARTICLE I General Provisions**

- § 280-1. Purpose.
- § 280-2. Area of applicability; Flood Insurance Rate Map.
- § 280-3. Compliance required.
- § 280-4. Other restrictions.
- § 280-5. Interpretation.
- § 280-6. Warning and disclaimer.
- § 280-7. Penalties for offenses.

#### **ARTICLE II Definitions**

- § 280-8. Definitions.

#### **ARTICLE III Standards**

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#### **ARTICLE IV Administration**

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- § 280-21. Flood hazard area permit.
- § 280-22. Duties and responsibilities of Building Official.

#### **ARTICLE V Appeals and Variances**

- § 280-23. Zoning Board of Appeals.
- § 280-24. General considerations.
- § 280-25. Conditions for variances.
- § 280-26. Filing of variances.
- § 280-27. Notice and records.
- § 280-28. Appeal to court.

#### **ARTICLE VI Subdivision Requirements**

- § 280-29. Special flood hazard areas.

[HISTORY: Adopted by the Town of Thomaston 11-25-1997. Amendments noted where applicable.]

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**ARTICLE I**  
**General Provisions**

**§ 280-1. Purpose.**

It is the purpose of this regulation to:

- A. Promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas of the Town of Thomaston by the establishment of standards designed to protect human life and public health, minimize expenditure of money for costly flood-control projects, minimize the need for rescue and relief efforts associated with flooding, minimize prolonged business and employment interruptions, minimize damage to public facilities and utilities, help maintain a stable tax base, and ensure that purchasers of property are notified of special flood hazards and assume responsibility for their actions; and
- B. Ensure continued eligibility of owners of property in the Town of Thomaston for participation in the National Flood Insurance Program pursuant to rules and regulations published in the Federal Register.

**§ 280-2. Area of applicability; Flood Insurance Rate Map.**

- A. This regulation is applicable to the special flood hazard areas, namely Zone A and Zones A1-A30, which are delineated on the map titled "FIRM: Flood Insurance Rate Map, Town of Thomaston, Connecticut, Litchfield County," Community Panel Number 090055-00001-00006, comprising six parts, effective July 5, 1982, prepared by the United States Department of Housing and Urban Development, Federal Insurance Administration, and which map is hereby made a part of this regulation and is hereinafter referred to as "Flood Insurance Rate Map (FIRM)."
- B. Basis. Said map is based on a document titled "Flood Insurance Study: Town of Thomaston, Connecticut, Litchfield County," dated January 5, 1982, prepared by the Federal Emergency Management Agency, and Floodway Map, dated July 5, 1982, which is part of such document.

**§ 280-3. Compliance required.**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, may be made within the special flood hazard area only in accordance with the requirements of this regulation.

**§ 280-4. Other restrictions.**

This regulation is not intended to repeal, abrogate or impair any easements or other laws, regulations or ordinances, and whichever imposes the more stringent restrictions shall prevail.

**§ 280-5. Interpretation.**

In the interpretation and application of this regulation, all provisions shall be considered as minimum requirements and shall be construed so as to preserve and maintain the purpose and intent hereof.

**§ 280-6. Warning and disclaimer.**

The degree of flood protection established by this regulation is considered reasonable for Town-wide studies. Larger floods may occur on rare occasions, and flood heights may increase as a result of man-made or natural causes. This regulation does not imply that land outside of special flood hazard areas will be free from flooding or flood damages. This regulation shall not create liability on the part of the Town of Thomaston, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

**§ 280-7. Penalties for offenses.**

Violation of the provisions of this regulation or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250 per day if proven done willfully and \$100 per day if not, or imprisoned for not more than 10 days for each day of violation, or both, and in addition shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the Zoning Enforcement Officer from taking such other lawful action as is necessary to prevent or remedy any violation.

## ARTICLE II Definitions

**§ 280-8. Definitions.**

Certain terms and phrases used in this regulation are hereinafter defined and explained. Otherwise, the words in this regulation shall have the meaning commonly attributed to them.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent chance of flooding in any given year.

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** — Any area of the building having its floor subgrade (below ground level) on all sides.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**FLOOD INSURANCE RATE MAP (FIRM)** — An official map of a community on which the Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 foot anywhere in the Town; the regulated floodway is delineated on the Flood Boundary and Floodway Map, which is a part of this regulation.

**FUNCTIONALLY DEPENDANT FACILITY** — A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**LOWEST FLOOR** — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor. These areas must be designed in accordance with § 280-18.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of this regulation (not the revision date).

**START OF CONSTRUCTION** [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)] — Includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or as part of the main structure.

**STRUCTURE** — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** — Any repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

**WATER SURFACE ELEVATION** — The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### ARTICLE III Standards

#### **§ 280-9. General requirement.**

In special flood hazard areas, all development shall conform to the standards hereinafter specified.

#### **§ 280-10. Anchoring.**

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

#### **§ 280-11. Construction material and methods.**

All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage and by using methods and practices that minimize flood damage.

#### **§ 280-12. Utilities.**

Water supply, sanitary systems and service facilities shall conform to the following:

- A. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

- B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- D. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**§ 280-13. Building location and floor location.**

No new construction or substantial improvement of buildings and other structures for human occupancy shall be located in any special flood hazard area. Any new construction or substantial improvement of buildings and other structures for other than human occupancy shall either have the lowest floor, including basement, elevated to or above the base flood elevation or shall, together with attendant utility and sanitary facilities, conform to the following:

- A. Be floodproofed so that up to one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- B. Have structural components capable of resisting hydrostatic and hydrodynamics loads and the effects of buoyancy; and
- C. Be certified by a registered professional engineer or architect that the above standards are satisfied, which certifications shall be provided to the Building Official of the Town of Thomaston as set forth in § 280-21A(3).

**§ 280-14. Floodways.**

Floodways are extremely hazardous areas due to the velocity of floodwaters which cause erosion and carry debris and potential projectiles. In areas where floodways have been designated or determined the following additional standards are applicable:

- A. Encroachment. There shall be no encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If the requirement of Subsection A is satisfied, all new construction and substantial improvements shall comply with all other applicable standards of this article.

**§ 280-15. Manufactured homes.**

No manufactured homes shall be located in a special flood hazard area.

**§ 280-16. Alteration of watercourse.**

In any portion of a watercourse which is altered or relocated the flood-carrying capacity shall be maintained.

**§ 280-17. Changes to existing structures.**

A structure already in compliance with the provisions of this regulation shall not be made noncompliant by any alteration, repair, reconstruction or improvement to the structure.

**§ 280-18. Elevated buildings.**

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- A. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (2) The bottom of all openings shall be no higher than one foot above grade; and
  - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.
- B. Electrical, plumbing and other utility connections are prohibited below the base flood elevation.
- C. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- D. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

**§ 280-19. Streams without established base flood elevations or floodways.**

- A. Located within the areas of special flood hazard established in § 280-2 where small streams exist but no base flood data has been provided or where no floodways have been provided, the following provisions apply:
  - (1) In A Zones where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which would increase base flood elevations more than one foot at any point along the watercourse when all

anticipated development is considered cumulatively with the proposed development.

- (2) New construction or substantial improvements of structures shall be elevated or floodproofed to elevations established in accordance with § 280-13.

B. The Town may request floodway data of an applicant for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the Town's request or not), the Town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the watercourse.

#### ARTICLE IV Administration

##### **§ 280-20. Administrative officer.**

The Building Official of the Town of Thomaston is hereby designated to administer and implement the provisions of this regulation. The Building Official shall have the responsibility and authority to grant or deny permit applications for development in special flood hazard areas in accordance with the provisions of this regulation. The Board of Selectmen may appoint deputies to assist and act for the Building Official.

##### **§ 280-21. Flood hazard area permit.**

Development, including new construction, substantial improvement and the placement of prefabricated buildings, may be made within special flood hazard areas only after a flood hazard area permit therefor has been obtained. Application for a flood hazard area permit shall be made to the Building Official on forms furnished for that purpose by such official and shall include at least plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing proposed structures, fill, storage of materials and drainage facilities; and the location of the foregoing.

A. Application stage.

- (1) The application shall include the following information:
  - (a) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
  - (b) Elevation in relation to mean sea level to which any structure has been or will be floodproofed;
  - (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 280-13A to C;
  - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;



- (e) Plans for any walls to be used to enclose space below the base flood elevation;
    - (f) A statement as to whether there will be dry access to the structure during the one-hundred-year storm event;
  - (2) Where applicable the following certifications by a registered engineer or architect are required and must be provided to the Building Official: the design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of Article III.
- B. Construction stage. Upon completion of the applicable portion of construction the applicant shall provide verification to the Building Official of the following as is applicable:
- (1) Lowest floor elevation.
    - (a) Elevation to be verified for:
      - [1] A structure in a numbered A Zone is the top of the lowest floor (including basement);
      - [2] A structure in the V Zone is the lowest point of the lowest structural member (excluding pilings or columns); and
      - [3] A structure which has been floodproofed is the elevation to which the floodproofing is effective.
    - (b) Deficiencies detected by the review of the above listed items shall be corrected by the permit progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

**§ 280-22. Duties and responsibilities of Building Official.**

Duties and responsibilities of the Building Official in the administration of this regulation shall include but not be limited to the following:

- A. Permit application review. The Building Official shall:
- (1) Review all flood hazard area permit applications to determine that the requirements of this regulation have been satisfied.
  - (2) Review all such permit applications to determine that all other necessary permits have been received from those federal, state or Town government agencies from which prior approval is required.
  - (3) Require that copies of such permits be provided and maintained on file with the development permit, possibly including but not limited to the Coastal Area Management Permit, Water Division, Dam Safety, Corps of Engineers 404.

- B. Other base flood data. When base flood elevation data is not provided on the Flood Insurance Rate Map, the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the standards of this regulation.
- C. Information to be obtained and maintained. The Building Official shall:
- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
  - (2) For all new and substantially improved floodproofed structures:
    - (a) Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and
    - (b) Maintain the floodproofing certification required in § 280-21A(3);
  - (3) Maintain for public inspection all records pertaining to the provisions of this regulation; and
  - (4) Submit an annual report to the Federal Emergency Management Agency.
- D. Alteration of watercourse. The Building Official shall:
- (1) Notify adjacent towns and the Connecticut Department of Environmental Protection, Inland Water Resources Division, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency; and
  - (2) Require that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

## ARTICLE V Appeals and Variances

### § 280-23. Zoning Board of Appeals.

The Zoning Board of Appeals of the Town of Thomaston shall hear and decide appeals and requests for variances from the standards of this regulation.

A. Such Board shall have the following duties:

- (1) To hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the enforcement and administration of this regulation.
- (2) To issue variances from the standards of this regulation under the general considerations set forth in § 280-24 and the conditions for variance specified in § 280-25.

- (3) Rehabilitation or restoration of structures listed on the National Register of Historic Places and the Connecticut State Inventory of Historic Places without regard to the considerations and conditions of §§ 280-24 and 280-25.<sup>1</sup>
- B. Variances may be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, create no additional threat to public safety and meet the requirements of § 280-25.

