

ORDINANCE NO. 69-09-02-03

ORDINANCE ESTABLISHING FINES AND CITATION PROCEDURE
FOR ZONING VIOLATIONS

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPECT THAT:

Pursuant to the authority of Connecticut General Statutes § 8-12a and, notwithstanding any provisions of the "Town of Prospect Zoning Regulations" (hereinafter referred to as the "Zoning Regulations") to the contrary, the Town of Prospect hereby establishes penalties for violation of its Zoning Regulations and further authorizes ^{its} Zoning Enforcement Officer (ZEO) to issue citations therefor to the extent and in the manner provided by this ordinance.

1. Penalties

Any violation of the Zoning Regulations shall be punished, in the discretion of the ZEO, by a fine of One Hundred Fifty and 00/100 Dollars (\$150.00) for each and every day such violation exists and/or continues after the issuance of a citation as hereinafter set forth and such fine shall be payable to the Treasurer of the Town of Prospect.

2. Citations

Citations may be issued imposing the penalties set forth above pursuant to the time frames and conditions as follows:

- a. For violations or circumstances which, in the judgment of the ZEO, place the health, safety and welfare of the community into imminent jeopardy, citations may be issued immediately after the issuance of a cease and desist order.
- b. For violations involving grading of land or removal of earth or soil, which have the immediate potential of creating soil erosion and sediment control problems, or for failure to install or maintain required soil erosion and sediment control measures, citations may be issued immediately after the issuance of a cease and desist order.
- c. For circumstances of "repeated non-compliance", a citation may be issued immediately after the issuance of a cease and desist order. "Repeated non-compliance" shall mean that a cease and desist order has been issued within the past twelve (12) months for the same type of violation on the same property.
- d. For all other violations, citations may be issued thirty (30) days after the issuance of a cease and desist order.
- e. Citations shall not be issued if the property is subject to a pending application that would rectify the zoning violation.

- f. The ZEO shall have the authority to delay the issuance of a citation in cases where, in his/her opinion, the violator is making a good faith effort to bring the property into compliance.
- g. The issuance of a citation shall not prevent the Town from simultaneously taking any and all other available actions to enforce its Zoning Regulations.

3. Service of Citation

Any citation may be served either by hand delivery or by certified mail, return receipt requested to the owner of the property being cited. Should a citation served via certified mail be refused, it may be resent by regular United States first class mail. The ZEO shall file and retain an original or certified copy of the citation and any such refused or returned mail. Any such citation shall be issued on a pre-printed standard form which shall notify the recipient of any and all rights such recipient shall have to a hearing to contest the citation and which shall notify the recipient of his/her/its obligation to inform the ZEO of his/her/its having brought the violation into compliance with the zoning ordinance.

4. Uncontested Payment Period

Uncontested payment to the Treasurer of the Town of Prospect of the fine specified in the citation shall be allowed for a period of ten (10) calendar days from receipt of the citation. If the citation was sent by regular mail as set forth in paragraph 3 above, the day of receipt of the citation shall be deemed to be four (4) days after the date of its mailing.

5. Notice of Hearing

If uncontested payment of the fine specified in the citation is not made to the Treasurer of the Town of Prospect within the ten (10) day period set forth above, the ZEO shall send a notice to the person cited, informing such person:

- a. Of the allegations against him or her and the amount of the fines, penalties, costs, or fees due;
- b. That he/she may contest his/her liability before a citation hearing officer by delivering, in person or by mail, within ten (10) days of the date of the notice, a written demand for a hearing;
- c. That filing a request for a hearing shall cause the daily accrual of fines to cease from the date such filing is received by the ZEO until the date the hearing officer renders a decision unless, during such period, the violation of or non-conformance to the zoning ordinance is expanded or increased;
- d. That if the person cited does not demand such a hearing, an assessment and

judgment shall be entered against him or her; and

e. That such judgment may issue without further notice.

6. Admission of Liability and Payment of Fines

If the person who is sent notice pursuant to paragraph 5 hereof wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to, either in person or by mail, to the Treasurer. 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 paragraph 5 hereof shall be deemed to have admitted liability, and the ZEO shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by this ordinance and shall follow the procedures set forth in paragraph 9 hereof.

7. Hearing

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 fifteen (15) days nor more than thirty (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. An original or certified copy of the initial notice of violation issued by the ZEO shall be filed and retained by the ZEO and shall be deemed to be a business record within the scope of Connecticut General Statutes, § 52-180 and evidence of the facts contained therein. The presence of the ZEO shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provision(s) of the Zoning Regulations. The hearing officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof, as he 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.

8. Decision

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, penalties, costs and/or fees against such person as provided by this ordinance. Upon a finding by the hearing officer that a violation has occurred, any fines, penalties, costs and/or fees accrued to the date of filing a request for a hearing or, if the hearing officer finds that the violation was expanded or increased, any fines, penalties, costs and/or fees accrued to the date of the hearing officer's decision, shall be immediately due and payable and the amount thereof shall be stated by the hearing officer in his/her decision.

9. Pursuit of Assessment and Judgment

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars (\$8.00). The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

10. Appeal of Assessment

A person against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Connecticut General Statutes, § 52-259, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

11. Superior Court to Enforce Assessments and Judgments

The Superior Court shall be authorized to enforce the assessments and judgments provided for under this ordinance.

12. Appointment and Term of Hearing Officers

The Mayor shall appoint, subject to confirmation by the Town Council, one or more Prospect residents as citation hearing officers to conduct the hearings provided by this Ordinance. Hearing Officers shall serve for a term of two (2) years, unless removed for cause. Neither the ZEO, Building Inspector nor any employee of the Town of Prospect

exercising zoning authority nor any other employee or elected or appointed official of the Town of Prospect may be appointed to be a hearing officer pursuant to this Ordinance.

Adopted: September 2, 2003

Cynthia L. Gibbons

Cynthia L. Gibbons
Prospect Town Council Chair

Approved: Sept. 2, 2003

Recorded: Sept. 3, 2003

Published: Sept. 11, 2003

Effective: Oct. 11, 2003

Maryann C. Anderson
Maryann C. Anderson
Prospect Town Clerk

TOWN OF PROSPECT

AN ORDINANCE REGARDING TAX-EXEMPT ORGANIZATIONS

1. Effective date of property tax exemption.

Pursuant to the provisions of Connecticut General Statutes § 12-81b, the property tax exemption authorized by any of subdivisions (7) through (16), inclusive, of Connecticut General Statutes § 12-81 shall be effective as of the date of acquisition of the property to which the exemption applies.

2 Reimbursement for tax payments by tax-exempt organization.

Any tax-exempt organization may seek reimbursement for any tax paid by it for a period subsequent to the date of its acquisition of such property and for any tax paid by the prior owner for a period subsequent to such date of acquisition for which such tax-exempt organization reimbursed the prior owner on the transfer of title to such property.

3. Procedure for reimbursement of tax payments.

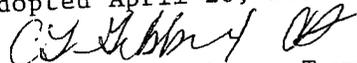
Any tax-exempt organization seeking reimbursement for any tax paid as provided in Paragraph 2 above shall, within sixty (60) days of the transfer of title of such property, make application, in writing, to the Town Council, which application shall be accompanied by proof of payment of such taxes. If the Town Council determines that the applicant paid such taxes, it shall approve a refund of the taxes and shall notify and advise both the Tax Assessor and the Tax Collector so that each shall change their records accordingly. The Town Council shall also notify the Treasurer who shall promptly provide such organization with a refund of such taxes.

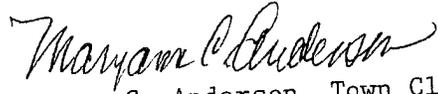
4. Applicability.

