



**Town of Thomaston**

# **ZONING BOARD OF APPEALS HANDBOOK**



## **INTRODUCTION**

This document is intended to be a guide for the members of the Zoning Board of Appeals (ZBA). It does not vary the requirements of the Connecticut General Statutes or the Thomaston Zoning Regulations. It does not in any way limit the authority or discretion of the Zoning Board of Appeals in any matter that may come before the Board.

The Thomaston Zoning Board of Appeals performs an extremely significant role in the overall land use decision making process. The decisions they make may determine the future direction of growth within the community.

Sometimes a new member may believe they are not well informed regarding planning, zoning, and other land use issues, but they still wish to make a sound and reasonable decision when reviewing an application. The purpose of this ZBA Handbook is to acquaint the new Zoning Board of Appeals member with basic zoning and land use concepts so they can perform within the guidelines of the Board and serve the community. In addition, it is a good refresher for present members who want to keep updated on concepts, issues, and regulations.

This ZBA Handbook has been developed to familiarize the new member with aspects of the Connecticut General Statutes pertaining to the Thomaston Zoning Regulations and the Zoning Board of Appeals. Some of the information contained herein, along with the interpretations, come from case law. From a practical viewpoint, this handbook will guide you from the submission of an application through the final decision making process. Included are such topics as scheduling and timing of the public hearing process, newspaper notification requirements, applications fees, and completeness of the application.

This handbook was adopted by the Zoning Board of Appeals on November 20, 1990 and revised on January 13, 2009.

### **Zoning Board of Appeals Members**

Chairman:	James Wilson
Vice-Chairman:	Robert Flanagan
Secretary:	Edward Eaton
Members:	Thomas Langlais Rebecca Skinner
Alternates:	Matthew Kamens Christine Yoos
Zoning Enforcement Officer:	Jeremy Leifert
Recording Secretary to the Board:	Pat Santa Maria

**TABLE OF CONTENTS**

**GENERAL PROVISIONS** .....4

**DUTIES AND RESPONSIBILITIES** .....6

**ZONING REGULATIONS AND FUNCTIONS** .....7

**APPLICATION PROCEDURES**.....8

**PUBLIC HEARINGS** .....10

**CONDUCTING THE PUBLIC HEARING** .....11

**SPECIAL INTERESTS** .....14

**CONCLUSIONS** .....15

**GUIDELINES AND PROCEDURES FOR APPLICANTS**.....15

**GLOSSARY OF PLANNING AND ZONING TERMINOLOGY** .....21

**APPENDIX A, B, C** .....34

**APPENDIX**

- Appendix A Sections of the Connecticut General Statutes**
- Appendix B Zoning Board of Appeals Application Packets**
  - 1) Application for Variance of the Zoning Regulation**
    - Approval of Location for Motor Vehicle**
    - Approval of Location for Sale of Gasoline**
    - A Certificate of Non-Conforming Use**
  - 2) An Application to Appeal a Decision of the ZEO**
- Appendix C Fees Schedule and Ordinance**

## **GENERAL PROVISIONS**

### **Composition of the Board**

The Thomaston Zoning Board of Appeals consists of five (5) regular members and three (3) alternate members. The number of eight (8) members is established by Section 8-5 of the Connecticut General Statutes. (Please refer to the Appendix for a copy of Section 8-5.)

If you are a regular or alternate member of the Zoning Board of Appeals, you cannot be a member of the Planning and Zoning Commission; however, you can be a member of other municipal commissions, agencies, or boards. It is recommended that you refrain from participating in discussions regarding essentially the same subject matter that you previously reviewed for the Zoning Board of Appeals. This is especially true if you voted no on a particular application. Zoning Board of Appeals members cannot serve concurrently on the Board of Selectmen.

### **Length of Term**

Regular Zoning Board of Appeals members are appointed for five (5) year staggered terms by a vote of the Board of Selectmen. Thomaston's First Selectman functions as its Chief Executive Officer. Alternate Zoning Board of Appeals members are appointed in the same manner and serve five (5) year staggered terms.

### **Testimony and Witnesses**

If testimony is required in specific types of cases, the Chairman of the Board has the authority to administer oaths and compel the attendance of witnesses at public hearings.

### **Minutes**

The Zoning Board of Appeals is required by the Connecticut General Statutes to keep accurate minutes of its meetings and carefully record the decisions of each voting member. All public hearings are taped. The Recording Secretary or staff for the Board is responsible for recording the minutes of each meeting and filing them with the Thomaston Town Clerk.

### **Designation to Sit/Disqualification**

The Connecticut General Statutes provide that if a regular member of the Zoning Board of Appeals is unable to attend a meeting, the absent individual may designate an alternate to act in their behalf. If the designation is not made or if there is a disqualification, the Chairman shall designate an alternate member.

In Thomaston, it is customary for the Chairman to replace an absent or disqualified regular member from the ranks of the alternates. They are usually chosen in rotation to assure that each alternate serves as a full member with voting privileges an equal number of times. If an alternate is not available in accordance with the established rotation, this shall be recorded in the meeting minutes.

### **Removal from the Board**

The Board of Selectman of the Town of Thomaston, pursuant to provisions contained in the Connecticut General Statutes, is empowered to remove from office any member from any Commission

for “just cause”. Before any individual can be removed, official charges must be presented to that individual in writing. That individual must be afforded a reasonable opportunity to be heard in their own defense and have the right to a closed meeting or it can be open as in a public hearing type format.

### **Vacancy**

Vacancies on the Board are filled by the Board of Selectman. This is usually done after receiving an official recommendation from the new appointee’s respective political party. The remainder of the previous term will be served by the new member.

### **Quorum**

A quorum for a hearing consists of four (4) members, not three (3) as is the case for most other Boards and Commissions. The Connecticut General Statutes require that a minimum of four (4) members must be present at a hearing. A minimum of four (4) members must vote to approve a Certificate of Variance, Certificate of Use or to reverse any order or decision of the Zoning Enforcement Officer.

In Thomaston, we strive for full attendance or at least five (5) members or their alternates. This gives the applicant an opportunity to have their application approved with one (1) dissenting vote.

## **DUTIES AND RESPONSIBILITIES**

### **Areas of Responsibility**

The Zoning Board of Appeals has four (4) basic areas of responsibility. The Board is empowered by Section 8-6 and Section 8-2 g of the General Statutes to hear and decide the following:

- Appeals where it is alleged that the Zoning Enforcement Officer erred in the issuance of an official order or decision.
- Special permits, special exceptions, and special exemption applications with regard to density limits for the construction of affordable housing.
- Applications for a Certificate of Variance or a Certificate of Use.
- Applications for approval of the location for gasoline service stations, motor vehicle dealers or repair facilities.

### **Acting as an Agent of the State of Connecticut**

The Zoning Board of Appeals approves the location for New and Used Car Dealerships and Vehicle Repairers pursuant to Sections 14-54 of the Connecticut General Statutes.

When approving a location, the Board is acting as an Agent of the State and is not performing local zoning functions.

When reviewing an application for approval of location for new and used car dealerships and vehicle repairers, the board must consider the suitability of the proposed location for the proposed use and whether the proposed location will adversely impact public safety.

### **Decision Making**

Members of the Zoning Board of Appeals should have a sound understanding of the Town's Zoning Regulations. Board members will be asked to interpret and vary the Zoning Regulations. It is also very important to comprehend the function and duties of the Zoning Enforcement Officer. Members may be asked to uphold or reverse a decision made by the Officer.

Members have a responsibility to ensure that fair hearings are conducted and that each party in attendance who wishes to speak be given an opportunity to be heard. It is important that each person on the Zoning Board of Appeals studies the issues carefully and renders a decision based upon well documented information, findings, and conclusions. Remember, any action taken by the Board of Appeals may be subject to further review by the court.

### **Character and Attributes**

Each member of the Thomaston Zoning Board of Appeals should possess the following qualities:

- Be fair and impartial to all applicants.
- Have a genuine interest in Thomaston, but not with a personal or financial involvement.
- Able to look objectively at a matter.
- Reach a final decision based on merit and evidence rather than on emotion.
- Have the time to devote to the Board and serve the public.
- Be interested in broadening one's knowledge and willing to study in order to learn.
- No personal or financial involvement in any question that comes before the Board.

## **ZONING REGULATIONS AND FUNCTIONS**

Zoning is a technique for public control of land use wherein a community is divided into districts, or zones, and wherein regulations are adopted to govern the activities and kinds of uses and buildings that can take place within each zone. The uses permitted within in each zone are established in accordance with the comprehensive plan for the Town of Thomaston.

The process called “zoning” is simply the division of land into various districts or zones. The Planning and Zoning Commission establishes regulations for each zone. The regulations determine and control the use of the land within each specific zone. They also control the bulk and intensity of what may be developed on the land. The Zoning Regulations are the most significant of all land use controls available to the Planning and Zoning Commission.

### **Regulate and Restrict**

In the State of Connecticut, municipalities are empowered by the General Statutes to regulate and restrict the height, number of stories, and the overall size and use of buildings and structures in each specific zone. The Statutes also permit local control over the percentage of a lot that may be covered and/or occupied by a structure. The overall size of yards and other open spaces is also controlled along with development density. Zoning is a tool by which the Planning and Zoning Commission can control the orderly growth of a community.

### **Function of Zoning**

In the Town of Thomaston, the Planning and Zoning Commission adopts its own Zoning Regulations and amends them from time to time. The basic premise behind Zoning Regulations is to accomplish the following:

- To lessen congestion in the streets.
- To secure safety from fire, panic, flood, and other dangers.
- To promote health and the general welfare.
- To provide adequate light and air.
- To prevent the overcrowding of land.
- To avoid undue concentration of population.
- To facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements.