#### **§ 280-24. General considerations.**

In passing upon applications for variance, the Zoning Board of Appeals shall consider the technical evaluations and studies that are the basis for this regulation, the standards of this regulation and the following:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development and its contents to flood damage, and the effect of such damage on the individual owner;
- D. The importance of the services provided to the community by the proposed development;
- E. The necessity of a waterfront location for the function of the development;
- F. The availability of alternative locations for the proposed development which are not subject to flooding or erosion damage;
- G. The compatibility of the proposed development with existing and anticipated other development;
- H. The relationship of the proposed development to the plan of development for the Town and the floodplain management program for that area;
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

#### **§ 280-25. Conditions for variances.**

The following are applicable to the issuances of variances by the Zoning Board of Appeals:

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1. Editor's Note: So in original. The copy for this subsection was missing the first line of text.

- A. No variance shall be issued within a floodway if any increase in flood levels during the base flood discharge will result.
- B. Otherwise, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in area when the lot is contiguous to and generally surrounded by lots with existing structures constructed below the base flood elevation, provided that the following criteria are met:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with other existing Town laws, ordinances and regulations.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and in the instance of an historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building.
- D. When issuing a variance, the Board may attach such conditions that it deems necessary to further the purpose and intent of this regulation.

#### **§ 280-26. Filing of variances.**

A variance issued under this regulation shall become effective at such time as is fixed by the Zoning Board of Appeals, provided that a copy thereof shall be filed in the office of the Thomaston Town Clerk and in the land records of the Town of Thomaston in the same manner as required for filing of variances from zoning regulations.

#### **§ 280-27. Notice and records.**

The Building Official shall notify the applicant for variance in writing that the issuance of a variance to construct a structure below the base flood elevation will result in increased premiums for flood insurance and that such construction below the base flood elevation increases risks to life and property. The Building Official shall maintain a record of such notice to applicants, shall maintain a record of all variance actions, including the justification for their issuance, and shall report such variances issued in his/her annual report to the Federal Emergency Management Agency.

#### **§ 280-28. Appeal to court.**

Any person or persons severally or jointly aggrieved by any decision of the Zoning Board of Appeals acting under this regulation, or any person owning land which abuts or is within a radius of 100 feet of any portion of the land involved in any decision of said Board, or any

officer, board or commission of the Town of Thomaston having jurisdiction or responsibility over the flood hazards of the Town, may take an appeal to the Superior Court of the county or judicial district in which such municipality is located in the same manner as provided under the provisions of § 8-8 of the General Statutes of the State of Connecticut.

#### ARTICLE VI Subdivision Requirements

##### **§ 280-29. Special flood hazard areas.**

In all special flood hazard areas, the following requirements shall apply:

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;
- C. All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards; and
- D. Base flood elevation data shall be provided for all subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are located in Zone A and are greater than five acres or 50 lots.

## Chapter 315

### ROAD EXCAVATION PERMIT REGULATIONS

- |   |                                      |
|---|--------------------------------------|
| § 315-1. Purpose; compliance required; title.     | § 315-8. Insurance.                  |
| § 315-2. Authority; utilities; other regulations. | § 315-9. Warranty of work.           |
| § 315-3. Definitions.                             | § 315-10. Emergencies.               |
| § 315-4. Permit requirements and obligations.     | § 315-11. Exemptions.                |
| § 315-5. Winter moratorium.                       | § 315-12. Backfill requirements.     |
| § 315-6. New surface moratorium.                  | § 315-13. Curb cut.                  |
| § 315-7. Bonding.                                 | § 315-14. Additional specifications. |
|   | § 315-15. Revocation of permit.      |
|   | § 315-16. Waiver.                    |

[HISTORY: Adopted by the Town of Thomaston effective 2-9-2006. Amendments noted where applicable.]

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#### § 315-1. Purpose; compliance required; title.

- A. The purpose of these regulations is to maintain the quality of community life by establishing a fair and reasonable method to protect the roadway infrastructure of the Town of Thomaston. It is the intent of these regulations to allow qualified contractors to work in the streets of the Town without compromising the aesthetics, safety, integrity or longevity of the Town's ways.
- B. Compliance with these regulations is mandatory for all excavation within the Town of Thomaston rights-of-way. Requests for waivers from any part of these regulations shall be made in writing to the Superintendent of Highways or Facility Superintendent WPCA. Waivers will be considered on a per-job basis only. A waiver may be granted if the contractor demonstrates to the Superintendent(s) that the issuance of a waiver will not deviate from the intent of these regulations.
- C. Material and construction methods shall conform, insofar as applicable, to the requirements of the State of Connecticut Department of Transportation, Standard Specifications for Roads and Bridges.
- D. From this point on these specifications will be referred to as "Form 814A."

#### § 315-2. Authority; utilities; other regulations.

- A. These regulations have been adopted pursuant to the Town of Thomaston ordinances adopted December 3, 1969, and amended October 27, 1992,<sup>1</sup> as authorized by Connecticut General Statutes, § 7-148(c)(6)(B) and (C).

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1. Editor's Note: See Ch. 240, Streets and Sidewalks, Art. I, Excavations.

- B. In developing these regulations, the Town of Thomaston recognizes that utilities regulated by Chapter 293 of the Connecticut General Statutes are not subject to inspection and maintenance fees. The Town directs these utilities to the provisions for remedy under this and other chapters and hereby serves notice that the Town will exercise all rights and privileges pertinent to the maintenance and protection of all ways within the Town of Thomaston. Any utility or corporation able to demonstrate and prove to the Town and/or Town Counsel that it is subject to the duties and charges of a similar provision of the Connecticut General Statutes relative to the operation and construction of said utility shall be given a waiver to the relevant fees.
- C. Also the regulations that are stated in the "Call Before You Dig" Excavator's Manual will be followed.
- D. All contractors excavating within the Town's rights-of-way shall adhere to all regulations under Title 13, Chapter 236 (§§ 13-a to 13-13a), Chapter 238 (§§ 13-a-36 to 13-a-153) and Chapter 241 (§§ 13-a-247 to 13-a-258).

### § 315-3. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

**CONTRACTOR** — A person, company, corporation, partnership, firm, association, society, organization, district, federal, state or local agency or department, commission, public or private utility or other legal entity.

**CURB CUT** — Access to a public way from private property for the purpose of vehicular or wheelchair access.

**EXCAVATE** — Removal of any portion of an existing road, include curbing, sidewalks or grass areas, within the Town's right-of-way.

**PERMIT** — Written permission from the administering agency, the Town of Thomaston Highway Department.

**RIGHT-OF-WAY** — Property between the street lines as defined by the street layout or the area within the traveled way. In case of uncertainty as to the true location of a street right-of-way in a particular instance, for the purpose of this specification a reference right-of-way line shall be established by measuring 25 feet from the center line of the existing pavement. However, this definition shall not be construed as establishing any rights of land, its purpose being merely to establish a reference line for excavations.

**ROAD** — Any way, highway or street, public or private, which is or has historically been maintained by the Town of Thomaston Highway Department.

**SAFETY EQUIPMENT** —

- A. Cones, barrels, warning signs, barricades or other device to provide adequate notification to motorists and pedestrians. The use and specification of such devices are defined in the current Federal Highway Administration's Manual for Uniform Traffic Control Devices.
- B. Any procedures outlined in current OSHA regulations.

**SUPERINTENDENT** — The Superintendent of Highways or his/her duly authorized designee for the Town of Thomaston.

**TEMPORARY COVER** — Cold patch acceptable, 24 hours maximum, unless hot mix asphalt plants are not open (this rule shall be under the discretion of the Superintendent of Highways or his/her designee).

**TRENCH** — Excavation usually made for installing, repairing or replacing a utility device, conduit, pipe structure or appurtenance.

**WARRANTY** — All work within a Town of Thomaston right-of-way will be guaranteed by the contractor for a period of one year against surface deficiencies, settlements or any structural failure.

**WORK** — Any surface treatment, surfacing, resurfacing, excavation or modification of a paved or graveled surface within the right-of-way.

#### § 315-4. Permit requirements and obligations.

##### A. Permit process.

- (1) Permit applications are available between the hours of 8:00 a.m. and 4:00 p.m. on Monday, Tuesday and Wednesday, 8:30 a.m. to 6:00 p.m. on Thursday, and 8:30 a.m. to noon on Friday in the Building and Land Use Office at the Thomaston Town Hall, 158 Main Street, Thomaston. **[Amended 2-4-2016]**
- (2) Permits are required for work in any public rights-of-way, including sidewalks and driveway construction or repair within the right-of-way.
- (3) The permit fee shall cover the cost of processing the permit application, recordkeeping associated with the issuance of the permit, research of the road and its condition, inspection of the work area, inspection of the work while the work is in progress and inspection of the required restoration of the work area. The fee consists of \$25 for administration and \$100 for all inspection up to 200 square yards. Should the excavation exceed 200 square yards an additional fee of \$50 will be charged for each additional 100 square yards.
- (4) Completed applications for permits will be approved or denied within five business days of receiving all required bonds, insurance certificates, fees and "Call Before You Dig" information. Should the Superintendent or his designee not act on the permit within five days, the permit shall be considered to be approved and valid until such time as the permit is revoked or expires or upon the completion of the work. The contractor shall also be responsible for notifying all nonparticipating utilities not covered by "Call Before You Dig." The contractor may pick up the approved permit at the Building and Land Use Office between the hours of 8:00 a.m. and 4:00 p.m. on Monday, Tuesday and Wednesday, 8:30 a.m. to 6:00 p.m. on Thursday, and 8:30 a.m. to noon on Friday or, at the contractor's request, the permit will be mailed to the contractor for an additional fee of \$5. The contractor shall make adequate provisions and allow sufficient time for the approval process. **[Amended 2-4-2016]**



- (5) The contractor shall not render any road impassable without the written permission of the Thomaston Police Department. It is the responsibility of the contractor to notify the Thomaston Police Department to determine if a police detail is necessary. Any Town of Thomaston agency performing work in the right-of-way may use departmental flaggers in substitution for a police detail. Evidence of said determination by the Thomaston Police Department must be provided at the time of application. Failure to notify emergency services of an impassible road shall be grounds for the revocation of the permit.
- (6) The cost of all police details shall be the responsibility of the contractor. Prior to any road being rendered impassable, the contractor shall notify police dispatch at 860-283-4344 to report road closures. The contractor shall sufficiently address the concerns of emergency personnel such that public safety is not compromised by the contractor's actions.
- (7) The contractor may commence work when he/she has the approved permit in hand and after receiving approval of the Thomaston Police Department. The approved permit shall be at the site of the work at all times. The Highway Department and the emergency services should be kept informed daily of the progress of the work.
- (8) The Highway Department or the WPCA shall provide inspection(s) as it deems necessary.

B. Subsurface utilities.

- (1) Any utility company with facilities within the Town of Thomaston's right-of-way shall be obligated for the proper maintenance, repair and replacement of said facility. If the failure of any utility located within or outside the Town right-of-way causes damage to public or private property, the owner of said utility shall be responsible for the repair/restoration of any damage caused.
- (2) If the contractor damages or suspects an existing utility has been damaged directly or indirectly by the contractor's actions, the contractor shall notify the Highway Department and the owner of the damaged utility. The contractor shall not continue work until authorized by the Superintendent of Highways or his/her designee.
- (3) The method of repair to a damaged utility must meet with the approval of the Superintendent of Highways and the owner of the utility. The method of repair will be decided on a case-by-case basis at the time of damage; in no case shall the method of repair compromise the structural integrity, capacity or longevity of the utility without the expressed written consent of Superintendent of Highways or his/her designee.