The provisions of this ordinance shall be effective with and upon the Grand List of (October 1, 2003).

Received for Record: April 22, 2004
 Adopted Date: April 20, 2004
 Publication Date: April 23, 2004
 Effective Date: May 23, 2004

Adopted April 20, 2004


 Cynthia L. Gibbons, Town Council Chair


 Maryann C. Anderson, Town Clerk

Ordinance # 71-04-20-04

**TOWN ORDINANCE FOR PROPERTY TAX RELIEF FOR CERTAIN
ELDERLY AND/OR TOTALLY DISABLED HOMEOWNERS**

1. Purpose.

The purpose of this ordinance is to assist elderly or disabled homeowners with their real property taxes. Pursuant to Section 12-129n of the Connecticut General Statutes, the town grants a tax credit for eligible residents of the town on the terms and conditions hereinafter provided.

2. Effective Date of Tax Credit.

The tax credit shall commence with the taxes due on the Grand List of October 1, 2003 and thereafter until this ordinance shall be repealed or modified by action of the Town Council. All tax credits granted under this ordinance shall be subject to the availability of funding by the Town Council.

3. Eligibility.

A. Any person who owns real property in the Town of Prospect or who is liable for the payment of taxes thereon under Connecticut General Statutes § 12-48 and who occupies that property as his or her principal residence, shall be eligible for real property tax relief pursuant to Connecticut General Statutes § 12-129n in the form of a tax credit provided that all the following conditions are met:

1. Such person is:

a. Sixty five (65) years of age or over at the close of the calendar year preceding the period in which a claim for relief is filed; or whose spouse living with him or her is sixty five (65) years of age or over at the close of the calendar year preceding the period in which a claim for relief is filed, or such person is sixty (60) years of age or over and the surviving spouse of a taxpayer qualified in Prospect under this ordinance at the time of his or her death or with respect to real property on which such applicant or his or her spouse is liable for taxes under Connecticut General Statutes § 12-48; or

b. Under age sixty five (65) years of age and eligible in accordance with applicable federal regulations to receive permanent total disability benefits under Social Security, or has not been engaged in employment covered by Social Security and accordingly has not qualified for benefits thereunder, but has become qualified for permanent total disability benefits under any federal, state, or local government retirement disability plan, including the Railroad Retirement Act and any government-related teacher's retirement plan, in which requirements with respect to qualifications for such

permanent total disability benefits are comparable to such requirements under Social Security;

2. The applicant and/or his or her spouse under subdivisions (1) or (2) above must have been a taxpayer of the Town of Prospect for one (1) year immediately preceding their receipt of tax benefits under this ordinance and meet the requirements with respect to maximum income allowance during the calendar year preceding the year in which the application is made for the tax credit provided in this ordinance;

3. The applicants must own and occupy the real property in the Town of Prospect for which this tax credit is claimed as their principal residence. Principal residence shall be defined as residency of at least six months and one day in each Grand List year for which the exemption is claimed;

4. The applicant's qualifying income must not exceed the requirements as set forth in Connecticut General Statutes §§ 12-129b and 12-170aa; and

5. The applicant must have applied for and be eligible for tax relief under Connecticut General Statutes §§ 12-129b and 12-170aa.

4. Applications.

In that application and eligibility for tax relief under Connecticut General Statutes §§ 12-129b and 12-170aa are pre-requisites for eligibility for the tax relief available under this ordinance, no specific application process shall be required to qualify hereunder. Anyone who has applied and qualified for tax relief benefits pursuant to §§ 12-129b and 12-170aa and who certifies continuing eligibility every two (2) years shall automatically be eligible for the property tax relief provided in this ordinance.

5. Income Limits.

Income eligibility limits for participation in the tax credit provided for in this ordinance shall be consistent with those limits set forth for eligibility under Connecticut General Statutes §§ 12-129b and 12-170aa and regulations promulgated thereunder, as such may be amended from time to time.

6. Amount of Relief.

a. Applicants who meet the eligibility requirements shall be provided with a maximum flat tax credit in the amount of two hundred dollars (\$200.00) per tax year, provided, in no event, shall the total amount of local tax relief any applicant receives from all available programs exceed seventy-five percent (75%) of the real property taxes assessed against him or her. The Town Council may change the amount of such flat tax credit annually. Regardless of the number of eligible

owners of a property, no real property shall be eligible for more than one tax credit as provided hereunder.

b. The flat tax credit provided for in this ordinance shall be prorated, however, according to the period of residency as follows:

<i>Period of Residency</i>	<i>Percentage of Tax Credits to be Applied</i>
1-5 years	50%
6-10 years	75%
More than 10 years	100%

c. The total tax relief of property tax revenue that may be granted by the Town of Prospect pursuant to the provisions of this ordinance shall not exceed an amount equal to five percent (5%) of the total real property tax assessed in the Town of Prospect in the preceding tax year.

d. In any case where title to real property is recorded in the name of a taxpayer or in the name of his or her spouse, who is eligible for tax relief hereunder, and in the name of any other person or persons, the tax relief under this article shall be prorated to allow a tax credit equivalent to the fractional share in the property of such taxpayer or spouse, and the persons not otherwise eligible for tax relief shall not receive any tax credit.

e. Only one tax credit, as heretofore set forth, shall be allowed for each parcel of land eligible for the tax relief under this ordinance.

f. In the event the real property of a qualified applicant is sold, assigned, granted, or conveyed during the fiscal year when a credit is applicable, regardless of whether such transfer, assignment, grant or conveyance was voluntary or involuntary, the amount of the tax credit shall be prorated by the office of the Town Assessor.

7. Additional Benefits.

Tax relief pursuant to this article shall not disqualify an eligible taxpayer from any other benefits to which he or she may be entitled by law.

Adopted April 20, 2004
Cynthia L. Gibbons
Cynthia L. Gibbons
Prospect Town Council Chair

Received for Record: April 22, 2004
Adopted Date: April 20, 2004
Publication Date: April 23, 2004
Effective Date: May 23, 2004

Maryann C. Anderson
Maryann C. Anderson, Town Clerk

TOWN OF PROSPECT
ORDINANCE # 72-07-06-04

Sec. _____. Designation of the Prospect Planning and Zoning Commission as the Town's Aquifer Protection Agency.

Whereas, Section 22a-354o of the Connecticut General Statutes ("Conn. Gen. Stat.") provides that each municipality in which an aquifer protection area is located shall authorize by ordinance an existing board or commission to act as an aquifer protection agency; and

Whereas, it has been determined that it is in the best interest of the town of Prospect to designate the Prospect Planning and Zoning Commission as the Town's Aquifer Protection Agency.

Now therefore be it ordered by the town of Prospect that:

(1) Designation and membership

- (a) In accordance with the provisions of Conn. Gen. Stat. §22a-354o(a), et seq., the Prospect Planning and Zoning Commission is hereby designated as the Aquifer Protection Agency (hereinafter the "Agency") of the town of Prospect. The staff of the Prospect Planning and Zoning Commission shall serve as the staff of the Agency.
- (b) Members of the Prospect Planning and Zoning Commission shall serve coexisting terms on the Agency. The membership requirements of the Agency shall be the same as those of the Prospect Planning and Zoning Commission including, but not limited to the number of members, terms, method of selection and removal of members, and filling of vacancies.
- (c) At least one member of the Agency or staff of the Agency shall complete the course in technical training formulated by the Commissioner of Environmental Protection of the State of Connecticut, pursuant to Conn. Gen. Stat. § 22a-354v.

(2) Regulations to be adopted

- (a) The Agency shall adopt regulations in accordance with Conn. Gen. Stats. § 22a-354p and R.C.S.A. § 22a-354i-3. Said regulations shall provide for:
 - (i) The manner in which boundaries of aquifer protection areas shall be established and amended or changed.