## **APPLICATION PROCEDURES**

### **Processing the Application**

The Building and Land Use Office is responsible for processing applications to the Zoning Board of Appeals. Each applicant must submit to the Board a complete application, which includes a plot plan. A plot plan is a bird's eye view showing how a building sits on the building lot, typically showing setbacks (how far the buildings and structures on a parcel are located from the road and the front, rear, and side-yard property lines), easements, rights of way, and drainage. Office staff will review each application to ensure completeness.

### **Receipt of Application**

Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next scheduled meeting. This requirement ensures that the legal notices can be properly prepared, worded, and published in a timely fashion as required by the Connecticut General Statutes.

### **Incomplete Applications**

In order to assist applicants with this procedure, the Building and Land Use Office has a checklist form, which is a part of the official application package.

### **Required Submissions**

All applications to the Zoning Board of Appeals must be submitted to the Building and Land Use Office and be accompanied by the following:

- A check for the required fee made payable to the Thomaston Zoning Board of Appeals.
- A legal description of the property obtained from the Land Records in the Thomaston Town Clerk's Office. This shall include the date of transaction and complete copy of the deed.
- A map of the property showing all structures with complete dimensions and setbacks from adjoining property lines. Under normal circumstances, a carefully drawn plot plan will suffice. At certain times, the Board may require a formal survey. The survey must contain the signature and seal of a surveyor licensed to practice in the State of Connecticut.
- Architectural drawings of any proposed addition(s), showing the dimensions, front, side, and rear views. Existing ground elevations must also be shown. Architectural drawings must include doors, windows, and any other permanent structures.
- Any photographs that are submitted with the application or at the hearing shall become part of the record. They will remain in the case file in the Building and Land Use Office. The submission of photographs is optional.

## **Time Frames**

One of the most common problems faced by the Zoning Board of Appeals is to comply with specific time frames as mandated by the General Statutes. If a person is appealing the decision of the Zoning Enforcement Officer, it must be done within thirty (30) days of receipt of the notice of violation.

The key term used in the Connecticut General Statutes in computing time frames is the day of receipt. Public hearings must be scheduled, notices must be sent, and decisions must be made within a certain number of days following the day of receipt. The date of receipt shall be the day of the next regularly scheduled meeting of the Board immediately following the day of submission of the application to the Board or its Agent or thirty-five (35) days after the application submission, whichever is sooner.

## **Application Fees**

All applications filed with Land Use Boards or Commissions have certain fees attached to them. Fees may vary from application to application depending upon the type of proposed activity or use. Each Land Use Board develops a fee schedule. The fee schedule is presented to the Board of Selectmen who place it “on the call” of the next Town Meeting. The fee schedule is adopted by a vote of the residents present at this meeting.

## **Notice to Applicants and Adjoining Property Owners**

The Zoning Board of Appeals notifies adjoining property owners, including those directly across the street, of the subject property on all applications being considered by the Board. This includes every application for a Certificate of Variance or a Certificate of Use or an Appeal of the Decision of the ZEO.

Meeting notices regarding the date, time, and place of the public hearing are sent to the applicant and to the adjacent property owners by regular mail. Meeting notices are posted with the Thomaston Town Clerk and are available on the Town’s website [www.thomastonct.org](http://www.thomastonct.org). (The Connecticut General Statutes require that “due notice” of the public hearing be given to all affected parties.)

## **PUBLIC HEARINGS**

### **Scheduling and Extensions**

Public hearings are required for all matters involving decisions by the Board of Appeals. Hearings must be scheduled within sixty-five (65) days of the day of receipt of the application. As previously mentioned, this means within sixty-five (65) days after the meeting at which the Board accepted the application. The applicant may agree to one (1) extension of time for all application periods provided it does not exceed sixty-five (65) days in length in total.

### **Legal Notices**

The Connecticut General Statutes require legal notices for all hearings. A legal advertisement must be published twice in a local newspaper. This paper must have a substantial circulation in the community. In Thomaston, these notices are usually published in the Waterbury Republican. All public hearing notices must be published at intervals as follows:

.... the first notice not more than fifteen (15) days prior to holding the hearing nor less than ten (10) days before the hearing, and

.... the second notice not more than ten (10) days prior to holding the hearing nor less than two (2) days before the hearing is scheduled to be held.

In computing the time for publishing the legal notices, both the date of the public hearing and the date of the published notice are excluded.

It is important that legal notices are posted pursuant to the statutory time frames. Failure to do so can result in a decision by the Zoning Board of Appeals being nullified by Superior Court.

### **Referral of Applications**

Any application before the Zoning Board of Appeals must be sent by certified mail to the Town Clerk of the adjoining municipality provided that:

- Any portion of property which would be affected that is within five hundred (500) feet of the adjoining municipality.
- A significant portion of traffic to the completed project will utilize the adjoining municipality street system to enter or exit the site.
- A significant portion of the sewer and/or water drainage from the project will flow through and significantly impact the adjoining municipality sewerage and/or drainage system.
- Water runoff from the improved site will impact streets, or other municipal or private property within the adjoining municipality.

## **CONDUCTING THE PUBLIC HEARING**

### **Public Record**

All material that is part of the record for an application to the Zoning Board of Appeals must be available at normal business hours for public inspection. Any material and/or documentation, which are submitted during the public hearing process, become part of the official record. This is considered to be material information and exhibits pertinent to the proposal and must be open for public inspection and comment.

Other information, documents, and reports received by the Zoning Board of Appeals do not have to be read word for word into the official record of the hearing, but they must be noted for the record.

### **Public Request for Documents**

The general public has the right to request copies of any documents that have been submitted as part of the public record. The General Statutes permit office staff to charge a per page fee for this service pursuant to Section 1.1 of the Connecticut General Statutes. In some cases, particularly if the files are quite extensive, the individual may be asked to fill out a written request for the desired documentation. Prepayment for documents will be required if the total cost is ten dollars (\$10.00) or greater.

Zoning Board of Appeals staff has four (4) business days within which it must reply to the written request. Failure to respond to the written request within this four (4) day period is treated as a denial of the request. Persons have the right to appeal the denial of their request to the Freedom of Information Commission (FOI) in Hartford.

### **Taping and Stenographer**

The Connecticut General Statutes requires that all public hearings be taped. If an appeal is filed to the Board's decision, the only remedy is through Superior Court.

Sometimes testimony at public hearings can get muffled and very difficult to understand. This is usually due to background noise and clutter. (the Zoning Board of Appeals may wish to consider hiring a professional stenographer for those specific public hearings that may be highly controversial).

Decisions in these types of cases have a much higher likelihood of being appealed. Therefore, a clear public transcript is critically important.

In Thomaston, anyone who wishes to address the Board is required to identify themselves, state their name, and address for the record of the hearing. This aspect is quite helpful during the appeal process.

### **Time Frames**

Public hearings before the Zoning Board of Appeals shall commence within sixty-five (65) days after receipt of the application by the Board. The public hearing must be completed and closed within thirty-five (35) days after it starts. The Zoning Board of Appeals must render its final decision no later than sixty-five (65) days after the public hearing closes. This is governed by Connecticut General Statutes.

The Statutes also provide the applicant with an option to consent to one (1) or more extensions of any period specified above provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or the applicant may withdraw the application. The applicant must provide a written statement to the Zoning Board of Appeals granting the extension of time as specified in Connecticut General Statutes.

## **Decisions and Documentation**

As previously stated, all decisions made by the Zoning Board of Appeals must be made within sixty-five (65) days after the close of the public hearing. In Thomaston, the Board will close the hearing and deliberate on the pros and cons of the proposal. A decision may or may not be made on the night the public hearing is closed by the Board.

When reaching a decision, the Zoning Board of Appeals must document the reasons for the decision it makes. Court challenges are based upon the official record of the public hearing. The more complete and detailed the public record, the better chance the Board has of defending and upholding its decision.

There must be four (4) concurring votes in order to reverse any order or decision of the Zoning Enforcement Officer or to vary the application of the Thomaston Zoning Regulations.

## **Approval with Modifications**

Certificates of Variance or Use approved by the Zoning Board of Appeals may attach modifications, which it deems necessary to protect public health, safety, convenience, and property values. These modifications must be reflected in the Thomaston Zoning Regulations. The Board cannot compose or manufacture additional requirements not supported in the regulations.

## **Hardship**

A variance constitutes permission to act in a manner that is otherwise prohibited under the Zoning Regulations of the Town. Therefore, an applicant must show that because of some unusual characteristic of the property, the strict application of the Zoning Regulations produces an “exceptional difficulty or unusual hardship.”

A hardship is an unusual feature of a particular piece of property that prevents the landowner from making a reasonable use of the property in conformance with the existing zoning regulations. A hardship has nothing to do with the personal circumstances of the landowner. The fact that the landowner might be able to make a more profitable use of the land if it were not for the zoning regulations does not equate to hardship.

When the Zoning Board of Appeals grants a variance, it must by state statute act in harmony with the general purpose and intent of the regulations and must give due consideration to conserving the public health, safety, convenience, welfare, and property values. In granting a variance, the Zoning Boards of Appeal acts solely with respect to the parcel of land having unusual conditions not generally encountered within the zoning district that would make development in full accordance with the regulations extremely difficult. In legal terms, the condition must be such that a literal enforcement of the zoning regulations would result in exceptional difficulty or unusual hardship, so that in granting the variance, substantial justice will be done and the public welfare and safety secured. Financial considerations are rarely a valid reason for issuing a variance. Possible economic advantage to the landowner is not sufficient. In addition, the fact that the proposed use will not be detrimental, and may even be beneficial to the neighborhood is not sufficient. The hardship must arise from the application of the regulations to the land and not to the landowner and the land must be peculiarly disadvantaged by the regulation for which a variance is sought.