C. Backfill of excavation.

- (1) The contractor shall backfill all excavations with the native material if suitable. If, in the opinion of the Superintendent of Highways, the native material is unsuitable, the contractor will bring in suitable fill at the cost of the contractor. All backfill material shall be compacted to not less than 92% and gravel shall be compacted to not less than 95% of the maximum dry density.

- (2) The Superintendent of Highways may require soil testing to determine gradation, compaction and other parameters relevant to the proper construction of the roadway. Should the Town require said testing, the expense shall be borne entirely by the contractor.
- (3) The approved road opening permit will be valid for a period of 30 days unless otherwise stipulated.

**§ 315-5. Winter moratorium.**

- A. No work will be allowed in the area of pavement between November 15 and April 1, except in case of emergency. Emergency work necessary for the protection of life or property may be conducted with the written approval of the Board of Selectmen or its designee. A waiver for extenuating circumstances may be approved by the Board of Selectmen only after consultation with the Superintendent of Highways.
- B. See emergency work § 315-10.

**§ 315-6. New surface moratorium.**

- A. Excavation will not be allowed in rights-of-way that have been newly surfaced or resurfaced for a period of five years, except for emergency work (see § 315-10). Extenuating circumstances may be approved by the Board of Selectmen only after consultation with the Superintendent of Highways. **[Amended 2-4-2016]**
- B. In the event an excavation is allowed during the five-year moratorium, the contractor shall conduct his work as directed by the Superintendent of Highways. The completed work shall provide a life expectancy comparable to the surrounding work. Possible special provisions to allow for proper stabilization and surfacing include, but are not limited to, the use of infrared technology on joints within the excavation. **[Amended 2-4-2016]**
- C. Applicable procedures and testing results may be required by the Superintendent of Highways. Said testing shall be conducted by a testing agent or engineer approved by the Superintendent of Highways.
- D. All work allowed must be bonded, guaranteed and maintained for a period of not less than one year after excavation of the road.
- E. The town of Thomaston employs a pavement rating system known as the Pavement Condition Index ("PCI") as defined by ASTM methodology on all Town roads, ranging from one to 100 (100 being new). Excavation permits on any road with a PCI rating at or above 80 are required to be milled 1.5 inches and to be paved curb to curb. Roads with a rating below 80 only require a one-foot cutback from the original trench saw cut, for the extent of the permanent pavement repair. Saw cuts shall be mechanically cut in lines perpendicular or parallel to the direction of travel of the street. Exceptions to this rule may be approved by the Board of Selectmen, after consultation with the Superintendent of Highways, for unusual conditions or extenuating circumstances. **[Added 4-19-2017]**

**§ 315-7. Bonding.**

- A. The contractor shall provide a bond to be held by the Town for the duration of the warranty period. The bond shall be issued in such manner as it may not be cancelled without the written approval of the Superintendent of Highways.
- B. The amount of the bond shall be as defined in the following table:

<b>Square Yards</b>	<b>Amount</b>
0 to 499	\$5,000
500 to 999	\$10,000
1,000 to 2,000	\$20,000
Over 2,000	\$20,000 plus \$5 per square yard over 2,000, or as approved by the Board of Selectmen

**§ 315-8. Insurance. [Amended 2-4-2016]**

- A. The contractor and contractor's subcontractors shall provide a commercial general liability insurance policy that includes products, operations and completed operations. Limits should be at least: bodily injury and property damage with an occurrence limit of \$1,000,000; personal and advertising injury limit of \$1,000,000 per occurrence; general aggregate limit of \$2,000,000 (other than products and completed operations); products and completed operations aggregate limit of \$2,000,000. Such policy shall name the Town of Thomaston as an additional insured and be primary and noncontributory to any insurance carried by the Town of Thomaston.
- B. The contractor and contractor's subcontractors shall provide worker's compensation and employer's liability insurance that complies with the regulations of the State of Connecticut with limits no less than \$100,000 for each accident by bodily injury, \$100,000 for each accident by disease and a policy limit of \$500,000.
- C. The contractor and contractor's subcontractors shall provide commercial automobile insurance for any owned autos (Symbol 1 or equivalent) in the amount of \$1,000,000 for each accident covering bodily injury and property damage on a combined single limit basis. Such coverage shall also include hired and non-owned automobile coverage.
- D. Prior to commencement of the work, the contractor shall furnish the Town of Thomaston with satisfactory evidence of insurance as set forth above. Said policies shall not be cancelled or permitted to lapse until 30 days after the Town of Thomaston has received notice of such cancellation or lapse in coverage.

**§ 315-9. Warranty of work.**

To allow the most reasonable method to insure the quality of work, the contractor has two options available to adjust the duration of the warranty period and the responsibility of the contractor during the warranty period. The options are as follows:

**A. Standard construction methods.**

- (1) Prior to execution of the work, the contractor shall saw cut the pavement over the area of proposed excavation. Should the Superintendent of Highways reject the material, the contractor shall remove the material from the site at the contractor's expense. At no time shall bituminous material be returned to the trench.
- (2) After excavation, the contractor shall backfill using the material removed from the trench if approved by the Superintendent of Highways. All material shall be compacted in six inches lifts with mechanical compaction equipment and/or the use of jetting (with the approval of the Superintendent of Highways). The method used to compact this material shall produce a rate of compaction of 92% of the maximum dry density of the material. This material should be placed to within 22 inches of the surrounding finished surface. Eighteen inches of gravel shall be placed in six-inch lifts and compacted to 95% of the maximum dry density of the material; this shall be followed by two lifts of Class 2 asphalt first 2.5 inches and then 1.5 inches. Both courses shall comply with the Connecticut Department of Transportation (ConnDOT) Standard Specifications for Highways and Bridges. In the event hot mix asphalt cannot be used in the repair, the contractor shall place 16 inches of gravel in six-inch lifts and six inches of cold temporary patch, which will be removed as soon as weather conditions allow, at which time the contractor shall complete the work in conformance with the above. The contractor shall maintain the trench patch and maintain the required bond for one year after completion of the work.

**B. Payment of a repair and maintenance fee.**

- (1) To reduce the warranty period defined in § 315-3, a contractor may choose to pay a repair and maintenance fee.
- (2) Within 12 months of receiving the repair and maintenance fee, a Highway Department crew will re-excavate the contractor's work and restore the work as directed by the Superintendent of Highways. After the restoration by the Highway Department, the contractor will be released further warranty.
- (3) During the construction, the contractor shall comply with the construction techniques described in Subsection A of this section and elsewhere in this regulation and shall maintain the work for a period of not more than 12 months, or until such time as the contractor's work is replaced by the Highway Department.
- (4) The cost of the repair and maintenance fee shall be based on the current Town bid prices for reclamation, preparation and paving of the area of the work plus 50% for depths of excavation up to five feet. Excavations over five feet in depth will require that the cost of the repair and maintenance fee be based on Town bid prices for reclamation, preparation and paving of 200% of the area of the

excavation. In lieu of bid prices, the Town may publish a standard rate schedule to be maintained on an annual basis by the Superintendent of Highways.

#### **§ 315-10. Emergencies.**

Work completed under the classification of emergency, because of threat of personal injury or property damage, shall be allowed to commence prior to attaining the permit, provided that notification of "Call Before You Dig" and the public safety dispatch has been achieved. The contractor shall contact the Superintendent of Highways or his/her designee within 24 hours to apply for permit. Should the Superintendent of Highways find that the situation surrounding the work does not constitute an emergency, the contractor shall be assessed a fine of \$200 per day until such time as the work is complete and the permit fee paid.

#### **§ 315-11. Exemptions.**

The Town of Thomaston Highway Department is exempt from the application process. Fees and bonds may be reduced or waived for other public agencies at the discretion of the Board of Selectmen; however, the application process and all construction specifications and warranty periods shall apply.

#### **§ 315-12. Backfill requirements.**

- A. With the exception of an in-place reclamation project, or the use of processed gravel or recycled asphalt pavement, no excavated bituminous material shall be returned to the trench.
- B. Unless the gravel base material has been removed per § 315-9A, the contractor will stockpile (off the road) gravel found in the roadbed and place it in six-inch compacted lifts at the top of the trench as a base material whenever possible.

#### **§ 315-13. Curb cut.**

Driveway openings shall be constructed in conformance with the Town of Thomaston's driveway permit regulations.<sup>2</sup>

#### **§ 315-14. Additional specifications.**

- A. All pavements to be removed, including curbing and sidewalks, shall be saw cut prior to excavation.
- B. Unless otherwise directed by the Superintendent of Highways, all excavated material shall be loaded directly into trucks, not stacked on the pavement or shoulder, so as to minimize damage to the remaining pavement and existing shoulder, minimize dust, and facilitate the safe flow of traffic during construction.

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2. Editor's Note: See Ch. 142, Driveways.

- C. Any water encountered during excavation shall be discharged into an approved sediment control system prior to release to the existing gutter, swale, or other drainage structure. It is the contractor's responsibility to get approval from the Inland Wetlands and Watercourses Commission and any other governmental body that may have jurisdiction.
- D. Excavated material shall be used as backfill to minimize differential frost action in the road subgrade. Exceptions to this will be made when the excavated material is too wet to be used as backfill or contains excessive unstable organic material. Application of this subsection shall be at the discretion of the Superintendent of Highways.
- E. All backfill shall be compacted with equipment that is specifically designed for that purpose. Lifts of fill compacted with hand-directed or -operated equipment shall not exceed six inches in thickness. Lifts compacted with self-propelled heavy equipment shall not exceed 12 inches in thickness.
- F. Gravel subgrade shall match the thickness of the gravel existing adjacent to the excavation, but in no case shall it be less than 18 inches in thickness.
- G. All gravel used for road base material shall comply with standards set forth in the ConnDOT Standard Specifications for Highways and Bridges.
- H. The placement of temporary pavement is required immediately after completion of backfill and compaction. Cold patch is not a suitable long-term temporary pavement and must be replaced within 24 hours with Class 2 asphalt.
- I. The existing pavement shall be cut back one foot prior to the placement of the permanent pavement. The pavement shall be mechanically cut in lines perpendicular or parallel to the direction of travel of the street. **[Amended 4-19-2017]**
- J. The edges of the existing pavement cut to receive permanent pavement shall have asphalt emulsion applied to the vertical surfaces prior to paving.
- K. All permanent pavements shall conform to the ConnDOT Standard Specifications for Highways and Bridges, specifications for Class 2 hot mix asphalt base and top as specified previously.
- L. All temporary and permanent repairs to the rights-of-way shall be constructed to match existing grades and graded to drain in the same manner as the original pavement or as directed by the Superintendent of Highways.
- M. All work performed is subject to inspection by the Superintendent of Highways at all times. The schedule of inspection shall be at the discretion of the Superintendent of Highways. Excavations shall not be backfilled without prior notification of the Superintendent of Highways.
- N. All work with the right-of-way shall comply with current federal and state Americans with Disabilities Act regulations (42 U.S.C. § 1201 et seq.).
- O. Excavations shall not be left unattended. At the end of every day the excavation shall be backfilled or covered with a suitable h-20 plate. Machinery shall not be left in the road without the consent of the Superintendent of Highways.

- P. The contractor shall be responsible to observe all applicable OSHA regulations.