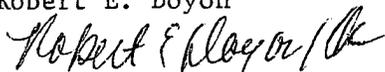
- (ii) Procedures for the regulation of activity within the area.
- (iii) The form for an application to conduct regulated activities within the area.
- (iv) Notice and publication requirements.
- (v) Criteria and procedures for the review of applications.
- (vi) Administration and enforcement.

(3) Inventory of Land Use

- (a) In order to carry out the purposes of the Aquifer Protection Program, the Agency will conduct an inventory of land use within the area to assess potential contamination sources.
- (b) Not later than three months after approval by the Commissioner of the Connecticut Department of Environmental Protection of Level B Mapping of aquifers, the Agency will inventory land uses overlying the mapped zone of contribution and recharge areas of such aquifers in accordance with guidelines established by the Commissioner pursuant to Conn. Gen. Stat. § 22a-354f. Such inventory shall be completed not more than one year after authorization of the Agency as required by Conn. Gen. Stat. § 22a-354e.

Adopted: July 6, 2004

Robert E. Doyon



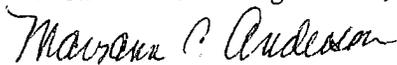
Prospect Town Council Chair

Received for Record: July 8, 2004

Adopted: July 6, 2004

Publication Date: July 13, 2004

Effective Date: August 12, 2004



Maryann C. Anderson, Town Clerk

ORDINANCE #: 73-10-05-04

ORDINANCE FOR ESTABLISHMENT OF A SEWER USER CHARGE SYSTEM**ARTICLE 1: GENERAL**

An ordinance establishing user charges in the Town of Prospect for the purpose of providing funds for the operation and maintenance expenses associated with the municipal wastewater collection, conveyance, and treatment facilities.

As provided for under Section 7-255 et seq. of the Connecticut General Statutes, the Water Pollution Control Authority (WPCA) is empowered to establish and revise fair and reasonable charges for the use of the municipal sewerage system. The owner of property against which any such use charge is levied shall be liable for the payment thereof. Municipally owned and other tax-exempt property, which uses the sewerage system, shall be subject to such charges under the same conditions as are the owners of other property.

No charge for the use of the municipal sewerage system shall be established or revised until after a public hearing before the WPCA, at which owners of property, which use the sewerage system, shall have an opportunity to be heard concerning the proposed charges. Notice of the time, date, and place of such hearing shall be published at least ten (10) days before the hearing in a newspaper having a general circulation in the municipality, and a copy of the proposed charges shall be on file in the office of the Town Clerk for public inspection at least ten (10) days before the date of the hearing.

After establishing such charges, the WPCA shall file such charges with the Town Clerk and, within five (5) days of such filing, shall cause the same to be published in a newspaper having a general circulation in the municipality.

ARTICLE 2: DEFINITIONS

BOD: Biochemical oxygen demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter in a specific time and at a specified temperature, usually five (5) days and 20° C.

ppm: Parts per million.

Sewerage System: A collective term used to describe all the property involved in wastewater treatment and disposal, including sewer lines and appurtenances, pumping stations, treatment facilities, and land.

Suspended Solids: Solids that either float on the surface of or are in suspension in water, wastewater, or other liquids and that are removable by a standard laboratory filtering procedure.

WPCA: The municipality's Water Pollution Control Authority, as authorized by Connecticut General Statutes § 7-246.

ARTICLE 3: CALCULATION OF CHARGES

The total cost of the operation and maintenance of the sewerage system, including replacement fund, (OM&R cost) shall be recovered from the users of the system. Each user's share of the OM&R cost of the sewerage system shall be in proportion to the user's contribution to the total wastewater loading of the sewerage system. All users shall be charged on the basis of their total wastewater contribution. Surcharges shall be added to the volume based charges for wastewater discharges whose BOD or suspended solids concentrations are in excess of 300 ppm, or for discharges whose other constituents result in an identifiable increase in wastewater conveyance, treatment, or disposal costs.

The WPCA will review the sewer user charges annually and revise the rates as necessary to ensure that adequate revenues are generated to recover all OM&R costs and that the rate structure continues to distribute the costs of wastewater collection and treatment among the users in proportion to their contribution.

ARTICLE 4: COLLECTION AND PAYMENT

All sewer use charges shall be billed quarterly through the Prospect Tax Collector on behalf of the WPCA, as permitted in Connecticut General Statutes, § 7-258, and shall be paid in full within a period of thirty (30) days after same is declared due and payable unless otherwise stated on the billing form.

Any charge for the use of a sewerage system, not paid within thirty (30) days of the due date, shall thereupon be delinquent and shall bear interest from the due date at the rate and in the manner provided by the general statutes for delinquent property taxes. Each addition of interest shall be collectible as a part of such connection or use charge. Any such unpaid connection or use charge shall constitute a lien upon the real estate against which such charge was levied from the date it became delinquent. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens. Each such lien shall take precedence over all other liens and encumbrances except taxes and may be foreclosed in the same manner as a lien for property taxes.

All revenues collected under the provisions of this ordinance shall be kept separate from any other funds of the municipality and shall be used solely for the purposes stated in Article 1 of this ordinance, and for no other purpose. Fiscal year-end balances shall be used to defray the following year's costs, or shall be deposited in a non-lapsing fund established for replacement of major mechanical components which could reasonably be expected to require replacement during the useful life of the treatment works. If, as a result of a shortfall, funds have been transferred from other sources into the sewerage

funds account, those funds shall be repaid at the beginning of the next fiscal year, and the sewer user charge shall be increased to cover the transfer of these funds.

ARTICLE 5: APPEALS AND ADJUSTMENTS

Any person aggrieved by any charge for the use of the sewerage system may make written appeal to the WPCA within thirty (30) days of the billing date, requesting a review of the user charge. This request shall, where necessary, show the actual or estimated flow and/or strength of the discharge in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

Any person aggrieved by any charge for the use of a sewerage system may appeal to the superior court for the judicial district wherein the municipality is located and shall bring any such appeal to a return day of said court not less than twelve (12) nor more than thirty (30) days after service thereof. The judgment of the court shall be final.

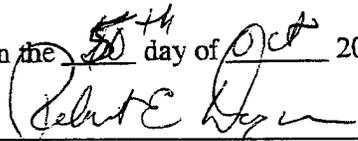
ARTICLE 6: CHARGES FOR SEPTAGE

Charges for disposing of septage at the water pollution control facility shall be based on the same criteria as that used to determine sewer rates; that is, volume and concentration of the individual discharge.

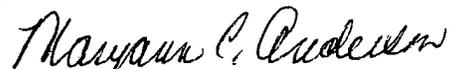
ARTICLE 7: ORDINANCE IN FULL FORCE

This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

Passed and adopted by the Prospect Town Council on the ^{5th}~~5th~~ day of ^{Oct}~~Oct~~ 2004.


Robert E. Doyon, Town Council Chair

Received for Record: 10-6-2004
Adopted: 10-5-2004
Publication Date: 10-10-2004
Effective Date: 11-9-2004


Maryann C. Anderson, Town Clerk

**TOWN OF PROSPECT
ORDINANCE # ' 74-03-01-05
FIRE PREVENTION AND PROTECTION
OPEN BURNING**

1: **Purpose:** To promote the health, safety and general welfare of the inhabitants of the Town of Prospect. By regulating open burning.

2: **Definitions:** For the purpose of this section:

(a) Open Air Burning: "Open burning" is burning done under such conditions that the products of combustion are emitted directly into the ambient air space. "Open burning" shall include burning done in simple outdoor structures, receptacles or other devices which are designed principally to contain the materials being burned or to minimize the risk of fire and which do not provide effective control of the air pollutants generated.