### **Publishing the Legal Notice**

In addition to publishing two (2) legal notices prior to any public hearing, the Zoning Board of Appeals is also required by law to publish legal notices for decisions on all applications. This notice must be published no later than fifteen (15) days after the decision was made. One of the most important things accomplished by publishing the legal notice of a decision is to start the time period for any appeals to the Board's decision. In other words, the clock starts ticking. If no appeal is filed with Superior Court within the fifteen (15) day time frame from the date of the publication of the decision of the Zoning Board of Appeals in the newspaper, the Board's decision stands.

### **Notification to the Applicant**

Connecticut General Statutes requires that applicants be formally notified by certified mail of the Zoning Board of Appeal's decision within the fifteen (15) day time period immediately following the decision.

### **Appeals to Superior Court**

The Connecticut General Statutes provide that any person or persons severally or jointly aggrieved by any decision of the Zoning Board of Appeals, or any person or persons owning land abutting or within a one hundred (100) foot radius of any portion of land involved in a decision of the Board, may within fifteen (15) days from the date when the notice of decision was published, file an appeal with Superior Court.

Procedures for such an appeal can be found in Section 8-8 of the General Statutes.

## **SPECIAL INTERESTS**

### **Conflict of Interest**

Any members of the Zoning Board of Appeals must disqualify themselves if a personal or financial interest is involved in any application before the Board. Also, members should not publicly state their position on any application that is before the Board. It is advisable not to prematurely discuss any project that may have the potential to be reviewed.

### **Participation**

If a regular member of the Zoning Board of Appeals has been absent from a meeting, they should not vote or actively participate in any discussions on any applications that were discussed at that particular meeting. However, if the member states that they have reviewed the record of the meeting and carefully listened to the tape of that particular meeting, they can vote on the application. This must be stated for the record prior to any vote.

If an alternate member was present for the meeting when the application was discussed and is in attendance prior to deliberations and the vote being taken, the Chairman or the member acting on behalf of the Chair, should seat the alternate with full voting privileges in place of the member who was absent or disqualified when the application was first discussed.

### **Review of Similar Application**

If the Zoning Board of Appeals denies an applicant's request for any type of variance, the Board does not have to accept or hear any proposed application for the same variance or substantially the same variance for a period of six (6) months after the Board's initial decision or by a declaratory ruling of Superior Court on an earlier application. However, it is prudent for the Board to accept and hear the application to insure that the application has not substantially changed since the last submittal.

### **Exception from the Regulations**

Thomaston does not have to comply with its own Zoning Regulations; however, in order to accomplish this, it must adopt an ordinance exempting itself from the Regulations in order to conform with the provision of the Connecticut General Statutes.

### **Pre-Application Review Process**

This is a process permitted by the Connecticut General Statutes, which provides an applicant with a professional and public safety overview of a project prior to its formal presentation to the Planning and Zoning Commission or the Zoning Board of Appeals. In this manner problems, inaccuracies, and other missing information can be discussed. This will enable the applicant to correct deficiencies prior to the formal meeting process. Land Use Officials throughout the State have found this procedure to be extremely beneficial for both the applicant and the staff.

## **CONCLUSIONS**

The Zoning Board of Appeals has a great deal of responsibility. The Board acts as a quasi-judicial body. Failure to comply with statutory procedures, guidelines, and time frames may result in a variance being granted even though it may not be in the best interest of the Town. A well informed Board is essential to ensure that Thomaston is protected from poor or haphazard development.

**ZONING BOARD OF APPEALS**  
**GUIDELINES AND PROCEDURES**  
**FOR APPLICANTS**

The following guidelines have been adopted by the Thomaston Zoning Board of Appeals in order to assist applicants in applying for a Certificate of Use, Certificate of Variance, a ruling and/or interpretation or any other decision that the Board may make pursuant to the powers authorized by the Connecticut General Statutes.

Applications requesting variances to the Zoning Regulations are often submitted to the Zoning Board of Appeals and many times the applicants do not quite understand exactly why a variance is required and what the granting of a variance means to the Town of Thomaston. A variance is required when an applicant is proposing something on their property that is not permitted by the Zoning Regulations. In effect, you are requesting that the rules be broken for you based upon your unique situation as it relates to your property.

1. All applicants should follow the guidelines in the order as listed below:

- Visit the Building and Land Use Office, Thomaston Town Hall, Third Level, 158 Main Street. An office appointment can be arranged by calling (860) 283-8411 Monday to Wednesday 8:00 am to 4:00 pm, Thursday 9:00 am to 6:30 pm, and Fridays 8:30 am to 12 noon.
- The Land Use Officer will explain the application process in detail, respond to any comments or questions regarding the application form, and inform you as to the documentation required to complete the process.
- The Land Use Officer will inform you as to the date and time of the next regularly scheduled meeting of the Zoning Board of Appeals and the deadline date for submitting the completed application. The Zoning Board of Appeals meets in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main St. the third Tuesday of each month, unless otherwise noted. All meeting dates, meeting minutes, and agendas are posted in the office of the Town Clerk and are available for review on the Town of Thomaston's website at [www.thomastonct.org](http://www.thomastonct.org)
- In order to post the proper legal notice, the application form and other documentation must be complete. Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next regularly scheduled meeting. This requirement ensures that the required legal notices can be properly prepared, worded, and published in the newspaper in a timely manner as required by the Connecticut General Statutes.

2. A checklist attached to the application must be completed and submitted as part of the application.

The following items must be submitted with your application:

- Cash or a check for the required fee made payable to the Town Of Thomaston.
  - A legal description of the property obtained from the Land Records in the Thomaston Town Clerk's Office, which includes the date of transaction and a complete copy of the deed. You can visit the Assessor's Office and look at your property card to obtain the volume and page number of your deed in the Land Records.

- A map/plot plan of the property detailing the location and design of all existing and proposed structures on the property. A plot plan is a bird's eye view of a property showing how a building is situated on a property. A plot plan typically shows setbacks of how far existing buildings or structures are located from the rear, side, and front yard property lines. The distances from these structures to property lines and the percentage of lot/ground coverage and floor area coverage shall be shown on the plot plan. A plot plan typically shows any easements, rights of way or drainage public or private that exist on a property. You may draw the plot plan yourself, but it must be clean, neatly done, and as accurate as possible. In certain instances, at the applicant's expense, the Board may require an A- 2 survey by a Land Surveyor licensed in the State of CT in order to reach a decision.
  - Architectural drawings of any proposed additions(s) showing the interior floor plan, dimensions, front, side, and rear views. The drawings must include doors, windows, and any other permanent structures. Existing ground elevations must also be shown.
  - A signed copy of the Notice to All Zoning Board of Appeal Applicants must be submitted with the Application for a variance.
  - The applicant may submit photographs with the application or at the Public Hearing. All submitted photographs become part of the record and will remain with the application file in the Building and Land Use Office.
3. Your application form and other documentation must be submitted to the Land Use Office for final review. This will help insure the completeness of the application. The Thomaston Land Use Officer will provide all necessary forms and applications. The Land Use Officer can be of assistance in reviewing your plans; however, the officer cannot be responsible for the design of your plans or indicate the possible outcome of the Zoning Board of Appeal's decision and/or any future appeal to the Superior Court.
  4. As soon as the completed application form and related documentation has been received, the process will begin. You will be notified as to the date, time, and place of the public hearing via first class mail. All affected property owners, including yourself, are usually notified within ten (10) to fourteen (14) days prior to the public hearing.
  5. Once the application is received, the required legal notice posted in the newspaper, and adjoining property owners are notified, **the applicant must attend the public hearing on the application.**
  6. **The applicant and or his agent must attend the public hearing and must be prepared to present the application to the Zoning Board of Appeals on the night of the public hearing.** The following is a typical meeting scenario that may occur at a regular meeting of the Thomaston Zoning Board of Appeals:
    - The Chairman or presiding Officer of the Zoning Board of Appeals calls the meeting to order.
    - The Chairman announces the application on the public hearing agenda and then requests the Secretary of the Zoning Board of Appeals to read aloud the legal notice that was published twice in the newspaper.

- The Board will then ask if anyone is in the room to present the Variance Application. **Please be aware that the Board has already received a copy of your application along with a staff memo reviewing the application. It is highly recommended that the applicant retain a copy of the submitted application and documents for their use when presenting the application to the Board.**
  - The applicant must either sit or stand at the meeting table and explain to the Board exactly what type of variance is being requested e.g. a front, rear, or side yard property setback that is different than what is permitted by the Zoning Regulations of the Town of Thomaston.
  - The applicant and or his agent must be prepared to explain to the Board what hardship or unusual characteristics of their property warrant a variance from the Zoning Regulations, e.g. the unusual or unique characteristics of your property as compared to other properties in the same zoning district that makes it difficult for you to use your particular property in compliance with the Zoning Regulations of the Town of Thomaston.
  - Financial difficulties or gains, health problems or any self-created hardships do not justify the receipt of a variance from the Zoning Board of Appeals.
  - The Board will ask the applicant and or his agent questions as to what other options permitted by the Zoning Regulations were explored by the applicant before an application for a variance was submitted to the Zoning Board of Appeals.
7. The Board must consider the following facts when reviewing a request for a variance. The Board is not being adversarial when it asks questions of the applicant or listens to public comment on an application. The Board has a responsibility pursuant to the Connecticut General Statutes to consider the following:
- Does the applicant have reasonable use of their property without the variance?
  - Are there extraordinary or unique physical conditions e.g. slope or wetlands peculiar and unique to the property in question that amount to more than an inconvenience to the property owner and have these unique characteristics arisen from the property itself rather than a situation that is personal to the current property owner e.g. a growing family requires an addition to the existing home on a small lot and the addition will be located less than the permitted setback from the property lines as prescribed by the Zoning Regulations of the Town of Thomaston?
  - Would the strict application of the Zoning Regulations deprive the applicant of substantially the same rights enjoyed by owners of other lots in the zoning district subject to the same zoning regulation?
  - Will the granting of the variance be in harmony with the Plan of Conservation and Development of the Town of Thomaston?
  - Will the granting of the variance be in character with the surrounding neighborhood?