**§ 315-15. Revocation of permit.**

- A. The Superintendent may revoke the permit at any time for failure to comply with these regulations.
- B. If a permit is revoked, the work will cease and the road shall be repaired as called for in these regulations. No work will continue until the Superintendent of Highways is certain the situation that caused the revocation has been rectified.
- C. If while the work is suspended the work is left in or becomes an unsafe condition, there shall be a fine of \$200 per day levied against the contractor, and the Highway Department will make the work safe. The Town may pull the contractor's bond, if the Superintendent believes that to be in the Town's best interest.
- D. A reinstatement fee of \$200 shall be required before the contractor can continue work.

**§ 315-16. Waiver. [Added 4-19-2017]**

The Superintendent of Highways may waive or modify any of the foregoing construction specifications where existing conditions, such as right-of-way width, sidewalks, driveways, subsurface conditions, drainage, utilities, slope and grade, or future construction plans, may justify such waiver or modification which shall be documented on the permit and noted on the "as-built" plans.

## **Chapter 318**

### **SMALL WIRELESS FACILITIES**

#### **ARTICLE I**

##### **Title and Definitions**

§ 318-1. Title.

§ 318-2. Definitions.

#### **ARTICLE II**

##### **Governance of Deployment in the Public ROW**

§ 318-3. Access to public ROW.

§ 318-4. Permit applications.

§ 318-5. Administrative review.

§ 318-6. Discretionary review and approval.

§ 318-7. General public ROW installation requirements.

§ 318-8. Attachment to and replacement of decorative poles.

§ 318-9. Violations and penalties.

§ 318-10. Effective date.

**[HISTORY: Adopted by the Town of Thomaston 11-20-2019. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **Title and Definitions**

§ 318-1. Title.

This chapter is entitled. "An Ordinance Regulating Small Wireless Facilities in the Town of Thomaston."

§ 318-2. Definitions.

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

**ADMINISTRATIVE REVIEW** — Ministerial review of an application by the Town relating to the review and issuance of a permit, including review by the Superintendent of Highways, Land Use Administrator or consulting professionals to determine whether the issuance of a permit is in conformity with the applicable provisions of this chapter.

**ANTENNA** — Communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of wireless services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

**APPLICABLE CODES** — Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Town, including any amendments adopted by the Town, or otherwise are applicable in the jurisdiction.

**APPLICANT** — Any person who submits an application under this chapter.



**APPLICATION** — A written request, on a form provided by the Town, for a permit.

**COLLOCATE** — To install or mount a small wireless facility in the public ROW on an existing support structure, an existing tower, or on an existing pole to which a small wireless facility is attached at the time of the application. "Collocation" has a corresponding meaning.

**COMMUNICATIONS FACILITY** — Collectively, the equipment at a fixed location or locations within the public ROW that enables communications services, including: (i) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A communications facility does not include the pole, tower or support structure to which the equipment is attached.

**COMMUNICATIONS SERVICE** — Cable service, as defined in 47 U.S.C. § 522(6); information service, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

**COMMUNICATIONS SERVICE PROVIDER** — A provider of communications services and includes a cable operator, as defined in 47 U.S.C. § 522(5).

**DECORATIVE POLE** — A pole that is specially designed and placed for aesthetic purposes.

**DISCRETIONARY REVIEW** — Review of an application by the Town relating to the review and issuance of a permit that is other than an administrative review.

**ELIGIBLE FACILITIES REQUEST** — An eligible facility request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.

**FCC** — The Federal Communications Commission of the United States.

**LAWS** — Collectively, any and all federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

**ORDINARY MAINTENANCE AND REPAIR** — Inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a communications facility and/or the associated support structure, pole or tower, that does not require blocking, damaging or disturbing any portion of the public ROW. Determination of activities which qualify under this definition are at the sole discretion of the Town.

**PERMIT** — A written authorization (in electronic or hard copy format) to install, at a specified location(s) in the public ROW, a communications facility, tower or a pole to support a communications facility.

**PERMITTEE** — An applicant that has received a permit under this chapter.

**PERSON** — An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

**POLE** — A legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within the public right-of-way. A pole does not include a tower or support structure and does not include a pole or structure that supports electric transmission lines.

**PROVIDER** — A communications service provider or a wireless services provider, and includes any person that owns and/or operates within the public ROW any communications

facilities, Wireless Facilities, poles built for the sole or primary purpose of supporting communications facilities, or towers.

**PUBLIC RIGHT-OF-WAY OR PUBLIC ROW** — The area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this chapter shall include public utility easements, but only to the extent the Town has the authority to permit use of the area or public utility easement for communications facilities or poles, towers and support structures that support communications facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town.

**PUBLIC UTILITY EASEMENT** — Unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public utility easement does not include an easement dedicated solely for Town use, or where the proposed use by the provider is inconsistent with the terms of any easement granted to the Town.

**REPLACE or REPLACEMENT** — In connection with an existing pole, support structure or tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this chapter and any other applicable Town regulations or ordinances, in order to address limitations of the existing structure to structurally support collocation of a communications facility.

**SMALL WIRELESS FACILITY** — A Wireless Facility that meets both of the following qualifications: (i) each antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the antenna, including the provider's preexisting equipment, is cumulatively no more than 28 cubic feet in volume.

**STATE** — The State of Connecticut.

**SUPPORT STRUCTURE** — A structure in the public ROW other than a pole or a tower to which a Wireless Facility is attached at the time of the application.

**TOWER** — Any structure in the public ROW built for the sole or primary purpose of supporting a Wireless Facility. A tower does not include a pole or a support structure.

**TOWN** — The Town of Thomaston or any agency, subdivision or any instrumentality thereof.

**WIRELESS FACILITY** — The equipment at a fixed location or locations in the public ROW that enables wireless services. The term does not include: (i) the support structure, tower or pole on, under, or within which the equipment is located or collocated; or (ii) coaxial, fiber-optic or other cabling that is between communications facilities or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. A small wireless facility is one type of a Wireless Facility.

**WIRELESS SERVICES** — Any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

**WIRELESS SERVICES PROVIDER** — A person who provides wireless services.

## ARTICLE II

**Governance of Deployment in the Public ROW****§ 318-3. Access to public ROW.**

A. Agreement. Prior to installing in the public ROW, any communications facility, or any pole built for the sole or primary purpose of supporting a communications facility, or any tower, a person shall enter into an agreement with the Town of Thomaston expressly authorizing use of the public right-of-way for the communications facility, pole or tower proposed to be installed.

(1) General terms.

- (a) Length of agreements. The term of an agreement under this chapter will begin on the date the agreement is signed by the provider and the Town and will expire after no more than 10 years. The agreement may be mutually renewed by the provider and the Town in accordance with federal and state law and Town regulations and ordinances at the time of renewal. Upon expiration of agreements under this chapter, Facilities and equipment shall be promptly removed by the provider under the provisions of §§ 318-3A(2)(e) and 318-9 of this chapter.
- (b) The agreement authorizes the provider's nonexclusive use of the public ROW for the sole purpose of installing, maintaining and operating communications facilities, including any pole built for the sole or primary purpose of supporting the communications facilities and any tower, to provide the services expressly authorized in the agreement, subject to applicable laws, this chapter and the terms and conditions of the agreement. The agreement authorizes use only of the public ROW in which the Town has an actual interest. It is not a warranty of title or interest in any public ROW and it does not confer on the provider any interest in any particular location within the public ROW. No other right or authority is granted except as expressly set forth in the agreement. Nothing herein shall authorize the use of the Town of Thomaston's Poles, towers, support structures, or other structures in the public ROW. All use of Town poles, towers, support structures, and other structures in the public ROW shall require a separate agreement, and the payment of separate fees for such use.
- (c) The provider shall, at its sole cost and expense, keep and maintain its communications facilities, poles, support structures and towers in the public ROW in a safe condition, and in good order and repair.
- (d) A provider that has been granted a permit to place a small wireless facility in the public ROW shall maintain in effect, during the time that its small wireless facility is located in the ROW, commercial general liability insurance and commercial automobile liability insurance covering the Town against claims, injury or damage to persons or property caused by the proposed work, in amounts of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, and \$2,000,000 for each personal injury liability. Such provider shall provide certificates of insurance or other evidence of the

above coverage upon completion of the installation of the small wireless equipment.

- (e) In the event of emergencies related to Town facilities, hardware, or poles, the provider shall immediately contact the Superintendent of Highways or First Selectman's Office.
  - (f) Lessees or licensees using space in ducts, conduits and on poles must comply with the terms of all agreements and this chapter, unless expressly exempted by the Town.
  - (g) The provider shall be required, upon reasonable request from the Town, to produce books and records for the Town's inspection, and shall provide copies of relevant reports on the operation of facilities. The Town may make available all such reports, books and records as public documents and mark as confidential all documents not subject to the provisions of the Freedom of Information Act. The provider shall also provide access to facilities for reasonable inspection as the Town may request.
- (2) Public ROW construction and installation requirements.
- (a) ROW permit.
    - [1] Unless expressly authorized in this chapter or in writing by the Town, no person may construct, maintain or perform any other work in the public ROW related to communications facilities, poles built for the sole or primary purpose of supporting communications facilities, or towers without first receiving a permit to the extent required under this chapter, and any other permit or authorization required by applicable laws.
    - [2] The Town shall not issue a permit unless the applicant, or a provider on whose behalf the applicant is constructing communications facilities, poles or towers, has applied for and received the agreement required by this chapter, or otherwise has a current and valid franchise with the Town expressly authorizing use of the public ROW for the communications facilities, poles or towers proposed in the application, and all applicable fees have been paid.
  - (b) Location of new facilities.
    - [1] The provider shall not locate or maintain its communications facilities, poles and towers so as to unreasonably interfere with the use of the public ROW by the Town, by the general public or by other persons authorized to use or be present in or upon the public ROW.
    - [2] Communications facilities shall be located a reasonable distance from curbs and sidewalks as to not unreasonably interfere with pedestrian or vehicle traffic and may not be located in such a way to impede line of sight for traffic.

- [3] Unless otherwise agreed to in writing by the Town or otherwise required by applicable laws, whenever any existing electric utilities or communications facilities are located underground within a public ROW, the provider with permission to occupy the same portion of the public ROW shall locate its communications facilities underground at its own expense. The Town may, in its sole discretion and in conformity with the Town's Plan of Conservation and Development, approve aboveground placement of equipment cabinets, pedestals and similar equipment. For facilities or equipment such as Wireless Facilities that cannot, by their nature, operate unless located aboveground, the provider and Town shall work to find a suitable location for such facilities or equipment.
  - [4] Communication facilities shall not be located within the public ROW within the Downtown Development District overlay zone, and may not be attached directly to any historic structure as determined by local, state and federal historic preservation regulations.
- (c) Construction standards.
- [1] In performing any work in or affecting the public ROW, the provider, and any agent or contractor of the provider, shall comply with the provisions of § 318-7 of this chapter and all other applicable laws, including local ordinances and building, fire and zoning codes as may be amended.
- (d) Restoration requirements.
- [1] The provider, or its agent or contractor, shall restore, repair and/or replace any portion of the public ROW that is damaged or disturbed by the provider's communications facilities, poles, towers or work in or adjacent to the public ROW as required in § 318-7 of this chapter.
  - [2] If the provider fails to restore, repair or replace the public ROW in a timely manner as required in this subsection, the Town or its contractor may do so and the provider shall pay the Town's costs and expenses in completing the restoration, repair or replacement.
- (e) Removal, relocation and abandonment.
- [1] Within 90 days following written notice from the Town, the provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its communications facilities, poles, support structures or towers within the public ROW, including relocation of aboveground communications facilities underground (consistent with the provisions of this chapter), whenever the Town has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any public improvement, the operations of the Town in, under or upon the public ROW, or otherwise is in the public interest. The provider shall be responsible to the Town for any damages or

penalties it may incur as a result of the provider's failure to remove or relocate communications facilities, poles, support structures or towers as required in this subsection.