(b) Open Burning Official shall mean the official or officials appointed by the Town of Prospect's chief executive officer as defined by C.G.S. 22a-174(f).

(c) Peace Officer shall mean a member of the Division of State Police, Local Police Officer and other law enforcement officers as defined in C.G.S. 53a-3(9)

3: No person, including industrial and commercial establishments, shall initiate open burning in any public or private area outside any building without first acquiring a permit from the appropriate local enforcing air pollution control standards, hereinafter referred to as the "local authority". A permit shall be applicable only for the occasion or circumstance, as the case may be, for which the application is approved; a new permit shall be required for all contemplated open burning not sanctioned by an existing permit. Open burning initiated in violation of this regulation shall be promptly extinguished by the individual or individuals responsible for the same upon notice from the local authority.

4: The local authority shall establish its own procedures for applying for an open burning permit. Permits shall not be issued if the local authority determines that (1) a hazardous health condition will be created by such burning, (2) a salvage operation by open burning will be conducted, or (3) a practical alternate method is available for the disposal of the material to be burned.

5: Open air burning permit requirement:

(a) Permits may be issued by the local authority subject to any written conditions which either it or the appropriate state authority deems necessary (1) to prevent the creation of excessive smoke, (2) to protect property, or (3) to protect the health, safety or comfort of the public. Permits must be obtained through the Fire Marshal's office for open burning used for recreational purposes, i.e., campfires, bon fires and roasting of large animals (pig roasts). Permits can be obtained from the Fire Marshal Monday through Friday between the hours of 9:00 a.m. and 2:00 p.m.

(b) Exemptions: A permit as described in this ordinance shall not be required for the following fires:

Open burning may be conducted under the following circumstances without first acquiring a permit as required by Section 4, provided local governmental authorities may enact ordinances or issue regulations controlling any one or more of such conditions: (1) Open burning for the instruction of public fire fighters or industrial employees under the supervision of a properly designated training officer; (2) open burning required in the performance of an official duty of any public office if fire is necessary to thwart or prevent a hazard which cannot be properly managed by any other means or is necessary for the protection of public health; (3) open burning used for the cooking of food i.e. gas grills, charcoal grills, fireplaces, chimineas, provided no smoke violation or other nuisance is created and that flames not be more than 12" above the container; (4) open burning in salamanders or other devices used by construction or other workers for heating purposes, provided no smoke violation or other nuisance is created, and small fires kindled by contractors essential to street installation or paving activities, the repairing of utilities, or other similar work.

During the existence of an air pollution alert declared by the State Commissioner of Health, and irrespective of whether a permit is then in existence, only open burning of the type described in Section 5, b-2 may be done without the written permission of the open burning official.

(c) Enforcement and penalties: Open burning laws of the state or municipality may be enforced by any peace officer within that peace officer's jurisdiction.

1. Any person who kindles or directs another to kindle a fire in the open air as regulated herein without a permit or any person who burns materials that are prohibited from being burned by any provision of the general statutes, regulation of the state or local ordinance, shall be fined not more than two hundred dollars (\$200.00 or imprisoned for not more than six (6) months or both pursuant to C.G.S. 23-48.

2. The Open Burning Official or local Fire Marshal may inspect private premises and shall make all reasonable efforts to prevent and correct violations of this ordinance.
3. The provisions of this ordinance shall be enforced by the Local Peace Office, Open Burning Official or local Fire Marshal.
4. After a third (3rd) violation of this ordinance, the applicant shall not be issued a burning permit for a period of one (1) year from the third violation date.

Adopted: March 1, 2005

Robert E. Dayen/jc

Prospect Town Council Chair

Received for Record: 3/2/2005

Adopted: 3/1/2005

Publication Date: 3/3/2005

Effective Date: 4/2/2005

Maryann C. Anderson

Maryann C. Anderson, Town Clerk

TOWN OF PROSPECT
 ORDINANCE NO 75-03-01-05
Amendment To Ordinance Concerning Pensions
For Employees of the Town of Prospect
 (ORDINANCE # 39-05-09-80)

It is hereby resolved that the Town of Prospect amend Section 3 of the Town of Prospect Ordinance, "AN ACT CONCERNING PENSIONS FOR EMPLOYEES OF THE TOWN OF PROSPECT", so as to read as follows:

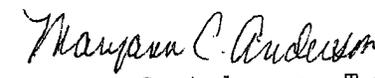
"SECTION 3. EMPLOYEES TO WHOM THIS ACT APPLIES

The terms of this act shall apply to all full-time employees of the Town of Prospect, except that employees who are participating in the Municipal Employees Retirement System ("MERS"), Connecticut General Statutes, Conn. Gen. Stat. § 7-425 et seq., shall not receive any contribution to the Retirement system from the Town as set forth in Section 4 and may not make any contribution to the retirement system as set forth in Section 5. For such employees who participate in MERS, the Town will make contributions and participating employees shall make contributions to MERS, as provided by applicable law. Participation in MERS system may be initiated by the Town either by collective bargaining agreement, as provided by law, or pursuant to the provisions of Connecticut General Statutes§ 7-427.

Passed and adopted by the Prospect Town Council on the 1st day of March, 2005


 Robert E. Doyon, ~~Chairman~~

Received for Record 3-2-2005
 Adopted 3-1-2005
 Publication Date 3-3-2005
 Effective Date 4-2-2005


 Maryann C. Anderson, Town Clerk

**STREET EXCAVATION AND OBSTRUCTION ORDINANCE
TOWN OF PROSPECT
ORDINANCE #76-03-21-06**

I. General Provisions

- A. This ordinance shall govern all excavations, obstructions, and substructions within any Town Highway, or any sewer or drainage right-of-way of the Town.
- B. No person shall excavate within or under, or place any obstruction or substruction within, under, upon or over any Town Highway, or any sewer or drainage right-of-way of the Town, without direct permission of the Assistant Director of Public Works. If any person shall violate the provisions of this ordinance the Town may, at its option, fill in or close any such excavation or remove or alter the same. Any expense incurred by the Town in such filling, removing or altering shall be paid by the person making such excavation or placing such obstruction or substruction.

II. Definitions

- A. **Assistant Director of Public Works:** The Assistant Director of Public Works, or his designee, who is authorized to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance.
- B. **Town:** Town of Prospect, Connecticut, or any board, commission, officer, agency, or instrumentality duly authorized to act on its behalf.
- C. **Person:** Any individual, firm, partnership, corporation, limited liability company, group, organization or association.
- D. **Applicant:** Any person who submits an application to the Assistant Director of Public Works for a permit pursuant to this ordinance.
- E. **Permittee:** Any person granted a permit by the Assistant Director of Public Works to excavate, obstruct or substruct any Town Highway, or sewer or drainage right-of-way in the Town.
- F. **Town Highway:** Any public street, road, or other right-of-way maintained by the Town, including the entire width between the right-of-way boundary lines.
- G. **State Highway:** Any public street, road, or other right-of-way maintained by the State of Connecticut, including the entire width between the right-of-way boundary lines.

- H. Excavation:** Any digging, hollowing or uncovering of the ground.
- I. Obstruction:** The placement of any obstacle or barrier within the boundaries of any public right-of-way that interrupts free passage of the same.
- J. Substruction:** The placement of any obstacle or barrier underground within any public right-of-way, including but not limited to pipes, cables, and conduits, etc.