8. After the Board has heard from the applicant and the public and asked questions, the Board has the following options:
  - The Board can close the hearing and render a decision that night.
  - The Board can continue the hearing for thirty-five (35) days in order to permit the applicant to provide more information for the next public hearing. Once the public hearing is closed, no new information can be submitted by the applicant or received by the Board from any parties.
  - The Board can close the hearing and table action on the application because the Board has sixty-five (65) days from the date of the close of the public hearing to render a decision on the application.
  - The Board may continue the public hearing and schedule a site walk to visit the property, which is the subject of the variance application. A site walk is not a meeting at which testimony will be taken by the Board members, rather it is an opportunity for the Board members to see the property themselves prior to rendering a decision on an pending application.
9. If the Board makes a decision on the application, staff will send a letter of the Board's decision to the applicant and publish a legal notice in the newspaper within fifteen (15) days from the date of the decision of the Board.

**The above "Guidelines and Procedures for Applicants" was adopted at a regular meeting of the Thomaston Zoning Board of Appeals on January 13, 2009.**

---

Peter Fuller, Chairman  
Thomaston Zoning Board of Appeals

---

Edward Eaton, Secretary  
Thomaston Zoning Board of Appeals

**ZONING BOARD OF APPEALS GUIDELINES AND PROCEDURES**  
**FOR APPLICANTS WHO APPEAL A DECISION**  
**OF THE ZONING ENFORCEMENT OFFICER**

The following guidelines have been adopted by the Thomaston Zoning Board of Appeals in order to assist applicants in submitting an application to appeal the decision of the Zoning Enforcement Officer pursuant to the powers authorized by the Connecticut General Statutes.

Applications requesting to overturn the decision of the Zoning Enforcement Officer must explain in detail and provide reasons for the appeal of the ZEO's decision. All appeals of the ZEO's decision must be made within thirty (30) days of the receipt of the notice of violation, decision or order.

All applicants should follow the guidelines in the order as listed below:

- Visit the Building and Land Use Office, Thomaston Town Hall, Third Level, 158 Main Street. An office appointment can be arranged by calling (860) 283-8411 Monday to Wednesday 8:00 am to 4:00 pm, Thursday 9:00 am to 6:30 pm, and Friday 8:30 am to 12noon.
  - The Land Use Officer will explain the application process in detail, respond to any comments or questions regarding the application form, and inform you as to the documentation required to complete the process.
  - The Land Use Officer will inform you as to the date and time of the next regularly scheduled meeting of the Zoning Board of Appeals and the deadline date for submitting the completed application. The Zoning Board of Appeals meets in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main St., the second Tuesday of each month, unless otherwise noted. All meeting dates, meeting minutes, and agendas are posted in the Office of the Town Clerk and are available for review on the Town of Thomaston website [www.thomastonct.org](http://www.thomastonct.org)
4. In order to post the proper legal notice, the application form and other documentation must be complete. Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next regularly scheduled meeting. This requirement ensures that the required legal notices can be properly prepared, worded, and published in the newspaper in a timely manner as required by the Connecticut General Statutes.
5. A checklist attached to the application must be completed and submitted as part of the application.

The following items must be submitted with your application:

- Cash or a check for the required fee made payable to the Town Of Thomaston.
- Reasons, information, and documentation explaining the reason for the appeal of the ZEO's decision.
- Written confirmation that the ZEO has been notified of the appeal.
- The names and addresses of all abutting property owners and of those located directly across the street from the property in question. These names and addresses must appear on a separate sheet of paper and on addressed stamped envelopes with the return address left blank. All envelopes must be returned with the application to the Building and Land Use Office. The applicant and or owner must always include a stamped envelope addressed to themselves.

- A signed copy of the Notice to All Zoning Board of Appeal Applicants who are appealing a decision of the ZEO must be submitted with the application.
  - The applicant may submit photographs with the application or at the Public Hearing. All submitted photographs become part of the record and will remain with the application file in the Building and Land Use Office.
6. Your application form and other documentation must be submitted to the Land Use Office. The Thomaston Land Use Officer will provide all necessary forms and applications.
  7. As soon as the completed application form and related documentation has been received, the process will begin. You will be notified as to the date, time, and place of the public hearing via first class mail. All affected property owners, including yourself, are usually notified within ten (10) to fourteen (14) days prior to the public hearing.
  8. Once the application is received, the required legal notice posted in the newspaper, and adjoining property owners are notified, **the applicant must attend the public hearing on the application.**
  9. **The applicant and or his agent must attend the public hearing and must be prepared to present the application to the Zoning Board of Appeals on the night of the public hearing.** The following is a typical meeting scenario that may occur at a regular meeting of the Thomaston Zoning Board of Appeals:
    - The Chairman or presiding Officer of the Zoning Board of Appeals calls the meeting to order.
    - The Chairman announces the application on the public hearing agenda and then requests the Secretary of the Zoning Board of Appeals to read aloud the legal notice that was published twice in the newspaper.
    - The Board will then ask if anyone is in the room to present the Appeal Application. **Please be aware that the Board has already received a copy of your application along with a staff memo reviewing the application. It is highly recommended that the applicant retain a copy of the submitted application and documents for their use when presenting the application to the Board.**
    - The applicant must either sit or stand at the meeting table and explain to the Board exactly why the ZEO was in error in making his or her decision as the decision relates to the Zoning Regulations of the Town of Thomaston.
    - The ZEO then provides evidence and documentation as to how his or her decision was made as it relates to the Zoning Regulations.
  10. The Board must consider the following facts when reviewing a request to overturn the decision of the ZEO:
    - Did the Zoning Enforcement Officer make an error in the issuance of an official order or decision as the decision relates to the Zoning Regulations of the Town of Thomaston?
    - The Board is not being adversarial when it asks questions of the applicant or listens to public comment on an application. The Board has a responsibility pursuant to the Connecticut General Statutes to hear all people.

- Would the strict application of the Zoning Regulations deprive the applicant of substantially the same rights enjoyed by owners of other lots in the zoning district subject to the same zoning regulation?
11. After the Board has heard from the applicant, the public, and asked questions, the Board has the following options:
- The Board can close the hearing and render a decision that night.
  - The Board can continue the hearing for thirty-five (35) days in order to permit the applicant or ZEO to provide more information for the next public hearing. Once the public hearing is closed, no new information can be submitted by the applicant or received by the Board from any parties.
  - The Board can close the hearing and table action on the application because the Board has sixty-five (65) days from the date of the close of the public hearing to render a decision on the application.
  - The Board may continue the public hearing and schedule a site walk to visit the property, which is the subject of the variance application. A site walk is not a meeting at which testimony will be taken by the Board members rather it is an opportunity for the Board members to see the property themselves prior to rendering a decision on a pending application.
12. If the Board makes a decision on the application, staff will send a letter of the Board's decision to the applicant and publish a legal notice in the newspaper within fifteen (15) days from the date of the decision of the Board.

**The above "Guidelines and Procedures for Applicants" was adopted at a regular meeting of the Thomaston Zoning Board of Appeals on January 13, 2009.**

---

Peter Fuller, Chairman  
Thomaston Zoning Board of Appeals

---

Edward Eaton, Secretary  
Thomaston Zoning Board of Appeals

## **GLOSSARY OF PLANNING AND ZONING TERMINOLOGY**

### **Abandonment:**

The intentional cessation and relinquishment of a nonconforming use by the person who has been conducting the use. A person who has ceased conducting a nonconforming use temporarily, but who intends to start conducting it again at a later time, has not abandoned the use in the eyes of the law. Once a nonconforming use has been truly abandoned, the municipality can apply the current zoning regulations to the parcel of land on which the use was formerly conducted.

### **Accessory Use or Accessory Building:**

The use of a building or structure incidental to and clearly subordinate to the primary or principal use of the building or structure. The primary or incidental use can be in a different structure on the same property.

### **Adjudicate:**

To settle through the exercise of judicial authority.

### **Appellant:**

The party who files an appeal

### **Buffer Areas:**

A parcel or a strip of land whose purpose is to separate incompatible adjacent land uses, such as residential dwelling, from commercial or manufacturing enterprises.

The buffer area may be composed of natural and organic materials, such as screened plantings, earthen mounds, or berms. They may also be constructed with walls or fences. In many cases, especially if the area is heavily wooded, it is left untouched in its natural condition.

The buffer's function is to insulate adjoining properties and their uses from noise, traffic, visual, and/or aesthetic intrusions.

### **Building Official:**

The official at the municipal level charged with enforcing the building codes.