[2] The Town retains the right and privilege to cut or move any communications facility, pole, support structure or tower located within the public ROW of the Town, as the Town may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the provider and give the provider an opportunity to move its own facilities prior to cutting or removing the communications facility, pole, support structure or tower. In all cases the Town shall notify the provider after cutting or removing the communications facility, pole, support structure or tower as promptly as reasonably possible.

[3] A provider shall notify the Town of abandonment of any communications facility, pole, support structure or tower at the time the decision to abandon is made. However, in no case shall such notification be made later than 30 days' prior to abandonment. Following receipt of such notice, the provider shall remove its communications facility, pole, support structure or tower at the provider's own expense, unless the Town determines, in its sole discretion, that the communications facility, pole, support structure or tower may be abandoned in place. The provider shall remain solely responsible and liable for all of its communications facilities, poles, support structures and towers until they are removed from the public ROW unless the Town agrees in writing to take ownership of the abandoned communications facilities, poles, support structures or towers.

[4] If the provider fails to protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its communications facilities, poles, support structures or towers or remove any of its abandoned communications facilities, poles, support structures or towers in a timely manner as required in this subsection, the Town or its contractor may do so and the provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.

(f) As-builts and maps.

[1] The provider shall provide maps or plans showing location of equipment in ROW and as-builts after construction. Such maps, plans or as-builts shall be stamped and signed by an engineer licensed in the State of Connecticut. The Town may, at the cost of the provider, submit such maps, plans or as-builts to a professional retained by the Town for third-party review.

B. Fees and charges.

- (1) Permit application fee. Every applicant shall pay a permit application fee of \$100 for each application. The fee shall be paid upon submission of the application. A separate application is required for each wireless facility, unless specifically waived by the Town.
- (2) Lease fee. In exchange for the privilege of non-exclusive occupancy of existing Town poles or other similar physical infrastructure in the public ROW, the provider shall pay the Town an annual lease fee in an amount agreeable to both the Town and the provider. Such lease fee shall be included in any lease agreement and shall be not less than \$1,000 annually.
- (3) Other fees. The applicant or provider shall be subject to any other generally applicable fees of the Town or other government body, such as those required for electrical permits, building permits, street opening permits, or professional review costs, which the applicant or provider shall pay as required in the applicable laws, as well as lease attachment fees for the use of Town-owned poles, towers, support structures, ducts, conduits or other structures in the public ROW, as set forth in attachment agreements authorizing such use.
- (4) No refund. Except as otherwise provided in a right-of-way or license agreement, the provider may remove its communications facilities, poles or towers from the public ROW at any time, upon not less than 30 days prior written notice to the Town, and may cease paying to the Town any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the public ROW. In no event shall a provider be entitled to a refund of fees paid prior to removal of its communications facilities, poles or towers. At the discretion of the Town, lease fees may be prorated for facilities occupying the public ROW for less than the whole year.

**§ 318-4. Permit applications.**

- A. Permit required. Unless expressly authorized in this chapter or in writing by the Town, no person may construct, install or maintain in the public ROW any communications facilities, poles built for the sole or primary purpose of supporting communications facilities, or towers, including the installation or collocation of communications facilities on existing poles, towers, support structures or other structures within the public ROW, without first receiving a permit. Notwithstanding the foregoing, in the event of an emergency, a provider or its duly authorized representative may work in the public ROW prior to obtaining a permit, provided that the provider shall attempt to contact the Town prior to commencing the work and shall apply for a permit as soon as reasonably possible, but not later than 48 hours, after commencing the emergency work. For purposes of this subsection, an "emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.
- B. Permit application requirements. The application shall be made by the provider or its duly authorized representative and shall contain the following:
  - (1) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the applicant.

- (2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.
  - (3) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this chapter.
  - (4) If applicable, a copy of the authorization or agreement for use of the property from the pole, tower or support structure owner on or in which the communications facility will be placed or attached.
  - (5) Detailed construction drawings and site plans regarding the proposed facility.
  - (6) To the extent the proposed facility involves collocation on a pole, tower or support structure, a structural report performed by a duly licensed engineer evidencing that the pole, tower or support structure will structurally support the collocation, or that the pole, tower or support structure will be modified to meet structural requirements in accordance with applicable codes.
  - (7) For any new aboveground facilities, accurate visual depictions or representations, if not included in the construction drawings.
- C. Proprietary or confidential information in application. Applications are public records that may be made publicly available pursuant to State of Connecticut Freedom of Information Laws and regulations. Notwithstanding the foregoing, applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the Town shall treat the information as proprietary and confidential, subject to FOI laws and the Town's determination that the applicant's request for confidential or proprietary treatment of application materials is reasonable. The Town shall not be required to incur any costs to protect the application materials from disclosure, other than the Town's routine procedures for complying with state FOI laws.
- D. Ordinary maintenance and repair. A permit shall not be required for ordinary maintenance and repair. The provider or other person performing the ordinary maintenance and repair shall obtain any other permits required by applicable laws and shall notify the Town in writing at least 48 hours before performing the ordinary maintenance and repair.
- E. Material changes. The Town may require submission of a permit modification request and payment of an additional permit application fee in the event the Town determines, in its sole discretion, that material changes to an application after submission amount to a new application and will materially increase the time and/or costs of the permit review process. Unless otherwise agreed to in writing by the Town, any material changes to an application, as determined by the Town in its sole discretion, shall be considered a new application for purposes of the time limits set forth in § 318-5B(2) unless otherwise provided by applicable laws.
- F. Bonds. Unless otherwise agreed to in writing by the Town, a performance bond or other form of surety acceptable to the Town equal to at least 100% of the estimated cost of the work within the public ROW shall be provided before the applicant



commences work. Such bonds may be released upon request of the applicant and completion of the work as stated in the permit.

- G. Effect of permit. A permit from the Town authorizes an applicant to undertake only the activities in the public ROW specified in the application and permit, and in accordance with this chapter and any general conditions included in the permit. A permit does not authorize attachment to or use of existing poles, towers, support structures or other structures in the public ROW; a permittee or provider must obtain all necessary approvals from the owner of any pole, tower, support structure or other structure prior to any attachment or use. A permit does not create a property right or grant authority to the applicant to interfere with other existing uses of the public ROW.
- H. Duration. Any permit for construction issued under this article shall be valid for a period of 12 months after issuance. The permit period may be extended for up to an additional six months upon written request of the applicant, made prior to the end of the initial permit period, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

#### **§ 318-5. Administrative review.**

- A. Permitted use. The following uses within the public ROW shall be permitted uses, subject to administrative review and issuance of a permit as set forth in this section. All such uses shall be in accordance with all other applicable provisions of this chapter, including without limitation, those set forth in § 318-77 below and the terms of any right-of-way agreement or license.
- (1) Collocation of a small wireless facility that does not exceed the maximum height set forth in Subsection C within the public ROW of a Town or state street and is a minimum of 250 feet from the nearest existing small wireless facility.
  - (2) Construction of a new pole or a monopole tower (but no other type of tower) to be used for a small wireless facility that does not exceed the maximum height set forth in Subsection C, provided that there are no accessible existing facilities within 250 feet of the proposed new pole or monopole tower.
  - (3) Construction of a communications facility, other than those set forth in Subsection A(1) or (2), involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two or more existing poles or an existing pole and an existing tower and/or existing support structure, and related equipment and appurtenances.
- B. Application review.
- (1) The Town shall review the application and, if the application conforms with applicable provisions of this chapter, the Town shall issue the permit, subject to the standard permit requirements published by the Town.
  - (2) Except as otherwise provided by applicable laws, the authority shall make its final decision to approve or deny the application within 65 days for a collocation or for any new structure, after the application is complete. The application shall not be deemed complete until all appropriate outside approvals are complete and

submitted, such as, but not limited to building permits, electrical permits, zoning permits or street opening permits.

- (3) The authority shall advise the applicant in writing of its final decision.
- C. Maximum height of permitted use. Small wireless facilities, and new, modified or replacement poles, towers and support structures in the public right-of-way may be approved through administrative review as provided in § 318-5A only if each new, modified or replacement pole, tower or support structure installed in the public ROW, including attached equipment on existing structures do not exceed 45 feet in height.
- D. Design standards. All aboveground communications facilities, poles built for the sole or primary purpose of supporting communications facilities or towers in the public ROW may be approved through administrative review to the extent provided in § 318-5A only if, in addition to other requirements of this section, the following design guidelines are met:
  - (1) To the most reasonable extent possible and in the sole opinion of the Town, the communications facilities, poles or towers shall be low-profile and designed and painted to match surrounding Town infrastructure within the public ROW. When possible, the installation of new decorative poles is encouraged.
  - (2) The applicant shall submit documentation from a licensed engineer confirming that existing or new communication facilities, poles or towers are suitable for the weight load of the proposed equipment.
  - (3) Communication facilities, poles or towers shall be located in such that they in no way impede, obstruct or hinder normal pedestrian and vehicular traffic and do not violate any ADA accessibility provisions. New poles or towers may not be installed within 25 feet of an intersection of public streets.
  - (4) Ground-mounted equipment cabinets may be used only to house equipment and other supplies in support of the operation of the wireless facility that is subject to the application or is collocated in an existing cabinet.
  - (5) All new lighting shall be generally at the same height and brightness of the surrounding lighting.
  - (6) New equipment shall not generate noise in excess of 45 decibels at the boundary of any property adjacent to the public ROW.
  - (7) The Town may require the installation of screening in the form of fencing or landscape buffers when appropriate for lighting and/or sound intrusion onto adjacent properties from new installations.
  - (8) The applicant shall submit a report and map prepared by a qualified and licensed engineer showing all Small Wireless communications facilities within 500 feet of the proposed permit location with coverage maps to demonstrate the need for the new installation at the proposed location. If the proposal involves construction of a new pole or tower, the applicant shall demonstrate the consideration and subsequent absence of a suitable existing facility for collocation.

- (9) No new communication facility, pole, or tower shall be located in the public ROW in the Downtown Development District Overlay Zone or attached to any historic building or structure unless, at the sole discretion of the Town, a public safety and general welfare benefit exists requiring location. Collocations on existing poles may be allowed if designed to match other adjacent infrastructure.

#### **§ 318-6. Discretionary review and approval.**

All other uses within the public ROW not expressly set forth or referenced in § 318-5A shall require compliance with, and issuance of, a permit or other approvals under Thomaston Zoning Regulations.

#### **§ 318-7. General public ROW installation requirements.**

##### **A. General work requirements.**

- (1) The permittee shall employ due care during the installation, maintenance or any other work in the ROW, and shall comply with all safety and public ROW protection requirements of applicable laws, codes, and any generally applicable Town guidelines, standards and practices, and any additional commonly accepted safety and public ROW protection standards, methods and devices.
- (2) Unless otherwise specified in the permit, the permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Town.
- (3) The permittee shall not interfere with any existing facilities or structures in the public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any public ROW.
- (4) Before beginning any excavation in the public ROW, the permittee shall comply with all Call Before You Dig requirements.

##### **B. Compliance with permit.**

- (1) All construction practices and activities shall be in accordance with the permit and approved final plans and specifications. The Town and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The Town may stop work in order to assure compliance with the provision of this chapter.