III. Permit

A. Generally

1. The Assistant Director of Public Works is hereby authorized and empowered to grant a permit for excavation, obstruction, or substruction of any Town Highway, subject to the provisions of this ordinance. Such permit shall be in writing, in a multicopy form prescribed by the Assistant Director of Public Works. If any excavation, obstruction, or substruction shall substantially interfere with traffic or cause any Town Highway to become completely impassable, the Assistant Director of Public Works shall forward copies of the permit to the Town's Chief of Police/Resident Trooper and Chief of the Fire Department.
2. Any person seeking a permit to perform work on a State Highway must notify the Assistant Director of Public Works in writing, prior to applying for a state permit. The provisions of this ordinance do not supersede any regulations set forth by the Connecticut Department of Transportation regarding the excavation of State Highways.
3. No permit will be issued for the excavation, obstruction, or substruction of any Town Highway for a period of five (5) years after such Town Highway is resurfaced, except for emergencies, provided that all utility companies were notified in writing ninety (90) days prior to said resurfacing.

B. Application for Permit

All applications for a permit required by this ordinance must be submitted in writing to the Assistant Director of Public Works at least five (5) days prior to the scheduled commencement of any excavation, obstruction, or substruction. The application form will be prescribed by the Assistant

Director of Public Works and may require a sketch of such proposed work, drawn to scale, if necessary. The Assistant Director of Public Works may, in his discretion, extend the time limitation specified in this section or in any other section of this ordinance.

C. Denial of Permit Applications

The Assistant Director of Public Works shall have the discretion to deny any application for a permit made under the provisions of this ordinance for any justifiable reason, including but not limited to situations in which the proposed work would cause substantial or needless damage to a highway, create excessive disturbance to traffic, create exceptionally dangerous conditions not commensurate with the benefits to the Applicant or impact water resources to the extent of diminishing the usefulness of the land or significantly altering the character of the area. The Assistant Director of Public Works may also deny any application made by any person, who, under a previously issued permit, failed to perform such permitted work within the time required or in the manner required, or if the Applicant has failed to reimburse the Town for recoverable charges billed under the terms of a previously issued permit. The Assistant Director of Public Works shall notify any Applicant of any denial of any permit application, in writing, by mail, and shall provide such Applicant with the grounds for such denial.

D. Fees; Monthly Statement

A twenty-five dollar (\$25.00) fee, or such fee as may be set from time to time by the Town Council, shall be collected by the Assistant Director of Public Works for each permit issued under the provisions of this ordinance. Such fee shall be collected prior to the time the permit is issued and the Assistant Director of Public Works shall forward any such fees to the Town Treasurer upon receipt.

No person performing work directly for the Town or on behalf of the Town shall be required to pay any permit fee, but such person shall still be required to obtain a permit in accordance with this ordinance.

E. Emergency Permits

1. General Emergencies

In the case of a broken gas line or water main, or other such emergencies, the Assistant Director of Public Works may grant

emergency permits. Any person performing such emergency excavation or creating such obstruction or substruction in the case of an emergency, shall apply to the Assistant Director of Public Works for a permit within twenty-four (24) hours after the occurrence of such emergency, in the general manner prescribed by this ordinance.

2. Emergency Town Work

The Assistant Director of Public Works shall grant an emergency permit when notified by the Town, or any person performing work on behalf of the Town, that there is an immediate need for any excavation, obstruction or substruction, or, in the case of redevelopment construction or demolition, that such work must be performed immediately.

F. Revocation of permit

The Assistant Director of Public Works has the authority to immediately revoke any permit issued hereunder, upon written notification or oral order, if the Permittee violates the scope of the permit or this ordinance in any way.

IV. Penalties for offenses

- A. Any person who violates any provision of this ordinance shall be liable to the Town for any expense, loss, or damage which may be caused to the Town Highway or other Town property by reason of such violation.
- B. The Assistant Director of Public Works shall notify any person, in writing, of any violation of this ordinance, which notification shall state the nature of the violation and provide a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in such notice, correct such violation. If the Assistant Director of Public Works determines that a particularly hazardous condition exists, the Assistant Director shall require the person to satisfactorily correct any such condition within twenty-four (24) hours of verbal notification thereof.
- C. Any person who continues to violate any provision of this ordinance after the expiration of the time limit specified in subsection B above shall be

fined not more than \$100 for each such offense. Each day that the violation of these regulations continues shall be deemed to be a separate offense for the purpose of this penalty.

- D. The Assistant Director of Public Works may deny any application for a permit to any person who is in violation of any provisions of this ordinance until such time as satisfactory compliance is obtained.
- E. Any permit issued pursuant to this ordinance shall expire and become void thirty (30) days from the date of issuance if the Permittee fails to commence the proposed work within said time. If a permit lapses and becomes void pursuant to this subsection, the Permittee must reapply and obtain a new permit from the Assistant Director of Public Works and pay an additional application fee.
- F. The cancellation of the bond or insurance required by Sections V and/or XI, respectively, below, shall automatically void any permit which has been issued.

V. Bond Requirements; Amount

- A. Before any person shall receive a permit pursuant to this ordinance, such person shall post with the Assistant Director of Public Works a bond with surety, letter of credit, bank/cashier's check, or passbook in an amount determined by the Assistant Director of Public Works. The amount of the surety shall be established separately for each permit at a level sufficient to ensure that the Town will be protected against loss in the event of the failure of the Applicant to complete the work or make required repairs or restoration of damages involving the work or encroachment authorized by the permit.
- B. The amount of the bond shall be computed on the basis of cost required to make proper restorations or repairs. Immediately upon approval of an application for permit, the Assistant Director of Public Works shall advise the Applicant as to the amount of bond required. The Permittee shall submit a detailed quantity estimate of the work required. An annual blanket surety bond, acceptable to the Town Attorney, may be deposited to avoid the inconvenience and expense of obtaining individual bonds for each permit requested. The minimum value of the surety bond shall be five thousand dollars (\$5,000.00).
- C. The surety bond shall be released to the permit holder one (1) year after satisfactory completion of the excavation, restoration, repairs, and the 18 month maintenance period set forth below.

VI. Protection of Tree Roots

The greatest care shall be exercised by any Permittee performing work under the provisions of this ordinance to protect tree roots from damage, not only when excavating or creating an obstruction or substruction, but on all subsequent operations of construction and backfilling. When roots are encountered near the base of a tree, the Permittee shall tunnel under the roots, as directed by the Assistant Director of Public Works, who may also require such other protection as shall be reasonably required in any particular instance.

VII. Opening of Pavement

Any paved surface shall be removed with all edges cut to a neat, straight line, preferably cut with a concrete saw; however, such cutting can be accomplished with a spade point tool. Under no circumstance shall any pavement slab be subject to blows from a hammer or dropweight, but any concrete base or subbase under the pavement slab may be broken with a pneumatic tool using a bull point.

VIII. Safety precaution

A. Barricades to be erected

All excavations made in a Town Highway must be barricaded by a rail or other fence sufficient to enclose not only the excavation but also the dirt, ground, or other material that is removed during any such excavation. All barricades are subject to approval by the Assistant Director of Public Works and shall be in place for the duration of the excavation.

B. Lights to be maintained at night

All excavations and obstructions must be illuminated from twilight to dawn to warn pedestrians and drivers of their presence.

C. Work to be performed during daylight hours

To protect the public, as well as to ensure a safe work site, all excavation work must be performed during daylight hours unless the Assistant Director of Public Works specifically authorizes otherwise in any permit issued, or in the event of an emergency.

D. Additional Precautions

The Assistant Director of Public Works may require additional safety precautions as deemed necessary, which such precautions shall be outlined in the permit for such work.

IX. Responsibility for work**A. Repair of excavation**

Every Permittee shall, by himself, his agent, servant, contractor or employee, cause all excavation where openings are made to be cut neatly as required in Section VII, thoroughly filled with approved backfilling material, as set forth in subsection B of this section, and tamped and resurfaced, and shall remove all surplus material. Such work shall be performed in accordance to standards and specifications determined by the Assistant Director of Public Works. All work is subject to the inspection and approval of the Assistant Director of Public Works.