### **Building Permit:**

A certified permit issued and signed by the Building Inspector giving the applicant permission to construct, alter, or structurally modify a specific building and/or structure or any part thereof.

### **Bulk Regulations:**

Bulk regulations consist of various measurable requirements, which set forth a maximum size, height, and shape for each structure or building and its location on any particular piece of property. The purpose of these regulations is to assure a sufficient amount of air, light, and open space at ground level and at all other levels of a structure or building. Another function is to maintain a compatible and aesthetically pleasing appearance.

Components of bulk regulations include such items as size and height of the structures or buildings, total ground coverage of the structures or buildings, gross floor area in relation to the lot area (floor area ratio), open space or yard requirements, and the amount of lot area provided per dwelling unit.

**Certificate of Occupancy:**

This is a certificate issued by the Thomaston Building Official which states that a structure and/or building conforms to all provisions of the Building Code and that it may be occupied and used for the use of which it was intended. Certificates are granted for new construction, alterations, and additions to existing buildings or structures.

Unless a Certificate of Occupancy is issued by the Building Official, the building or structure cannot lawfully be occupied.

**Cluster or Open Space Development:**

This is a type of development utilized by residential, manufacturing, commercial, institutional, or a combination of such in which they are “grouped” or “clustered together” through a density transfer, rather than spread evenly throughout a piece of property as is usually noted in conventional lot-by-lot developments.

The Thomaston Zoning Regulations authorize such developments by permitting smaller lot sizes as long as a specified portion of property is declared to be permanent open space either through the creation of a homeowners association or by public dedication, or various other means approved by the Planning and Zoning Commission.

**Comprehensive Plan:**

Generally consists of the Zoning Map and accompanying regulations, which the entire municipality is divided into districts or zones reflecting its present and future physical development.

**Condominium:**

This is classified as an apartment house or town house in which each residential dwelling unit is individually owned. Each owner receives a deed enabling them to sell, mortgage, or exchange the dwelling unit independent of the other owners in the same building or structure.

**Connecticut General Statutes (C.G.S.):**

A compilation or code of public laws of general application enacted by the Connecticut Legislature. It is organized by subject matter. The C.G.S. does not include special acts that are of special applicability to particular municipalities. Many municipalities operate under charters granted by special acts of the legislature.

**Conveyance:**

A transfer of interest in land.

**Cooperative:**

An ownership arrangement in which a person has a shared interest in a residential building complex. Under this type of arrangement, both the individual dwelling unit and other common elements are owned in total by the cooperative and are covered by one mortgage. As is with condominiums, cooperative ownership can take a variety of building forms.

**Covenant:**

This is a legal arrangement written into deeds and other instruments promising performance of certain acts or stipulating certain uses or non-uses of property.

There may be certain legal requirements for the formal establishment of a covenant such as a written document, a mutual interest in the subject property, or a concern with the use of land rather than with the individual characteristics of ownership

**Coverage:**

This is the total percentage of the building lot covered by buildings or other structures on the property. Decks, swimming pools, and storage sheds are calculated.

The percentage is derived by dividing the total square footage of the property into the square footage of the footprint (foundation) of all structures and other buildings on the subject property.

**Cul-de-Sac:**

A no outlet or a dead end street containing a circular turn-around at the end.

**Curb Cut:**

The part of the driveway, which intersects with the municipal roadway system and provides direct access from the property. The curb cut is usually flared out a bit.

Driveway permits are administrated by the Building and Land Use Office. The Highway Superintendent reviews and issues the permit to construct the driveway.

**Density:**

Density is the average number of families, persons, or housing units per specified unit or amount of land. The term density is usually expressed “per acre”. The density of development of one hundred (100) units on ten (10) acres of property is ten (10) units per acre. Density control is one of the basic zoning purposes.

**Development Rights:**

The right of a landowner to develop their land to its highest and best use pursuant to the provisions of the Zoning Regulations. An owner can retain title to their land and sell the development rights to another person, agency, or group of individuals. They become the only ones who may then develop the land.

The selling of development rights is done quite often to ensure that the land remains in its present state. If the rights are transferred to a conservation group or to a land trust organization, the property is assured of maintaining its status quo while remaining in private ownership.

### **Due Process of Law:**

The procedures that the governments must follow in order to assure fair treatment of citizens in any matter which their rights or duties may be affected. Due process usually includes the right to a hearing on such matter.

### **Easement:**

A right of use over the property of another. Most easements are granted by the owner of a parcel of property to a second party. This is usually for a specific, limited, and conditional use of a portion of the owner's property. A property owner may grant or sell an easement to permit utility lines, such as sewer, water, or electric to cross their land and service a different property. Many easements are strictly for access to another parcel of property.

Open Space easements is a type of easement used by a municipality or Land Trust. Under this procedure, a property owner sells their development rights to a land trust, conservation group or to the government. The owner thereby retains the land open for conservation, recreation or scenic purposes. Government or land trusts often purchase these conservation easements when the purchase of the entire interest in the property is too expensive or unnecessary.

### **Eminent Domain:**

This is the legal right of government to "acquire" or "take" private property for public purposes upon paying "just compensation" to the property owner.

This process was originally used only when property was to be kept in public ownership for such projects as highways, public buildings or parks. In recent years, property has been condemned under the eminent domain process for private use in the public interest such as urban renewal projects and industrial parks.

### **Enforcement Officer:**

This is the municipal official charged with enforcing the regulations for the Inland Wetlands and Watercourses Commission and the Planning and Zoning Commission.

### **Estoppel:**

A doctrine under which a person's own acts or acceptance of a circumstance may prevent him from alleging or claiming injury.

### **Executive Session:**

A Commission meeting from which the public may lawfully be excluded. A meeting, which the public may attend, but at which they may not speak, is not an executive session.

### **Floating Zones:**

This is a zoning district whose requirements are fully documented and described within the context of the Zoning Regulations. As the name implies, the zone is not included on the Zoning Map, but rather, it is anchored to the land in response to an applicant's proposal.

Once an application for a floating zone is approved by the Planning and Zoning Commission, the applicant has a specific period of time, usually five (5) years, to complete all work on the project. If the project is not completed within the five (5) year period, the floating zone is withdrawn and the land reverts back to its original underlying zone.

This technique has commonly been utilized for large developments such as shopping centers, planned unit developments, and industrial parks.

### **Flood Insurance Rate Maps (FIRM):**

These are the official maps used by FEMA (Federal Emergency Management Agency) to determine flood boundaries, elevations, and residential, commercial, and manufacturing insurance risk areas.

### **Frontage:**

In zoning terminology, this term refers to the linear measurement of property, which abuts the street in which the building faces. In the case of an interior lot, the frontage line is the property line, which is closest to and more parallels the street line.

### **Grade:**

This is referred to as slope, usually measured in degrees with horizontal length over vertical height, of a road or portion of property.

### **Hardship:**

Connecticut case law has stated that neither self-inflicted hardships nor financial hardships alone are sufficient reasons for the Zoning Board of Appeals to grant a variance to the regulations. In order to justify the grant of a variance, the hardship must be sufficiently different from what is normally imposed on property in general by the Zoning Regulations.

It is not enough that a property owner has the potential to obtain a better income from their property if a variance is granted. A hardship resulting from a peculiar topographical condition or a specific location, which makes the property unsuitable for the use permitted in the zone in which it lies, will normally constitute the type of hardship contemplated in the Connecticut General Statutes.

A hardship must be one, which is unnecessary for the property owner to bear in order to serve the general purpose for which the regulations were adopted. Furthermore, if a variance is granted by the Board it must be in harmony with the general purpose and spirit of the Zoning Regulations.

If the variance runs counter to the fundamental principles of zoning, then the hardship resulting from the strict application of the Zoning Regulations must be borne by the property owner. It is then a necessary hardship.

### **Intervention:**

A legal act by which a person becomes a formal party to an administrative or judicial proceeding.

**Land Use:**

This refers to the existing use (residential, commercial, industrial, manufacturing, open space, forested, etc.) of any piece of property or land.

**Land Use Plan:**

This plan is a comprehensive document, which details the proposed use of land. It is usually presented in map form and indicates the areas in which it would be most desirable to have residential, commercial, manufacturing, or other types of usage to occur.

The land use plan is supported by documentation and written text explaining the reasons for each development policy behind the plan and the principals upon which the plan is based.

**Lot or Zoning Lot:**

This is a basic development unit (an area with fixed boundaries) not divided by any public highway or passageway. Easements may be present on the lot.

A “zoning lot” must meet all of the requirements of the zone in which it is located. The lot must have frontage on or have direct access to a public street or an approved public street.

**Metes and Bounds:**

This is a system of describing and identifying a particular tract of land by distance (mete) and directions (bounds) from an identifiable point of reference such as a monument or a section of land.

**Non-Conforming Structure:**

This refers to a building or structure, or any portion thereof, which was lawfully existing at the time Zoning Regulations were adopted and became effective, but which does not comply with all the area and height requirements of the district in which it is located.

**Non-Conforming Use:**

A specific use of land or property, which is not in conformance with the requirements in the Zoning Regulations. Such uses usually predate the adoption of the regulations and are permitted as long as they remain in that same use and there is not a significant increase in the intensity of that use.

**Open Space:**

Open space generally provides land for agricultural, conservation, or recreation needs. Open space property can be held in trust or for use by a variety of individuals or groups, such as land trust or conservation groups, fish and game clubs, agricultural or farming organization, governments, religious groups, and private individuals.

### **Overlay District or Zone:**

This is a set of zoning requirements that is described in the Zoning Regulations. The area is mapped and is imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two (2).