- (2) In addition to obtaining a permit for installation of a communications facility, poles built for the sole or primary purpose of supporting communications facilities, or towers in the public ROW, an applicant must obtain all other required permits, including but not limited to, building, electrical, street opening or zoning permits.
- C. Mapping data. The permittee shall provide to the Town as-builts, in a format designated by the Town or otherwise compatible with such format, showing the location of communications facilities, poles, support structures and towers upon completion of the permitted work.

**§ 318-8. Attachment to and replacement of decorative poles.**

Notwithstanding anything to the contrary in this chapter, an applicant may not install a small wireless facility on a decorative pole, or replace a decorative pole with a new decorative pole unless the Town has determined, in its sole discretion, that each of the following conditions has been met:

- A. The application qualifies for issuance of a permit under § 318-5A;
- B. The attachment and/or the replacement pole is in keeping with the aesthetics of the decorative pole and the general neighborhood aesthetics.

**§ 318-9. Violations and penalties.**

Violation of any of the provisions of this chapter shall result in a citation with a civil penalty of \$50 for each violation. Each day that a violation occurs or is permitted to exist by the applicant, provider or other violator constitutes a separate offense. In addition, the Town may, after notifying the applicant, provider or other violator of the violation and in the absence of corrective action by the offending party, cure the violation by removing equipment from the public ROW or otherwise correcting the violation, at the expense of the applicant, provider or other violator.

**§ 318-10. Effective date.**

This chapter shall take effect 15 days after its passage, approval and publication.

## Chapter 325

### WATER POLLUTION CONTROL AUTHORITY

#### ARTICLE I Sewer Use

- § 325-1. Purpose and applicability.
- § 325-2. Definitions and word usage.
- § 325-3. Unlawful discharges; connection to public sewer required.
- § 325-4. Building sewers and connections.
- § 325-5. Use of public sewers.
- § 325-6. Protection from damage.
- § 325-7. Right of entry.

§ 325-8. Notice of violation; penalties for offenses.

§ 325-9. Assessments and charges.

§ 325-10. Repealer; severability.

§ 325-11. When effective.

#### ARTICLE II Office and Billing Policy

§ 325-12. Purpose.

§ 325-13. Authority.

§ 325-14. Billing procedure.

§ 325-15. Construal of provisions.

**[HISTORY: Adopted by the Water Pollution Control Authority of the Town of Thomaston as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Sewer Use

**[Adopted 3-1-1958, as amended through 5-5-1981]**

##### **§ 325-1. Purpose and applicability.**

- A. There are hereby enacted rules and regulations governing the use of and connection to the public sanitary sewer system in the Town of Thomaston. It also establishes specific limits for pollutant discharges which by their nature or by their interaction with sewage will be detrimental to the public health, cause damage to the public sewer or the water pollution control facility, pollute the waters of the state, or otherwise create a public nuisance.
- B. This article is intended to:
  - (1) Inform the public as to the technical and administrative procedures to be followed in obtaining connection to the Town of Thomaston sanitary sewer system.
  - (2) Prevent the introduction of pollutants into the sanitary sewer system which will interfere with or be detrimental to the collection and/or treatment system.
  - (3) Prevent the introduction of pollutants into the treatment system which will pass through the system, inadequately treated, into the waters of the state, or the atmosphere, or otherwise be incompatible with the system.

(4) Establish charges for the connection to the public sanitary sewer system.

C. This article shall apply to the Town of Thomaston and to persons outside the Town of Thomaston who are users of the public sewer. Except as otherwise provided herein, the Water Pollution Control Authority of the Town of Thomaston shall administer, implement, and enforce the provisions of this article.

#### **§ 325-2. Definitions and word usage.**

Unless specifically indicated otherwise in the context, terms used in these rules and regulations shall have the following meaning; "shall" is mandatory; "may" is permissive:

ACT or THE ACT — The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.

BIOCHEMICAL OXYGEN DEMAND (BOD) — The amount of oxygen required by bacteria while stabilizing decomposable organic matter under aerobic conditions for five days at 20° C.

BUILDING CODE — The Building Code of the State of Connecticut, including amendments or additions thereto, and shall include the Plumbing Code therein contained.

BUILDING DRAIN — Includes, where appropriate, the term "house drain" and shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other authorized drainage pipes inside the walls of the building and conveys it to the building sewer, extending five feet outside the building wall.

BUILDING SEWER — Includes the term "house sewer" where appropriate and shall mean the extension of the building drain (beginning five feet outside the building wall) to the public sewer.

CATEGORICAL STANDARDS — National Categorical Pretreatment Standards or Pretreatment Standards.

COMPATIBLE POLLUTANT — Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants identified in the water pollution control facilities NPDES permit, where the water pollution control facility is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the NPDES permit.

COOLING WATER — Process water in general used for cooling purposes to which the only pollutant added is heat and which has such characteristics that it may be discharged to a natural outlet in accordance with federal and state laws and regulations.

DEP — The Department of Environmental Protection for the State of Connecticut.

DOMESTIC SEWAGE — Sewage that consists of water and human excretions or other waterborne wastes incidental to the occupancy of a residential building or nonresidential building but not wastewater from water-softening equipment, commercial laundry wastewater, and blowdown from heating and cooling equipment.

**FLOATABLE OIL** — Oil, fat, or grease in a physical state such that it will separate by gravity from sewage by treatment in an approved pretreatment facility.

**GARBAGE** — Liquid or solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce, and shall include such wastes as defined above which have been shredded to such a degree that all particles will be carried freely under normal flow conditions in the public sewer.

**HOLDING TANK WASTE** — Any waste from holding tanks such as vessels, chemical toilets, campers, trailers and septage hauling trucks.

**INCOMPATIBLE POLLUTANT** — All pollutants other than compatible pollutants as defined above.

**INDUSTRIAL WASTES** — Includes the term "commercial wastes" where appropriate and shall mean the liquid or solid wastes from industrial and/or commercial processes as distinct from sanitary sewage.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT** — A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

**pH** — The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

**PERSON** — Any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

**PRETREATMENT or TREATMENT** — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a water pollution control facility. The reduction or alteration can be obtained by physical, chemical or biological processes, except as prohibited by Title 40, Code of Federal Regulations, § 403.6(d).

**PROPERLY SHREDDED GARBAGE** — The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

**PUBLIC SEWER** — A sewer controlled by a governmental agency or a public utility.

**SANITARY SEWER** — A sewer which carries sewage only and prohibits the connection of storm-, surface and ground waters.

**SEPTAGE** — The liquids and solids which are removed from a tank used to treat domestic sewage.

**SEWAGE** — Any substance, liquid or solid, which may contaminate or pollute or affect the cleanliness or purity of any water.

SEWER — Pipe or conduit that carries sewage.

SEWERAGE SYSTEM — Any device, equipment, appurtenance, facility and method of collecting, transporting, receiving, treating, disposing of or discharging sewage and shall include both public and private sewage facilities within the Town of Thomaston.

SLUG — Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during normal operation and shall adversely affect the collection system and/or performance of the water pollution control facility.

SOLUBLE OIL — Oil which is of either mineral or vegetable origin and disperses in water or sewage at temperatures between 0° C. and 65° C. For the purpose of this article, emulsified oil shall be considered as soluble oil.

STORM SEWER — A sewer which collects and conveys stormwater or groundwater.

SUSPENDED SOLIDS — The solid matter, measured in milligrams per liter, which may be in suspension, floatable, or settleable and is removable by laboratory filtering.

TOXIC POLLUTANT — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of § 307(a) of the Act or other acts.

WATER POLLUTION CONTROL AUTHORITY (WPCA) — The duly appointed members of the Water Pollution Control Authority in the Town of Thomaston.

**§ 325-3. Unlawful discharges; connection to public sewer required.**

- A. It shall be unlawful to discharge from any source within the Town of Thomaston any sanitary sewage, garbage, commercial or industrial wastes or other polluted waters except in accordance with the provisions of these rules and regulations.
- B. Where public sewers are available or except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- C. The owner of each house, building or property intended for or used for human occupancy, employment, recreation or other purposes within the Town of Thomaston, bordering or abutting upon streets, roads and highways within said Town in which there is now constructed or in which there may hereafter be constructed a public sanitary sewer, is hereby required at his expense to conform to the requirements of the Connecticut State Building Code and install suitable toilet facilities therein and to connect such facilities directly to the public sewer in accordance with these rules and regulations within 90 days after written order from the Water Pollution Control Authority to do so. No such connection to the public sewer shall be required where the building, houses or property intended or used for human occupancy, employment, recreation or other purposes is more than 100 feet from the sewer lateral with that measurement taken in a straight line from the lateral to the nearest point of the building.



- D. Where connection to any public sewer shall not be required as set forth in Subsection C above, the building drain shall be connected to a private disposal system, constructed and maintained in accordance with the provisions of the Public Health Code of the State of Connecticut, or the owner may, at his own expense, connect the building drain into the public sewer system.

**§ 325-4. Building sewers and connections.**

- A. No person shall uncover, make connection with or opening into, use, alter or disturb any part of the public sewerage system or house connection without first obtaining a written permit from the Thomaston Water Pollution Control Authority or its authorized agents.
- B. There shall be two classes of building sewer permits: for residential service and for commercial and industrial service. In either case, the owner or his agent shall make application on a special form furnished by the Water Pollution Control Authority. The permit application shall be supplemented by any plans, specifications or any other information considered pertinent in the judgment of the Water Pollution Control Authority or its authorized agents. A permit and inspection fee will be charged and shall be paid to the Town at the time the application is filed.
- (1) In establishing or revising such charge, the Water Pollution Control Authority may classify the property connected or to be connected with the sewerage system and may give consideration to any factors relating to the kind, quality or extent of use of any such property or classification of the property, including:
- (a) The volume of water discharged to the system.
  - (b) The type or size of building connected to the system.
  - (c) The number of plumbing fixtures connected to the system.
  - (d) The number of persons customarily using the property served by the system.
  - (e) The average number of employees and guests using the property.
  - (f) The total flow, either metered from a public water supply and/or private well, and the total discharge either to a brook, river or stream and/or to the sewerage system.
  - (g) The quality and character of the material discharged into the sewerage system.
- (2) Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Water Pollution Control Authority at least 45 days prior to the proposed change or connection.
- C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Streets, sidewalks, parkways, and other public property disturbed

in the course of the work shall be restored in a manner satisfactory to the Town of Thomaston.