B. Backfilling

The backfilling of all excavations made within a Town Highway shall be placed in layers not more than twelve (12) inches thick, and shall be thoroughly compacted by tamping or other approved means to the satisfaction of the Assistant Director of Public Works. The compaction shall satisfy the requirements set forth in Form 816, Standard Specifications 2004, as amended, distributed by the Connecticut Department of Transportation, Office of Contract Administration. The materials used for backfill shall be subject to the inspection and approval of the Assistant Director of Public Works, and if, in his opinion, the excavated material is unsuitable for backfill, the Permittee shall dispose of the unsuitable material and substitute it with approved material. When the backfill has been completed within fourteen (14) inches of the finished pavement of surface grade, the next twelve (12) inches shall be filled and compacted using an approved grade of bank-run or processed gravel. The last two (2) inches will be covered by any type of bituminous concrete mix capable of holding the surface during the six (6) month temporary maintenance period as provided in subsection C of this section.

C. Maintenance of excavated area

Any Permittee performing excavation of a Town Highway is required to maintain the excavated trench for a six (6) month period beginning on the

date that backfilling is complete, as outlined in subsection B of this section. During this time period, the trench repair will be considered temporary and the Permittee shall inspect the trench at such regular intervals as may be necessary to maintain it in satisfactory condition. In the event that the Permittee fails to make such repairs, the Town may make such repairs as it deems necessary and the Permittee shall pay all costs of such work. Failure on the part of the Town to give notice that repairs are needed shall not relieve the Permittee of any duties or obligations set forth herein.

D. Permanent restoration of excavated area.

At the end of the six (6) month temporary maintenance period set forth in subsection C of this section, or sooner if specifically directed by the Town, the Permittee shall make a permanent pavement replacement. The permanent replacement shall be made between May 1st and October 15th of any calendar year. The Permittee shall be responsible for the maintenance of the trench for eighteen (18) months after the Assistant Director of Public Works inspects and accepts in writing the permanent restoration. The permanent patch size shall be two (2) feet wider and two (2) feet longer than the temporary. The permanent trench replacement will consist of four (4) inches of bituminous concrete consisting of two (2) inches of Type 1 and two (2) inches of Type 2 binder bituminous concrete. The Permittee shall grade, loam, seed and mulch any unpaved areas disturbed by its activity on the site. The Permittee shall maintain all erosion control measures in functional condition until stabilization of all erodible areas. The Assistant Director of Public Works may require the Permittee to compensate the Town for repairs to any paved areas not in the immediate vicinity of the construction that have been damaged by the activities of the Permittee or as a result of its activities.

X. Reconstruction of Curbs and Sidewalks

Every Permittee, under the provisions of this ordinance, shall reconstruct all curbs and sidewalks disturbed by any excavation, obstruction, or substruction, with the same quality materials as those by which they were originally constructed.

XI. Insurance requirements

A. General Requirements:

The Permittee shall be responsible for maintaining insurance coverage in

force for the life of its permit obligations of the kinds and in adequate amounts to secure all of the Permittee's obligations hereunder with an insurance company(ies) with an AM Best Rating of A-VII or better licensed to write such insurance in the State of Connecticut and acceptable to the Town of Prospect.

The insurer shall provide the Town of Prospect with Certificates of Insurance signed by an authorized representative of the insurance company(ies), prior to issuance of a permit under this ordinance, describing the coverage and providing that the insurer shall give the Town of Prospect written notice at least thirty (30) days in advance of any termination, expiration, or any and all changes in coverage.

Such insurance or renewals or replacements thereof shall remain in force during the Permittee's responsibility under the Permit issued pursuant to this ordinance.

The Permittee, at the Permittee's own cost and expense, shall procure and maintain all insurances required and shall name the Town of Prospect as an Additional Insured on all insurance contracts, except Workers' Compensation.

In order to facilitate this requirement for insurance, it is recommended that the Permittee forward a copy of these requirements to the Permittee's insurance representative(s).

B. Specific Requirements:

(1) Workers' Compensation Insurance

The Permittee shall provide Statutory Workers' Compensation Insurance, including Employer's Liability with limits of:

\$100,000 Each Accident
 \$500,000 Disease, Policy Limit
 \$100,000 Disease, Each Employee

(2) Commercial General Liability Insurance

The Permittee shall carry Commercial General Liability Insurance (Insurance Services Offices Incorporated Form CG-001 or equivalent). A per occurrence limit of \$1,000,000 is required. The Aggregate Limit will be no less than \$2,000,000. Any deviations from the standard unendorsed form will be noted on the Certificate of Insurance.

(3) **Business Automobile Liability Insurance**

The Permittee shall carry Business Automobile Liability Insurance (Insurance Services Offices Incorporated Form CA-00001 or equivalent). A per occurrence limit of \$1,000,000 is required. "Any Auto" (symbol 1 or equivalent) is required. Any deviations from the standard unendorsed form will be noted on the Certificate of Insurance.

C. **Subcontractor's Requirements:**

The Permittee shall require the same insurance that it is required to carry by the Town of Prospect to be carried by any subcontractors and independent contractors hired by the Permittee and such subcontractors and independent contractors shall similarly provide Certificates of Insurance to the Town of Prospect, naming the Town of Prospect as an Additional Insured, before such subcontractors and independent contractors are permitted to begin work.

The Permittee and all subcontractors and independent contractors and their insurers shall waive all rights of subrogation against the Town of Prospect and its officers, agents, servants and employees for losses arising from work performed by each of them under the Permit granted pursuant to this ordinance.

D. **Other Data:**

The Town of Prospect reserves the right to amend the amounts of coverage required and types of coverage to be provided based upon the work or service to be performed.

XII. Interpretation

If a question arises as to the interpretation of this ordinance, the decision of the Assistant Director of Public Works shall be final.

XIII. Appeal

Any person denied a permit under this ordinance may appeal such denial to the Town Council within fifteen (15) days of the mailing date of the written denial issued by the Assistant Director of Public Works. In the event the Town Council sustains the denial of such application, the Applicant may institute an appeal to the Superior Court within thirty (30) days of the date of the Town Council's

action sustaining the denial of the permit by filing a petition to reopen the application, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Connecticut General Statutes § 52-259, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

Joseph F. Commendatore
Joseph F. Commendatore
Prospect Town Council Chair

Approved: March 21, 2006
Recorded: March 24, 2006
Publication Date: March 31, 2006
Effective Date: April 30, 2006

Maryann C. Anderson
Maryann C. Anderson
Prospect Town Clerk

Maryann C. Anderson
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PROSPECT, CONN
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ORDINANCE FOR ESTABLISHMENT OF A SEWER USER CHARGE SYSTEM**ARTICLE 1: GENERAL**

An ordinance establishing user charges in the Town of Prospect for the purpose of providing funds for the operation and maintenance expenses associated with the municipal wastewater collection, conveyance, and treatment facilities.

As provided for under Section 7-255 et seq. of the Connecticut General Statutes, the Water Pollution Control Authority (WPCA) is empowered to establish and revise fair and reasonable charges for the use of the municipal sewerage system. The owner of property against which any such use charge is levied shall be liable for the payment thereof. Municipally owned and other tax-exempt property, which uses the sewerage system, shall be subject to such charges under the same conditions as are the owners of other property.

No charge for the use of the municipal sewerage system shall be established or revised until after a public hearing before the WPCA at which the owners of property against which the charges are to be levied shall have an opportunity to be heard concerning the proposed charges. Notice of the time, date, and place of such hearing shall be published at least ten (10) days before the hearing in a newspaper having a general circulation in the municipality, and a copy of the proposed charges shall be on file in the office of the Town Clerk for public inspection at least ten (10) days before the date of the hearing.