This type of district is commonly used to deal with special physical characteristics such as flood plains and/or flood prone areas, scenic vistas, aquifer protection areas, or steeply sloping areas.

### **Performance Zoning:**

This refers to the establishment of specific standards in the Zoning Regulations, which create measurements to control certain uses, permitted or not. It is a more precise and accurate technique to define compatibility, and at the same time, is intended to define the limits of the developer's options.

The performance standard approach is based on the technical ability to quantify activity standards that is how much noise, heat, smoke, etc. is allowable before it can become a nuisance to others or an environmentally sensitive issue.

### **Permitted Uses:**

This is a use by right, which is only authorized in a specific zoning district. It is contrasted with the "Special Permit" which is authorized only if certain requirements are met and after a review by the Planning and Zoning Commission.

### **Plan of Conservation and Development:**

An Advisory plan prepared by a planning commission showing the most desirable use of land within a municipality for residential, recreational, commercial, industrial, open space and other uses. It may be and usually is different from the comprehensive plan of the zoning commission. prior to 1995, the document was known simply as the "Plan of Development".

A comprehensive plan for the physical, social, economic, and environmental development and growth of the community. Its main components are a land use plan, transportation and vehicular circulation plan, and a community facility plan.

These three (3) components are embodied in a comprehensive report called the "Plan of Conservation and Development". This plan presents a very detailed view of the community. It develops goals and objectives and makes recommendations for the orderly growth of the community based upon collected and analyzed information.

### **Planned Unit Development (PUD):**

A form of development usually characterized by a unified site design for a number of residential housing units. Buildings are clustered in order to provide additional open space areas. A mixture of building types and land uses is permitted and the density of development may be increased depending upon how the Zoning Regulations are written.

Planned Unit Development regulations permit the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.

While the Planned Unit Development concept has commonly been used for housing developments, it is frequently applied to other forms of development such as shopping centers, industrial and office parks, and mixed-use developments, which may be any combination depending upon the Zoning Regulations.

**Planning Commission (“The Commission”):**

The municipal agency in Thomaston is empowered by the Connecticut General Statutes to prepare and update the Plan of Conservation and Development every ten (10) years and review every five (5) years. The Subdivision Regulations are reviewed and updated as determined by the Commission. The Commission is also responsible for evaluating proposed subdivision and/or re-subdivision plans. In Thomaston, the Planning Commission and the Zoning Commission are combined into a one eight (8) member board.

**Plat:**

This is a detailed map, sometimes referred to as a “plot plan”, which shows the location, boundaries, and legal ownership of each parcel of property. The submission and approval of the plat is a prerequisite to actual approval and construction. The word plat actually means to subdivide.

In Thomaston, the applicant must obtain the necessary approvals without necessarily intending to improve or build upon the land. Property is frequently platted as a speculative venture.

**Plaintiff:**

A person who sues or brings a complaint to court.

**Police Power:**

This is the authority of municipal government to exercise controls to protect public health, safety, morals, and general welfare of the community. No compensation needs to be paid for the imposition of police power controls.

This is different from the power of eminent domain in which government has the statutory authority to take personal property for public benefit.

**Right-of-Way:**

A right-of-way is simply an access way or driveway to, more often than not, an interior parcel of property. Right-of-ways are normally used when there is not direct access on or frontage on a public roadway.

(Subdivision approval requires that all building lots have a right-of-way or some other approved and safe access to a public street. Land Locked property is not a recommended planning practice. In those cases where a person has no access to a public road, a neighbor may grant a private right-of-way across their property so that a land locked parcel has access to a public road. This may only be accomplished if the neighbor’s property meets the requirements of the Zoning Regulations and by granting said easement both properties are in compliance with the Zoning Regulations.)

**Setback:**

This refers to a required minimum distance, measured in feet, from a property line to any structure and/or building constructed on the property. Each zoning district and some types of uses have different setbacks.

### **Site Plan Application:**

This is the process whereby local officials, usually the Planning and Zoning Commission and the Land Use Officer, review the site plan and related maps of an applicant to assure that they meet the standards, conditions, and purpose of the zone in which they are proposed.

The plan must provide for necessary public facilities, such as roads and schools. The plan must also protect and preserve, where possible, valuable topographic features and adjacent properties through appropriate siting of proposed buildings, structures, and landscaping. Site plans are also required for all special permit applications.

### **Special Permit Application:**

A special form of zoning permit that may be granted by the Planning and Zoning Commission if certain additional standards or safeguards specified in the regulations are met by the applicant.

### **Spot Zoning:**

This term is used to define a process in zoning in which an applicant requests a zone change for a relatively small area. In nearly every case, the surrounding properties are of a different zone. Spot zoning has been invalidated by the court system in Connecticut.

### **Subdivision (Re-Subdivision):**

The formal process of the division of a parcel of land into three (3) or more parts or lots for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes. This also includes re-subdivision.

### **Re-subdivision:**

A change in a map of an approved or recorded subdivision or re-subdivision. If the change affects any street layouts or any area reserved for public use, diminishes the size of any lot or creates an additional building lot, or if any lots shown on the map were conveyed after the map was approved or recorded.

### **Subdivision Regulations:**

These regulations are authorized by the Connecticut General Statutes. They govern the conversion of land into residential building lots and for other purposes. The regulations establish requirements for street construction, utilities, site design, plan review, and procedures for dedicating land for open space or other public purposes to the local government, or for fees in lieu of open space.

### **Substandard Lot:**

A parcel of property whose area, frontage, or depth does not meet the minimum zoning dimensional requirements of the district in which the property is located.

### **Variance:**

An exception granted by the Zoning Board of Appeals from the terms of the Zoning Regulations where because of special conditions, a literal enforcement of the zoning regulations would result in exceptional difficulty or unusual hardship. A variance must still be in harmony with the general intent of the comprehensive plan and not contrary to public welfare

This process acts as a modification to the Zoning Regulations. It is authorized pursuant to the Connecticut General Statutes. The granting of a variance is administered by the Zoning Board of Appeals.

They must make a finding that the literal application of the zoning regulations would cause undue and unnecessary hardship in view of the specific facts and conditions applying to the subject property. If a variance is granted, hardship and difficulty must be demonstrated by the applicant. Hardship refers to the property and not to financial matters.

### **Wetlands:**

The wetlands classifications is applied to any property which consists of soil types designated by the National Cooperative Soil Survey of the Soil Conservation Service as alluvial, floodplain, poorly drained, or very poorly drained. Sections 22a-37 through 22a-45 of the General Statutes regulates wetlands and watercourses in the State. The Inland Wetlands and Watercourses Commission regulate all wetlands and watercourses in Thomaston.

### **Zero Lot Line:**

A development approach in which a building is situated on one (1) or more lot lines with no yard. The intent of having no side yard is to allow more flexibility in site design and to increase the amount of usable open space on the lot between buildings. Zero lot line is most applicable to urban areas with high densities and small lots.

### **Zoning:**

This is an enabling power given to municipalities by the Connecticut General Statutes. Under zoning, a community is divided into districts or zones within which permitted or special uses are established. Zoning Regulations govern lot size, building height, ground coverage, and other development standards. Requirements and standards for the same type use may vary from district to district, but must be uniform within any district.

### **Zoning Board of Appeals:**

An appointed eight (8) member Board empowered by the General Statutes to grant variances from the literal interpretation of the regulations in cases of demonstrated unnecessary hardship or practical difficulty and to interpret decisions of the Zoning Enforcement Officer.

### **Zoning Commission:**

The public agency in a community empowered by the General Statutes to create, adopt, and amend, when necessary, the Zoning Regulations. This Commission is also responsible for reviewing certain types of applications, such site plans and special permits.

Thomaston has combined the functions of the Planning Commission with the Zoning Commission and operates with an appointed eight (8) member Commission.

**Zoning District or Zone:**

An area or areas within the municipality in which the use of land and the requirements of the Zoning Regulations for lot and bulk standards for buildings, structures, and other amenities are uniform.

**Zoning Map:**

The graphic depiction of the zones or districts within the community. The map will also include an indication of the boundaries of each zone as well as a coded legend key for locating and identifying each zone.

**Zoning Regulations:**

This is the text, researched and adopted by the Planning and Zoning Commission, which defines the use, location, and conditions of zoning within the community. It is a written document setting forth all of the standards, procedures, and requirements.

# APPENDIX A

## SELECTED STATE STATUTES

**Section 8-2g. Special exemption from density limits for construction of affordable housing.** (a) Notwithstanding the provisions of any special act, any zoning commission existing pursuant to this chapter and any municipal agency exercising the powers of a zoning commission pursuant to any special act may provide by regulation for a special exemption from density limits established for any zoning district, or special exception use, in which multi-family dwellings are permitted, in accordance with the requirements contained in subsection (b) of this section. Such special exemption shall allow the construction of a designated number of such permitted multi-family dwelling units in excess of applicable density limits, in accordance with a contract entered into between a developer applying for the special exemption and the municipality. Any such contract shall provide: (1) For each dwelling unit constructed by the developer in excess of the number of such units permitted by applicable density limits, the developer shall construct in the municipality a unit of affordable housing, as defined in Section 8-39a, which is of comparable size and workmanship; (2) for a period which shall not be less than thirty (30) years from the date of completion of any units of affordable housing constructed pursuant to subdivision (1) of this subsection, such units of affordable housing shall be offered for sale or rent only to persons and families having such income as the agency created or designated under subsection (b) of this section may establish but which shall not exceed the area median income of the municipality as determined by the United States Department of Housing and Urban Development; (3) the sale price or rent for any such unit of affordable housing shall not exceed an amount which shall be specified in such contract, provided such contract shall contain provisions concerning reasonable periodic increase of the specified sale price or rent; (4) such units of affordable housing shall be conveyed by deeds containing covenants incorporating the terms and conditions contained in such contract between the developer and the municipality, which covenants shall run with the land and be enforceable by the municipality until released by the municipality; and (5) the requirements of subdivision (1) to (4), inclusive, of this subsection shall apply to (A) the resale, (B) the purchase and subsequent leasing and (C) the conversion to the common interest form of ownership and subsequent sale of any such unit of affordable housing during and for the remaining term of such period.