- D. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on a common lot and no private sewer is available or can be constructed to the rear building, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the Thomaston Water Pollution Control Authority does not and will not assume any obligation or responsibility for damage caused by or resulting from any such aforementioned connection.
- E. Existing building sewers may be used in connection with new buildings and new building sewers only when they are found, upon examination and test by the Water Pollution Control Authority or its authorized agents, to meet all requirements of these rules and regulations.
- F. The building sewer shall be constructed of materials and by methods described in the Water Pollution Control Federation, Manual of Practice No. 9, Design and Construction of Sanitary/Storm Sewers. Any part of the building sewer that is located within a twenty-five-foot radius of a water service pipe from a supply well or the supply well itself shall be constructed in accordance with all applicable guidelines promulgated by the Department of Environmental Protection and the State of Connecticut Department of Public Health and the designated area health agencies.
- G. The size of the building sewer pipe shall be subject to the approval of the Water Pollution Control Authority or its authorized agents, but in no event shall the diameter be less than four inches for a one- or two-unit house. The size of the building sewer pipe for commercial and industrial installations and dwellings of more than two units shall be as determined by the Water Pollution Control Authority. The slope of such four-inch pipe shall be not less than 1/4 inch per foot, and the slope of six-inch pipe, if used, shall be not less than 1/8 inch per foot.
- H. In the connection of the building sewer into the public sewer where no lateral from the main is available, connection shall be made at a Y (wye) or T (tee) branch if such a branch is available at a suitable location. If the public sewer is 12 inches in diameter or less and no properly located Y or T branch is available, the owner shall, at his expense, install a Y or T branch by means of a saddle in the public sewer line at the location specified by the Water Pollution Control Authority or its authorized agents. Where the public sewer is greater than 12 inches in diameter and no properly located Y or T is available, a neat hole may be cut above the center line of the public sewer pipe to receive the building sewer. Each such connection shall be made in conformity with the standard practices of the Water Pollution Control Authority, and no such connection shall be covered until inspected and approved by the Water Pollution Control Authority or its authorized agents.
- I. A house trap shall be installed in any building that does not meet the existing Building Code.
  - (1) The Sewer Authority will notify the Building Inspector of the Town of any existing building or buildings to be connected to the sewer system. The Building

Inspector will inspect each building and notify the Sewer Authority of any building that does not meet the Building Code.

- (2) Any building not meeting the Building Code shall install a house trap immediately within the building and connected to the building drain except where the owner shall, for good cause shown, receive permission from the WPCA or its authorized agents to place said trap at another point along the building drain or house sewer. The trap shall be furnished with two handholds with screw-top cleanouts. A fresh air inlet branch shall be placed on the house side of the trap in accordance with the Connecticut State Building Code.
- J. Where the building drain passes through the wall of the building to the connection of the building sewer, it shall be cast iron. No tile or fabricated pipe will be permitted except existing buildings for which permits were issued prior to enactment of these rules and regulations.
- K. Whenever possible, the building sewer shall be brought to the property line at an elevation below the basement floor or as directed by the property owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at no expense to the Town.

**§ 325-5. Use of public sewers.**

- A. No person shall make any connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- B. The following described substances, materials, waters or waste shall be limited in discharges to public sewers to concentrations or quantities which will not harm either the sewers or water pollution control facility, will not have an adverse effect on the receiving stream, or will not otherwise endanger public property or constitute a nuisance. The Water Pollution Control Authority may set lower limitations if more severe limitations are necessary to meet the water quality standards of the receiving stream. Except as hereinafter provided, no person shall discharge or cause to discharge any of the following described waters or wastes to any public sewer:
  - (1) Any liquid or vapor having a temperature higher than 150° F.
  - (2) Any water or waste which may contain more than 100 milligrams per liter by weight of fat, oil or grease.
  - (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
  - (4) Any garbage that has not been properly shredded.
  - (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of

causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system.

- (6) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewerage system.
- (7) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the Water Pollution Control Facility, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to § 307(a) of the Act.
- (8) Any substance which will cause the Water Pollution Control Facility to violate its NPDES permit or the receiving water quality standards.
- (9) Materials which exert or cause:
  - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (c) Unusual biochemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the Water Pollution Control Facility.
  - (d) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.
- (10) Any noxious or malodorous gas or substances capable of creating a public nuisance.
- (11) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Water Pollution Control Authority in compliance with applicable state or federal regulations.
- (12) Any sewage containing odor-producing substances exceeding limits which may be established by the Water Pollution Control Authority.
- (13) Sewage containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the water pollution control facility effluent cannot meet the limits stipulated in the Thomaston NPDES permit.
- (14) Overflow from holding tanks or other receptacles storing organic wastes.
- (15) Sewage with concentrations of pollutants in excess of the following limits:

<b>Pollutant</b>	<b>Concentration (parts/million mg/l)</b>
Arsenic as A <sub>s</sub>	0.05
Barium as B <sub>a</sub>	5.0
Boron as B <sub>o</sub>	5.0
Cyanides as CN (amenable)	0.1
Fluoride as F	20
Chromium (Total)	1.0
Chromium (Cr +6)	0.1
Magnesium as Mg	100
Manganese as Mn	5.0
Copper as Cu	1.0
Zinc as Zn	1.0
Cadmium	0.1
Lead	0.1
Tin	2.0
Silver	0.1
Mercury	0.01

Note: All metals are to be measured as total metals.

- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Water Pollution Control Authority or its authorized agents, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Water Pollution Control Authority or its authorized agents and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gaslight and watertight. Where installed, all grease, oil and sand interceptors shall be installed and maintained by the owner, at his expense, and continuously maintained in efficient operation at all times.
- D. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 200 parts per million by weight or containing more than 200 parts per million by weight of suspended solids or containing any quantity of substance having the characteristics described in Subsection B or having an average daily flow greater than 2% of the average daily sewage flow of the Town shall be subject to the review and approval of the Water Pollution Control Authority or its authorized agents.

- (1) Where necessary in the opinion of Water Pollution Control Authority or its authorized agents, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:
    - (a) Reduce the biochemical oxygen demand to 200 parts per million and the suspended solids to 200 parts per million by weight;
    - (b) Reduce objectionable characteristics or constituents to within the maximum limits provided for in Subsection B; or
    - (c) Control the quantities or rates of discharge of such waters or wastes.
  - (2) Plans, specifications and other pertinent information relating to any new facility or proposed preliminary treatment facility shall be submitted for the approval of the Water Pollution Control Authority, its authorized agents and the State Department of Environmental Protection. No construction of such facilities shall be commenced until said approvals are obtained in writing.
- E. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- F. When required by the Water Pollution Control Authority or its authorized agents, the owner of any property served by a building sewer that discharges commercial or industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of wastes. Such a manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Water Pollution Control Authority or its authorized agents. The sampling structure shall be located at a point along the industrial waste stream where a representative sample of the industrial wastewater may be obtained prior to its being diluted by domestic sewage in the building sewer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. In addition, all industries discharging into a public sewer shall perform such monitoring of their discharge as the Water Pollution Control Authority and/or other duly authorized employees of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Water Pollution Control Authority. Such records shall be made available upon request by the Water Pollution Control Authority to other agencies having jurisdiction over discharges to the receiving waters.
- G. When required by the Water Pollution Control Authority or its authorized agents, flow meter(s) shall be installed to measure the flow for water discharged from the commercial or industrial facility to any sewer or watercourse other than the public sewer or water intake from a private source and discharged to the public sewer. Installation and maintenance costs of any such meter, where required, shall be the owner's expense.
- H. State permit.
- (1) In accordance with § 22a-430 of the Connecticut General Statutes, as amended, a permit from the Commissioner of the Department Environmental Protection is

required prior to the initiation of a discharge of any of the following wastewaters to a public sewer:

- (a) Industrial wastewater of any quantity.
  - (b) Domestic sewage in excess of 5,000 gallons per day through any individual building sewer to a public sewer.
- (2) A potential discharger must submit a permit application to the Department of Environmental Protection not later than 90 days prior to the anticipated date of initiation of the proposed discharge.
- I. The Water Pollution Control Authority shall have the right to reject the discharge of any wastes or require more stringent effluent limitations than required by the users of the C.G.S. § 22a-430 permit, the decision of the Commissioner of the Department of Environmental Protection notwithstanding.
- J. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subsection B and which in the judgment of the Water Pollution Control Authority may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Water Pollution Control Authority may:
- (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewer;
  - (3) Require control over the quantities and rates of discharge; and/or
  - (4) Require payment to cover the added cost of handling and treating the wastes.
- K. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. The Water Pollution Control Authority may require that plans showing facilities and operating procedures be submitted for review and approval prior to construction of the facilities.
- (1) Within five days following an accidental discharge, the user shall submit to the Water Pollution Control Authority and the Department of Environmental Protection a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Water Pollution Control Facility, fish kills, aquatic plants, or any other damage to persons or property, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
  - (2) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous

discharge. Employers shall ensure that all employees are advised of the emergency notification procedure.

- L. No user shall increase the use of process water in an attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in these rules and regulations or in any other specific pollutant limitations which may be developed by the Water Pollution Control Authority.
- M. All measurements, tests and analyses of the characteristics of waters or wastes to which reference is made in these rules and regulations shall be determined in accordance with Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to the stipulations and general conditions of the user's state discharge permit and the requirements of the Water Pollution Control Authority.
- N. No statement contained in this article shall be constructed as preventing any special agreement or arrangement between the Water Pollution Control Authority and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Water Pollution Control Authority for treatment, provided that such agreements do not contravene any requirements of existing state or federal regulations and are compatible with any user charge system in effect.

#### **§ 325-6. Protection from damage.**

No person shall maliciously, willfully, negligently or inadvertently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewerage system. Any person found guilty of violating this provision shall be fined not more than \$25 for each violation and shall become liable to the Water Pollution Control Authority for any expense, loss or damage occasioned the Water Pollution Control Authority by reason of such violation.

#### **§ 325-7. Right of entry.**

- A. The Water Pollution Control Authority and its duly authorized agents bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these regulations. The Water Pollution Control Authority or its authorized agents shall have no authority to inquire into any processes, including metallurgic, chemical, oil refining, ceramic, paper, or other industries, beyond that point having a direct bearing on the kind and source of discharge to the public sewers or watercourses.
- B. While performing the necessary work on private properties referred to in above, the Water Pollution Control Authority or its duly authorized agents shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the Water Pollution Control Authority or its duly authorized agents and the Water Pollution Control Authority shall indemnify the owner against loss or damage to its property by the Water Pollution Control Authority or its



duly authorized agents and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging, sampling or inspection operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in § 325-5F.

- C. The Water Pollution Control Authority and its duly authorized agents bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**§ 325-8. Notice of violation; penalties for offenses.**

- A. Any person who shall violate any provision of the rules and regulations shall be served with written notice setting forth the nature of the violation and requiring that the same be satisfactorily corrected within a time set forth in said notice, which time shall be reasonable considering the nature and circumstances of the violation. Any person so served shall, within the time stated in such notice, permanently cease all violations of these rules and regulations.
- B. Any person who shall continue any violation beyond the time set forth in any notice served upon him in accordance with the provisions of Subsection A shall forfeit to the Town the sum of \$25 for each such violation; provided, however, that each day in which any such violation shall continue shall be deemed a separate offense.
- C. In addition to any other penalties provided in these rules and regulations, any person violating any of the provisions of these rules and regulations shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation. Whenever any person shall be ordered to make any connection as set forth in § 325-3C of these rules and regulations and when any person shall have been ordered to discontinue any violation as set forth in Subsection A of this section and shall fail to do so within the time set forth in said notice, the Water Pollution Control Authority or its authorized agents may cause the same to be done and collect the expense thereof from such person, and such expense shall become a lien against the property of such person until paid, and all provisions of the General Statutes relating to the recording, continuing and releasing of a property tax lien shall apply.
- D. Any person who is found to be in violation of § 22a-430 of the Connecticut General Statutes, as amended, shall be subject to a monetary penalty or forfeiture under § 22a-438 of the Connecticut General Statutes.

**§ 325-9. Assessments and charges.**

- A. The total expense in connection with the construction of the sewerage system shall be met in the manner hereinafter provided.