After establishing such charges, the WPCA shall file such charges with the Town Clerk and, within five (5) days of such filing, shall cause the same to be published in a newspaper having a general circulation in the municipality.

ARTICLE 2: DEFINITIONS

BOD: Biochemical oxygen demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter in a specific time and at a specified temperature, usually five (5) days and 20° C.

ppm: Parts per million.

Sewerage System: A collective term used to describe all the property involved in wastewater treatment and disposal, including sewer lines and appurtenances, pumping stations, treatment facilities, and land.

Suspended Solids: Solids that either float on the surface of or are in suspension in water, wastewater, or other liquids and that are removable by a standard laboratory filtering procedure.

WPCA: The municipality's Water Pollution Control Authority, as authorized by Connecticut General Statutes § 7-246.

ARTICLE 3: CALCULATION OF CHARGES

The total cost of the operation, maintenance and administration of the sewerage system, including replacement fund, (OM&R cost) shall be recovered from the users of the system. Each user's share of the OM&R cost of the sewerage system shall be in proportion to the user's contribution to the total wastewater loading (by volume) of the sewerage system. All users shall be charged on the basis of their total wastewater contribution based on an Equivalent Dwelling Unit (EDU) basis. One (1) EDU shall be equivalent to 300 gallons per day, which shall constitute the "typical" flow generated by all residential homes with up to four (4) bedrooms. Flows for larger homes shall be computed based on the number of bedrooms, with each contributing 75 gallons per day which flows for commercial building and industrial facilities shall be computed based on typical values such as the building's gross square footage, fixture units, or other values acceptable to the WPCA. Surcharges shall be added to the volume based charges for wastewater discharges whose BOD or suspended solids concentrations are in excess of 300 ppm, or for discharges whose other constituents result in an identifiable increase in wastewater conveyance, treatment, or disposal costs.

The WPCA will review the sewer connection fees and user charges annually and revise the rates as necessary to ensure that adequate revenues are generated to recover all OM&R costs and that the rate structure continues to distribute the costs of wastewater collection and treatment among the users in proportion to their wastewater contribution.

ARTICLE 4: COLLECTION AND PAYMENT

Unless otherwise subject to terms of an intermunicipal agreement under Article 7: Intermunicipal Agreements, all sewer use charges shall be billed quarterly through the Prospect Tax Collector on behalf of the WPCA, as permitted in Connecticut General Statutes, § 7-258, and shall be paid in full within a period of thirty (30) days after same is declared due and payable unless otherwise stated on the billing form.

Any charge for the use of a sewerage system, not paid within thirty (30) days of the due date, shall thereupon be delinquent and shall bear interest from the due date at the rate and in the manner provided by the general statutes for delinquent property taxes. Each addition of interest shall be collectible as a part of such connection or use charge. Any such unpaid connection or use charge shall constitute a lien upon the real estate against which such charge was levied from the date it became delinquent. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens. Each such lien shall take precedence over all other liens and encumbrances except taxes and may be foreclosed in the same manner as a lien for property taxes.

All revenues collected under the provisions of this ordinance shall be kept separate from any other funds of the municipality and shall be used solely for the purposes stated in Article 1 of this ordinance, and for no other purpose. Fiscal year-end balances shall be used to defray the following year's costs, or shall be deposited in a non-lapsing fund

established for replacement of major mechanical components, which could reasonably be expected to require replacement during the life of the treatment works. If, as a result of a shortfall, funds have been transferred from other sources into the sewerage funds account, those funds shall be repaid at the beginning of the next fiscal year, and the sewer user charge shall be increased to cover the transfer of these funds.

ARTICLE 5: APPEALS AND ADJUSTMENTS

Any person aggrieved by any charge for the use of the sewerage system, except for the 1 EDU "typical" flow from residential homes of up to four (4) bedrooms, may make written appeal to the WPCA within thirty (30) days of the billing date, requesting a review of the user charge. This request shall, where necessary, show the actual or estimated flow and/or strength of the discharge in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

Any person aggrieved by any charge for the use of a sewerage system may appeal to the superior court for the judicial district wherein the municipality is located and shall bring any such appeal to a return day of said court not less than twelve (12) nor more than thirty (30) days after service thereof. The judgment of the court shall be final.

ARTICLE 6: ORDINANCE IN FULL FORCE

This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

ARTICLE 7: INTERMUNICIPAL AGREEMENTS

Sewer use fees, connection charges, payments and any and all other charges that are subject to specific requirements of an intermunicipal agreement shall conform in all respects to said requirements.

Passed and adopted by the Prospect Town Council on the 5th day of Dec. 2006.

Approved: December 5, 2006
Recorded: December 6, 2006
Publication: December 8, 2006
Effective Date: January 7, 2007
Maryann C. Anderson
Maryann C. Anderson
Prospect Town Clerk

Joseph F. Commendatore HEA
Joseph F. Commendatore
Prospect Town Council Chair

Maryann C. Anderson
TOWN CLERK
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TOWN OF PROSPECT
ORDINANCE #78-08-18-09
(Amendment to Ordinance #67-07-02-96)

An Ordinance Regarding Improvements on Real Estate with Delinquent Taxes

No official of the Town of Prospect shall issue a building permit, zoning permit, certificate of occupancy, driveway permit or any other similar permit to authorize construction or occupancy or improvements pertaining to real property on which there are real property taxes which are past due. However, this ordinance shall not apply in instances when it shall be established to the satisfaction of the Prospect Town Council that:

- (i) A governmental agency (such as, the regional health district) has ordered such improvements in order to comply with applicable law or regulations pertaining to public health or safety; or
- (ii) Such improvements are related to medical needs, such as ramps for access for the physically disabled, or
- (iii) Such improvements are necessary to prevent or remediate a condition that may result in a significant or imminent threat to life, health or safety; or
- (iv) Non-payment of such past due taxes are attributable to extraordinary medical expenses.

This ordinance shall not apply to those properties for which a valid building permit has been issued as of the date of the adoption of this ordinance, but only as to the improvements which are the subject of such building permit.

Passed and adopted by the Prospect Town Council on the 18th day of August, 2009

Approved: August 18, 2009
Recorded: August 19, 2009
Publication: August 21, 2009
Effective Date: September 20, 2009

M. Carrie Anderson
M. Carrie Anderson
Prospect Town Clerk


Thomas J. Galvin
Prospect Town Council Chair

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TOWN OF PROSPECT
ORDINANCE #79-09-01-09

POLICE PROTECTION AT CERTAIN CONSTRUCTION SITES

1. General Provisions

For any activity conducted by private parties that may result in a full or partial blockage of public highways, or any activity conducted by private parties involving the excavation or obstruction of a public highway anywhere in the Town of Prospect, sworn personnel shall be hired by the person(s) and/or entity(ies) causing such excavation or obstruction in order to assure public safety in the area of the work being performed. Examples of activities that may require sworn personnel may include but are not limited to:

- (1) Activities authorized by construction/excavation permits
- (2) Power, gas, water and sewer line installation/repair
- (3) Telephone line and cable television installation/repair

Based on the combination or the nature of the activity, the location where it is being performed and the availability of sworn personnel, the Resident Trooper shall, on a case by case basis, determine if this requirement may be waived, provided in all cases involving a waiver, the contractor shall use a qualified flagger. If the Resident Trooper is absent, the Director, or the Assistant Director of Public Works, or in their absence, their designees will make this determination.

If the following factors are present, sworn personnel, if available, are likely to be required:

- (1) Duration of work lasting more that 30 minutes,
- (2) Work taking place between the hours of 6:00 and 9:00 a.m. and/or 3:00 and 6:00 p.m. (I.E., RUSH HOURS),
- (3) Work occurring within 200 feet or less from a school, playground, park or any other similar sensitive area of use.