(b) Upon the adoption of any regulation under subsection (a) of this section, the zoning commission or municipal agency exercising the powers of a zoning commission shall notify the legislative body of the municipality of such adoption and request that the municipality establish or designate an agency to implement a program designed to establish income criteria in accordance with said subsection (a) and oversee the sale or rental of any units of affordable housing constructed pursuant to said subsection (a) to persons and families satisfying such income criteria. Any municipality may, by ordinance, establish or designate a municipal agency to implement such program. If the legislative body does not enact such ordinance within one hundred twenty (120) days following the date of such request, the zoning commission or municipal agency exercising the powers of a zoning commission may notify the housing authority to transact business in accordance with the provision of Section 8-40, the municipal agency with responsibility for housing matters that it has adopted such regulation. Upon receiving such notice, the housing authority or municipal agency with responsibility for housing matters shall implement such program. Any such program shall provide for a method of selecting persons satisfying such income criteria to purchase or rent such units of affordable housing from among a pool of applicants which method shall not discriminate on the basis of age, gender, race, creed, color, national origin, ancestry, marital status, mental retardation, physical disability, including, but not limited to blindness or deafness, place of residency, number of children or veterans status.

(c) Nothing in this section shall be construed to limit any powers lawfully exercised by any municipality, any zoning commission existing pursuant to this chapter, or any municipal agency exercising the powers of a zoning commission pursuant to any special act. Nothing in this section shall be construed to invalidate any ordinance of a municipality or any regulation of a zoning commission existing pursuant to this chapter or any municipal agency exercising the powers of a zoning commission pursuant to and special act, which ordinance or regulation was adopted before June 6, 1988. Nothing in this section shall be construed to prohibit any such municipality, zoning commission, or municipal agency from changing the requirements contain in any ordinance or zoning regulation or to require any such municipality, zoning commission, or municipal agency to change the requirements contained in any ordinance or zoning regulation.

(P.A. 88-338, S. 1,5.)

**Section 8-5. Zoning Board of Appeals. Alternate members.** (a) In each municipality having a zoning commission there shall be a zoning board of appeals consisting of five (5) regular members and three (3) alternate members, unless otherwise provided by special act. Such alternate members, also referred to as “the panel of alternates,” shall, when seated as herein provided, have all the powers and duties set forth in the general statutes relating to zoning boards of appeals and their members. The regular members and alternate members of such zoning board of appeals shall be electors and shall not be members of the zoning commission, any provision of any special act to the contrary notwithstanding. In towns such board and such panel of alternates shall, unless otherwise provided by special act, be elected or appointed in such manner and for such terms as it determined for each by ordinance adopted by the town. Except as provided in subsection (b) of this section, in cities and boroughs, unless otherwise provided by special act, such board shall be appointed by the chief executive officer, one of the original regular members to serve for one year, one for two years, one for three (3) years, one for four years, and one (1) for five (5) years, and one of the original alternate members to serve for three years, one for four years, and one (1) for five (5) years, and thereafter each new regular member and alternate member shall be appointed for a term of five (5) years, and may be removed for cause by the same authority. Before removal, charges shall be presented to such member in writing, and he shall be given reasonable opportunity to be heard in his own defense. Any vacancy in such board, including any vacancy in the panel of alternates, unless otherwise provided by ordinance or special act, shall be filled for the unexpired portion of the term, by the board of selectmen of towns or the chief executive officer of cities and boroughs. Such board, by vote of its regular members only, shall elect a chairman from among its members, unless otherwise provided by special act, and all meetings of such board shall be held at the call of the chairman and at such other times as the board determines and shall be open to the public. Such chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. The board shall keep minutes of its proceedings showing the vote of each member and each alternate member when seated upon each question or, if absent or failing to vote, indicating such fact; and shall also keep records of its examinations and other official actions. Each rule or regulation and each amendment or repeal thereof and each order, requirement or decision of the board shall immediately be filed in the office of the board and shall be a public record.

(b) The Zoning Board of Appeals of any town shall have jurisdiction over that part of the town outside of any city or borough contained therein except that the legislative body of any city or borough may, by ordinance, designate the zoning board of appeals of the town in which such city or borough is situated as the zoning board of appeals of such city or borough.

(1949 Rev., S. 841; 1951, S. 158b; 1953, S. 376d; 1959, P.A. 146, S. 1; 1961, P.A. 271; 1963, P.A. 763, S. 4; P.A. 75-629, S. 2.)

**Section 8-5a.** Designation of alternate members to act. If a regular member of a zoning board of appeals is absent, he may designate an alternate from the panel of alternates to act in his place. If he fails to make such designation or if he is disqualified, the chairman of the board shall designate an alternate from such panel, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(1959, P.A. 146, S.2; P.A. 763, S. 5.)

**Section 8-5b.** Ordinance may provide for appointment of alternate members. Any town, city or borough, in addition to such powers as it has under the provisions of the general statutes or any special act, shall have the power to provide by ordinance for the appointment of three alternate members to its zoning board of appeals as is set forth in Section 8-5.

**Section 8-6.** Powers and duties of board of appeals. The Zoning Board of Appeals shall have the following powers and duties: (1) to hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this chapter or any bylaw, ordinance or regulation adopted under the provisions of this chapter; (2) to hear and decide all matters including special exceptions and special exemptions under Section 8-2g upon which it is required to pass by the specific terms of the zoning bylaws, ordinance or regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to condition especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such bylaws, ordinance or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. No such board shall be required to hear any application for the same variance or substantially the same variance for a period of six (6) months after a decision by the board or by a court on an earlier such application.

(1949 Rev., S. 842; P.A. 77-509, S. 5; P. A. 88-338, S. 4, 5.)

**Section 8-6a.** Appeal to be heard before variance when both joined. Whenever an application to a zoning board of appeals for the grant of a variance is joined with an appeal from any order, requirement or decision made by the official charged with the enforcement of this chapter, or any bylaw, ordinance or regulation adopted under the provision of this chapter, the board shall first decide the issues, presented by such appeal.

(P.A. 75-86, S. 1.)

**Section 8-7.** Appeals to board. Hearings. Effective date of exceptions or variances; filing requirements.

The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant may matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation. An appeal may be taken to the zoning board of appeals by any person aggrieved or by any officer department, board of bureau of any municipality aggrieved and shall be taken within such time as it prescribed by a rule adopted by said board, or, if no such rule is adopted by the board, within thirty days, by filing with the zoning commission or the officer from who the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. The officer from whom the appeal has been taken shall forthwith transmit to said board all the papers constituting the record upon

which the action appealed from was taken. An appeal shall not stay any such order, requirement or decision which prohibits further construction or expansion of a use in violation of such zoning regulations except to such extent that the board grants a stay thereof. An appeal from any other order, requirement or decision shall stay all proceedings in the action appealed from unless the zoning commission or the officer from who the appeal has been taken certifies to the zoning board of appeals after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed, except by a restraining order which may be granted by a court of record on application, on notice to the zoning commission or the officer from whom the appeal has been taken and on due cause shown. Such board shall, within the period of time permitted under Section 8-7d, hear such appeal and give due notice thereof to the parties. Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in such municipality at least twice at intervals of not less than two days, the first not more than fifteen (15) days, nor less than ten days, and the last not less than two days before such hearing. In addition to such notice, such board may, by regulation, provide for notice by mail to persons who are owners of land which is adjacent to the land which is the subject of the hearing. At such hearing any party may appeal in person and may be represented by agent or by attorney. Such board may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from and shall make such order, requirement or decision as in its opinion should be made in the premises and shall have all the powers of the office from who the appeal has been taken but only in accordance with the provisions of this section. Whenever a zoning board of appeals grants or denies any special exception or variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based. Notice of the decision of the board shall be published in a newspaper having substantial circulation in the municipality and addressed by certified mail to any person who appeals to the board, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen (15) days after such decision has been rendered. Such exception or variance shall become effective upon the filing of a copy thereof (1) in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the office of both the district clerk and the town clerk of the town in which such district is located and (2) in the land records of the town in which the affected premises are located, in accordance with the provisions of Section 8-3d.

(1949 Rev., S. 843; 1951, 1953, S. 378d; 1959, P.A. 458; 577, S. 5; 614, S. 4; 1963 P.A. 55, S. 1; February, 1965, P.A. 622, S. 2; 1967, P.A. 884, S. 1; 1971, P.S. 862, S. 4; P.A. 75-86, S.2; P.A. 77-450, S. 3; 77-509, S. 6; P.A. 84-122; P.A. 87-215, S. 4, 7.)

**Section 8-7a.** Evidence at hearings to be taken by stenographer or recorded. The zoning commission and zoning board of appeals shall call in a competent stenographer to take the evidence, or shall cause the evidence to be recorded by a sound-recording device, in each hearing before such commission or board in which the right of appeal lies to the superior court.