- (1) The Water Pollution Control Authority shall establish in the manner provided for in Chapter 103 of General Statutes of the State of Connecticut, as revised, an assessment on all property (excepting property used exclusively for railroad tracks, property covered by water, any federal, state and municipally owned property, and any such property so deemed as unassessable by the Water Pollution Control Authority) abutting upon streets and highways through which a sewer is constructed capable of receiving the sewer drainage from such property or any property especially benefitted by the sewerage system.
- (2) The assessment will be based upon a uniform assessment per linear front foot.
- (3) The Water Pollution Control Authority may make reasonable allowances in the case of properties having a frontage on more than one street and whenever, for any reason, the particular situation of any property shall require an allowance.
  - (a) In the case of a corner lot or a lot belonging to the same owner and abutting upon one or more sewered streets, the same lot shall not be assessed on its total frontage on both of such streets but shall be assessed only for that frontage which might reasonably become building frontage.
  - (b) A corner lot (sewers available on both streets) will be calculated by adding the lengths of both sides together and dividing the total frontage by two.
  - (c) A curved lot will be calculated as nearly as possible by the actual length of curve given on the property map.
  - (d) The assessment of property with only a right-of-way frontage or no frontage on a sewered street will be assessed proportionately for the area reasonably benefitted by the construction of said sewer.
  - (e) The assessment of property with extended front footage covered under Chapter 103 of the Connecticut General Statutes will be assessed under the requirements of said statute.
  - (f) All measurements of straight front footage, curves, or area of assessable property will be based upon filed deeds, maps and/or information deemed adequate or reasonable by the Water Pollution Control Authority or its authorized agents.
- (4) The rate of assessment will be based on the total expense in connection with the construction and completion of said sewer (excluding house connections borne by the owner).
- (5) All sums so assessed shall constitute a lien upon the property upon which the assessment is made until fully paid, and such assessment shall be due and payable within 90 days from the date of the receipt of written notice thereof by the persons by whom the same is payable, provided that the Water Pollution Control Authority shall, upon written request of any such person made within said period of 90 days, apportion such assessment into such number of equal annual installments, not exceeding 10, as such person shall designate in such request. Interest from the date of such apportionment, at the rate of 5% per annum, shall be added to the unpaid

balance of each such assessment until it is paid. Nothing herein contained shall be construed as to prevent the payment in full, at any time, in one payment, notwithstanding its prior apportionment, of any balance of any assessment then remaining unpaid, but interest on such balance, at the rate of 5% per annum, shall be paid to the date of such payment.

- B. There shall be a charge of \$25 for each residential connection and \$40 for each commercial and industrial connection into the public sewer system within the geographic limits of the Town of Thomaston, and a charge of \$40 for each residential connection and \$60 for each commercial or industrial connection to the public sewer system outside the geographical limits of the Town of Thomaston, which charge shall become due and payable to the Thomaston Water Pollution Control Authority at the time the permit to connect is issued.
- C. The annual use charge is covered under a separate chapter, System of User Charges.<sup>1</sup>
- D. Any person requesting connection of any building or property located outside the geographic limits of the Town of Thomaston to the Thomaston sewerage system shall be charged at a rate equal to 150% of the linear front foot assessment charge imposed upon the surrounding property located within the Town of Thomaston, as determined in Subsection A above.
- E. All special legal, technical, testing or other charges incurred by the Water Pollution Control Authority in consideration of an application to connect to the public sewerage system and in the execution of any special agreements shall be the responsibility of the applicant.
- F. Benefit connection charge established. The Water Pollution Control Authority ("WPCA" herein) may, from time to time and as further provided herein, levy a benefit connection charge pursuant to Connecticut General Statutes, § 7-255. A benefit connection charge differs from a sewer assessment (pursuant to Connecticut General Statutes, §§ 7-249 to 7-254) for construction of a new sewer line in that a benefit connection charge is levied against particular properties, structures or uses tying into the sewer line after its construction which were not contemplated at the time of its construction or assessment. For instance, a property which was zoned and assessed for single-family dwellings at the time of construction of the sewer line may, as a result of a zone change, special exception or other changed conditions, become the site of an office building or condominium complex. The purpose of the benefit connection charge is to assess the property for the special benefit accruing from sewer service and to reimburse the Town for the increased usage of its sewer facilities by the proposed project. The following subsections set forth the WPCA's rules and procedures governing benefit connection charges.
  - (1) Benefit connection charge criteria. A property applying to connect to the sewer system shall be subject to a benefit connection charge if it meets any one of the following criteria:

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1. Editor's Note: This chapter is on file at the office of the Water Pollution Control Authority.

- (a) Connection to any sewer line constructed prior to 1961, now operated and maintained by the WPCA;
  - (b) Connection to any sewer line for which such property has never been assessed by the WPCA;
  - (c) Connection to any sewer line for which such property is not subject to a sewer assessment caveat recorded in the Thomaston land records; or
  - (d) Connection to any sewer line or any other use of the sewer system when, in the opinion of the WPCA, a special benefit accrues to such property or a substantial increase in usage of the sewer system will result which justifies the levying of a benefit connection charge.
- (2) Benefit connection charge calculation. Properties connecting to the sewer line will be charged on a per-unit basis ranging from a minimum of one unit to a maximum of the total number of units being constructed for which a zoning permit or certificate of occupancy is sought. A "unit" is defined as any use which is reasonably expected or capable of generating 70 gallons of sewer discharge per day.
- (a) In the case of more than one unit per building with only one building connection, each unit in the building will be considered separate and charged accordingly. The per-unit benefit connection charge is as follows:
    - [1] Previously agreed or assessed benefit connection charges: no change.
    - [2] Properties applying to connect after January 31, 1989, and before December 31, 1989: \$1,000 per unit.
    - [3] Properties applying to connect on or after January 1, 1990: \$1,500 per unit.
  - (b) A piece or parcel of land which has paid a benefit connection charge hereunder shall be exempt from any future benefit connection charge for only those units for which such charges have been levied and paid. Any additional units constructed or created on the property thereafter shall be subject to the benefit connection charges in force at the time of the application to connect or add those units to the sewer system. The WPCA reserves the right to exempt any property from the benefit connection charge levied against a property when, in the opinion of the WPCA, circumstances justify such action. Municipally owned and tax-exempt property shall be subject to such charges under the same conditions as are the owners of other property similarly situated.
- (3) Benefit connection charge procedure. The benefit connection charge established under this Subsection F hereof has been adopted after notice by publication and a public hearing in accordance with Connecticut General Statutes, § 7-255(a). At the time of application to connect, the WPCA shall calculate the proposed benefit connection charge to be levied against the property and advise the owner and applicant in writing. Unless all owners of record of the property consent to the

proposed benefit connection charge in writing, the WPCA shall publish notice of the proposed charge, file the same with the Town Clerk, and hold a public hearing not sooner than 10 days thereafter at which the owner may appear and be heard. Upon the levying of the charge, notice shall be filed with the Town Clerk and published within five days thereafter setting forth the date on which the charges were filed and the time and manner of paying such charges and shall state that any appeal from such charges shall be taken to the Superior Court for the Judicial District of Litchfield within 21 days of such filing. Benefit connection charges not paid in full at the time such charges become final may be liened against the property and shall bear interest and be subject to collection in the same manner as provided for delinquent sewer assessment in Connecticut General Statutes, § 7-254.

**§ 325-10. Repealer; severability.**

- A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- B. The within and foregoing rules and regulations shall be read, construed, and applied as a whole but shall, nevertheless, be deemed to be severable as to any part or parts, and the invalidity of any part thereof shall not be deemed to render invalid any other part or parts of said rules and regulations otherwise valid.

**§ 325-11. When effective.**

This article shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

**ARTICLE II  
Office and Billing Policy <sup>2</sup>**

**§ 325-12. Purpose.**

The purpose of this policy is to develop proper procedures in the operation and function of the WPCA office and to ensure they follow current state statutes and or any other rules and regulations in effect.

**§ 325-13. Authority.**

The Thomaston Water Pollution Control Authority (then Thomaston Sewer Commission) was established April 5, 1956, pursuant to the provisions of Chapter 33A, 1955 supplement to the General Statutes of the State of Connecticut and today is governed by Connecticut General Statutes (C.G.S.). These statutes clearly spell out the function and powers of the Authority. The WPCA also has its own rules and regulations (latest edition approved in 1981). The Connecticut General Statutes which govern the WPCA and municipal sewerage systems are generally set forth in C.G.S. Chapter 103, §§ 7-245 to 7-273a.

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2. Editor's Note: No adoption date was available for this policy.

**§ 325-14. Billing procedure.**

One function of the WPCA and this office is to set and collect fair and reasonable fees to all users connected so it can operate and maintain its treatment facility, collection system, WPCA office and all other budgetary items. The funds of this Department must be kept separately from other Town funds.

**A. The WPCA billing cycles are as follows:**

- (1) Sewer user charges shall be for the previous calendar year. Residential user charges shall be due and payable on January 1 of each and every following year. Commercial, industrial, municipal, Education Department and Green Manor are payable within 30 days of receipt of bill. In the case of residential property which was not connected during the entire period, the user charge shall be prorated on a monthly basis for the actual months connected. A period of 15 or fewer days shall be disregarded and a period in excess of 15 days shall be deemed a full month. The minimum annual sewer use charge for each resident, commercial or industrial user shall be \$25 to cover administrative costs.
- (2) The property owner is responsible to see that the user fee is paid when due. Failure to receive a user fee bill does not exempt the property owner from payment, including interest and lien fees. This is governed by C.G.S. § 12-130.

**B. Credits for absences.**

- (1) The WPCA will no longer give credits towards the yearly user fee for temporary absences, such as vacations or living in other areas during the calendar year.
- (2) If a residential unit has been empty for the entire billing cycle, no user fee bill will be generated. Any request to waive this user fee must be provided in writing by the property owner on or before the 25th of January.

**C. Interest on late payments.**

- (1) After 30 days the account is considered delinquent (C.G.S.) and 1 1/2% interest is added for each month the account is delinquent, 18% annually. This is governed by C.G.S. §§ 7-258 and 12-146.
- (2) If more than one year is delinquent, any payments made will be applied to the oldest bill. Payments are applied to interest first and usage fees second. Liens are paid last. The same applies for partial payments.
- (3) Checks or money orders written for more than the amount owed will be returned to the owner. If the correct amount is not received within the proper time frame the account will be delinquent and interest will be added to the account.
- (4) Checks or money orders written for less than the amount owed will be applied to the amount due and the remaining balance will be delinquent after 30 days. Delinquent bills are sent out three times a year. A notice of lien is sent out in May and placed on the property in June.

- (5) Sewer assessments, caveats and benefit connection payments are made payable to the Thomaston Tax Collector, therefore these payments should be made out to the Thomaston Tax Collector.
- (6) In the event that a property owner is delinquent on his user fee he will not be able to obtain any kind of building permit until the delinquency on the property is paid in full. This was passed as a Town ordinance on August 28, 1996, and was put in effect on September 20, 1996, and is recorded in Volume 12, Page 158 in the Town Clerk's office.<sup>3</sup>

**§ 325-15. Construal of provisions.**

- A. The rules and regulations approved in this Office and Billing Policy shall override any previous WPCA rules or regulations.
- B. Issues not spelled out in this Office and Billing Policy will revert back to Connecticut General Statutes, WPCA rules and regulations or any other regulations that may apply.

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3. Editor's Note: See Ch. 128, Building Construction, Art. III, Building Permits Withheld for Delinquent Taxes.