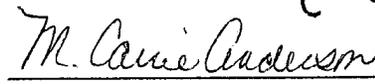
2. Definitions:

Public Highway : - any public street, or other right-of-way maintained by the State of Connecticut or the Town of Prospect including the entire width between the right-of-way boundary lines.

Sworn Personnel: - police officers and others who have received Police Officer Standard Training, who are properly identifiable and have powers of arrest in the Town of Prospect.

Approved: September 1, 2009
Recorded: September 2, 2009
Publication: September 3, 2009
Effective Date: October 3, 2009


Thomas J. Galvin, Chairman
Prospect Town Council


M. Carrie Anderson
Prospect Town Clerk

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M. Carrie Anderson
TOWN CLERK

**TOWN OF PROSPECT
ORDINANCE #80-09-01-09**

**ORDINANCE ESTABLISHING FINES AND CITATION PROCEDURE
FOR WETLANDS VIOLATIONS**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPECT THAT:

Pursuant to the authority of Connecticut General Statutes § 22a-42g and, notwithstanding any provisions to the contrary within the “Town of Prospect, Connecticut Inland Wetlands and Watercourses Regulations” (hereinafter referred to as the “Wetlands Regulations”), the Town of Prospect hereby establishes penalties for violation of its Wetlands Regulations and further authorizes any police officer or other person authorized by the Mayor (hereinafter, the “Agent”) to issue citations therefor to the extent and in the manner provided by this ordinance. This ordinance shall not be construed to limit or alter the authority, duty and responsibility of the Prospect Inland Wetlands Commission as granted and established under the Connecticut Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, the Wetlands Regulations or other legislation that may apply.

1. Penalties

Any violation of the Wetlands Regulations may be punished, in the discretion of the Agent, by a fine as follows for each and every day such violation exists and/or continues after the issuance of a citation as hereinafter set forth and such fine shall be payable to the Treasurer of the Town of Prospect.

For activities that do not occur within inland wetlands,
watercourses or their related established buffer areas.....\$500

For activities that occur within the established
buffer area of an inland wetland or watercourse
but not within its related inland wetland or watercourse\$750

For activities that occur within an inland wetland or watercourse\$1,000

No such fine may be levied against the State of Connecticut or any employee of the state acting within the scope of his/her employment.

2. Citations

Citations may be issued imposing the penalties set forth above pursuant to the time frames and conditions as follows:

- a. For violations or circumstances which, in the judgment of the Agent, place the health, safety and welfare of the community into imminent jeopardy, citations may be issued immediately after the issuance of an order to cease conducting or maintaining any activity, facility or condition in violation of the Wetlands Regulations or an order to correct any such facility or condition (all such orders referred to herein as an “Order”).

- b. For violations creating conditions that are having, or are reasonably likely to have, a significant impact on wetlands or watercourses, citations may be issued immediately after the issuance of an Order
- c. For circumstances of repeated non-compliance, a citation may be issued immediately after the issuance of an Order. "Repeated non-compliance" shall mean that an Order has been issued within the past twelve (12) months for the same type of violation on the same property.
- d. For all other violations, citations may be issued fifteen (15) days after the issuance of an Order.
- e. Citations shall not be issued if the property is subject to a pending application that would rectify the wetlands violation.
- f. The Agent shall have the authority to delay the issuance of a citation in cases where, in his/her opinion, the violator is making a good faith effort to bring the property into compliance.
- g. The issuance of a citation shall not prevent the Town from simultaneously taking any and all other available actions to enforce its Wetlands Regulations.

3. Service of Citation

Any citation may be served either by hand delivery or by certified mail, return receipt requested to the owner of the property being cited and/or to the party conducting the activity that is in violation of the Wetlands Regulations. Should a citation served via certified mail be refused, it may be re-sent by regular United States first class mail. The Agent shall file and retain an original or certified copy of the citation and any such refused or returned mail, and shall also send a copy of such citation to the Connecticut Department of Environmental Protection, in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies. Any such citation shall be issued on a pre-printed standard form which shall notify the recipient of any and all rights such recipient shall have to a hearing to contest the citation and which shall notify the recipient of his/her/its obligation to inform the Agent of his/her/its having brought the violation into compliance with the Wetlands Regulations.

4. Uncontested Payment Period

Uncontested payment to the Treasurer of the Town of Prospect of the fine specified in the citation shall be allowed for a period of ten (10) calendar days from receipt of the citation. If the citation was sent by regular mail as set forth in paragraph 3 above, the day of receipt of the citation shall be deemed to be four (4) days after the date of its mailing.

5. Notice of Hearing

If uncontested payment of the fine specified in the citation is not made to the Treasurer of the Town of Prospect within the ten (10) day period set forth above, the Agent shall send a notice to the person cited, informing such person:

- a. Of the allegations against him or her and the amount of the fines, penalties, costs, or fees due;
- b. That he/she may contest his/her liability before a citation hearing officer by delivering, in person or by mail, within ten (10) days of the date of the notice, a written demand for a hearing;
- c. That filing a request for a hearing shall cause the daily accrual of fines to cease from the date such filing is received by the Agent until the date the hearing officer renders a decision unless, during such period, the violation of or non-conformance to the zoning ordinance is expanded or increased;
- d. That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and
- e. That such judgment may issue without further notice.

6. Admission of Liability and Payment of Fines

If the person who is sent notice pursuant to paragraph 5 hereof wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to, either in person or by mail, to the Treasurer. 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 paragraph 5 hereof shall be deemed to have admitted liability, and the Agent shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by this ordinance and shall follow the procedures set forth in paragraph 9 hereof.

7. Hearing

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 fifteen (15) days nor more than thirty (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. An original or certified copy of the citation shall be filed and retained by the Agent and shall be deemed to be a business record within the scope of Connecticut General Statutes, § 52-180 and evidence of the facts contained therein. The presence of the Agent shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provision(s) of the Wetlands Regulations. The hearing officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof, as he 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.

8. Decision

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, penalties, costs and/or fees against such person as provided by this ordinance. Upon a finding by the hearing officer that a violation has occurred, any fines, penalties, costs and/or fees accrued to the date of filing a request for a hearing or, if the hearing officer finds that the violation was expanded or increased, any fines, penalties, costs and/or fees accrued to the date of the hearing officer's decision, shall be immediately due and payable and the amount thereof shall be stated by the hearing officer in his/her decision.

9. Pursuit of Assessment and Judgment

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars (\$8.00). The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provision of the general statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

10. Appeal of Assessment

A person against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Connecticut General Statutes, § 52-259, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

11. Superior Court to Enforce Assessments and Judgments

The Superior Court shall be authorized to enforce the assessments and judgments provided for under this ordinance.

12. Appointment and Term of Hearing Officers

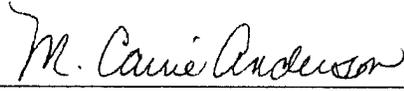
The Mayor shall appoint, subject to confirmation by the Town Council, one or more Prospect residents as citation hearing officers to conduct the hearings provided by this Ordinance. Hearing Officers shall serve for a term of two (2) years, unless removed for cause. Neither the Agent nor any employee of the Town of Prospect exercising wetlands authority nor any other employee, police officer, person who issues citations, or any elected

or appointed official of the Town of Prospect may be appointed to be a hearing officer pursuant to this Ordinance.

Approved: September 1, 2009
Recorded: September 2, 2009
Publication: September 8, 2009
Effective Date: October 8, 2009



Thomas J. Galvin, Chairman
Prospect Town Council



M. Carrie Anderson
Town Clerk

Maryann C. Anderson
TOWN CLERK

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PROSPECT, CONN
TOWN CLERKS OFFICE
RECEIVED FOR RECORD