(1959, P.A. 460, S. 1; P.A. 76-436, S. 290, 681.)

**Section 8-7b.** Notice to contiguous municipalities of variance applications. Whenever a zoning board of appeals has before it for consideration an application for a variance in the use of property any portion of which lies within five hundred (500) feet of a contiguous municipality within the state, such board shall, at least one week prior to the hearing thereon, notify the clerk of such municipality, in writing, of the fact of such application and of the date, time and place fixed by it for such hearing.

(February, 1965, P.A. 54; P.A. 83-247.)

**Section 8-7c.** Disclosure of beneficiaries of real property held in trust. Any person who makes an application to a planning commission, zoning commission or zoning board of appeals pertaining to real property, the record title to which is held by a trustee of an undisclosed trust, shall file with said application a sworn statement disclosing the name of the equitable owner of such real property or the beneficiary of the trust.

**Section 8-7d.** Hearings and decisions. Time limits. Day of receipt. (a) Except as provided in subsection (b) of this section, in all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter and a hearing is required on such petition, application, request or appeal, such hearing shall commence within sixty-five days (65) after receipt of such petition, application, request or appeal and shall be completed within thirty days after such hearing commences. All decisions on such matters shall be rendered within sixty-five (65) days after completion of such hearing. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition, applications, request or appeal.

(b) Whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for a proposed building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five (65) days after receipt of such site plan. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed two further sixty-five (65) day periods, or may withdraw such plan.

(c) For purposes of subsection (a) or (b) of this section, the day of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission or board, immediately following the day of submission to such board or commission or its agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner. If the commission or board does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission or board for the receipt of any petition, applications, request or appeals.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning or planning and zoning commission regarding adoption or change of any zoning regulation or boundary.

(e) Notwithstanding the provision of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-4, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth (35th) day after a decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

(1971, P.A. 862, S. 12; P.A. 77-450, S.4; P.A. 78-104, S. 1; P.A. 87-533, S. 10, 14.)

**Section 8-7e.** Notice to adjoining municipalities of applications or requests. The zoning board of appeals of any municipality shall notify the clerk of any adjoining municipality of the pendency of any application or request concerning any project on any site in which: (1) any portion of the property affected by a decision of such zoning board of appeals is within five hundred (500) feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant

portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by registered mail and shall be mailed within seven (7) days of the date of receipt of the application or request. No hearing may be conducted on any application or request unless the adjoining municipality has received the notice required under this section. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application request.

(P.A. 87-307, S. 2.)

**Section 8-8. Appeal from board to court. Review by appellate court.** (a) Any person or persons severally or jointly aggrieved by any decision of said board, or any person owning land which abuts or is within a radius of one hundred feet of any portion of the land involved in any decision of said board, or any officer, department, board or bureau of any municipality, charged with the enforcement of any order, requirement or decision of said board, may, within fifteen (15) days from the date when notice of such decision was published in a newspaper pursuant to the provision of Section 8-3 or 8-7, as the case may be, take an appeal to the superior court for the judicial district in which such municipality is located, which appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court.

(b) Notice of such appeal shall be given by leaving a true and attested copy thereof with, or at the usual place of abode of, the chairman or clerk of said board, and by serving a true and attested copy upon the clerk of the municipality, provided service upon the clerk of the municipality shall be for the purpose of providing additional notice of such appeal to said board and shall not thereby make such clerk a necessary party to such appeal. The appeal shall state the reasons upon which it has been predicated and shall not stay proceedings upon the decision appeals from, but the court to which such appeal is returnable may, on application, on notice to the board and on cause shown, grant a restraining order.

(c) The authority issuing a citation in such appeal shall take from the appellant, unless such appellant is an official of the municipality, a bond or recognizance to said board, with surety, to prosecute such appeal to effect and comply with the orders and decrees of the court. Said board shall be required to return either the original papers acted upon by it and constituting the record of the case appealed from, or certified copies thereof and a copy of the transcript of the stenographic or sound recording prepared in accordance with Section 8-7a.

(d) The court, upon the motion of the person who applied for the board's decision, shall make such person a party defendant in the appeal. Such defendant may, at any time after the return date of such appeal, make a motion to dismiss the appeal. At the hearing on such motion to dismiss, each appellant shall have the burden of proving his standing to bring the appeal. The court may, upon the record, grant or deny the motion. The court's order on such motion shall be a final judgment for the purpose of the appeal as to each such defendant. No appeal may be taken from any such order except within seven (7) days of the entry of such order.

(e) The court, upon an appeal taken under subsection (a) of this section, shall review the proceedings of said board and shall allow any party to such appeal to introduce evidence in addition to the contents of the record of the case returned by said board if the record does not contain a complete transcript of the entire proceedings before said board, including all evidence presented to it, pursuant to Section 8-7a, or if, upon the hearing upon such appeal, it appears to the court that additional testimony is necessary for the equitable disposition of the appeal. The court may take such evidence or appoint a referee or committee to take such evidence as it directs and report the same to the court, with his or its

findings of facts and conclusions of law, which report shall constitute a part of the proceedings upon which the determination of the court shall be made.

(f) The court, upon an appeal taken under subsection (a) of this section and after a hearing thereon, may reverse or affirm, wholly or partly, or may modify or revise the decision appealed from. Costs shall be allowed against said board if the decision appealed from is reversed, affirmed in part, modified or revised. Appeals from decisions of said board shall be privileged cases to be heard by the court, unless cause is shown to the contrary, as soon after the return day as is practicable.

(g) There shall be no right to further review except to the appellate court by certification for review, upon the vote of two (2) judges of the appellate court so to certify and under such other rules as the judges of the appellate court establish. The procedure on such appeal to the appellate court shall, except as otherwise provided herein, be in accordance with the procedures provided by rule or law for the appeal of judgments rendered by the superior court unless modified by rule of the judges of the appellate court.

(h) No appeal taken under subsection (a) of this section shall be withdrawn and no settlement between the parties to any such appeal be effective unless and until a hearing has been held before the superior court and such court has approved such proposed withdrawal or settlement.

## DEALERS' AND REPAIRERS' LICENSES

\*See Secs. 42-133r to 42-133ee, inclusive, re establishment and termination of automobile dealer franchises.

Secs. 14-51-14-65j cited. 21 CA 347.

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-51. Definitions.** (a) As used in this subpart (D):

(1) "New car dealer" includes any person, firm or corporation engaged in the business of merchandising new motor vehicles under a manufacturer's or importer's contract for each such make of vehicle who may, incidental to such business, sell used motor vehicles and repair motor vehicles. Such person shall be qualified to conduct such business in accordance with the requirements of Section 14-52a.

(2) "Used car dealer" includes any person, firm or corporation engaged in the business of merchandising motor vehicles other than new who may, incidental to such business, repair motor vehicles. A used car dealer does not include any person, firm or corporation engaged in the business of leasing or renting motor vehicles that offers for sale or sells used motor vehicles incidental to its primary business, if (A) such person, firm or corporation is licensed in accordance with the provisions of Section 14-15, and (B) the motor vehicles that it offers for sale were formerly the subject of one or more lease agreements to which it was a party and the actual or prospective purchaser is the original lessee pursuant to a purchase option specified in a lease agreement. Such person shall be qualified to conduct such business in accordance with the requirements of Section 14-52a.

(3) "Repairer" includes any person, firm or corporation qualified to conduct such business in accordance with the requirements of Section 14-52a, having a suitable facility and having adequate equipment, engaged in repairing, overhauling, adjusting, assembling or disassembling any motor vehicle, but shall exclude a person engaged in making repairs to tires, upholstering, glazing, general blacksmithing, welding and machine work on motor vehicle parts when parts involving such work are disassembled or reassembled by a licensed repairer.

(4) "Limited repairer" includes any qualified person, having a suitable place of business and adequate equipment engaged in the business of minor repairs, including repairs and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, and repair and replacement of shock absorbers. For the purpose of this section, the place of business of a limited repairer shall be deemed to be suitable if the building in which the work of the repairer is performed has space capable of receiving at least one (1) motor vehicle at any one time, exclusive of a grease pit or rack, and has adequate space for an office and for the storage of parts and accessories. A person shall be deemed capable of performing the duties of a limited repairer if he is, in the opinion of the commissioner, a qualified mechanic who has a thorough knowledge of the services to be rendered, or has a certificate of completion of a specialized course from a service school approved by the commissioner, or satisfactory proof of previous employment by a licensed repairer for a period of three (3) years, or has successfully passed an examination given by the Department of Motor Vehicles.

(b) The lubricating of motor vehicles, adding or changing of oil or other motor vehicle fluids, changing of tires and tubes, including the balancing of wheels, or installing of batteries or light bulbs, windshield wiper blades or drive belts shall not be construed as the repairing of motor vehicles under the provisions of this subpart (D).

(1949 Rev., S. 2391; 1953, 1955, S. 1307d; 1963, P.A. 316; 1967, P.A. 307; P.A. 02-70, S. 21.)

History: 1963 act redefined limited repairer to add "relining and repairs," etc; 1967 act replaced reference to factory contract with reference to manufacturer's or importer's contract for each make of vehicle in definition of "new car dealer" and deleted references to removing and replacing parts of motor vehicles in definition of "repairer"; (Revisor's note: In 1997 references throughout the general statutes to "Motor Vehicle(s) Commissioner" and "Motor Vehicle(s) Department" were replaced editorially by the Revisors with "Commissioner of Motor Vehicles" or "Department of Motor Vehicles", as the case may be, for consistency with customary statutory usage); P.A. 02-70 divided existing provisions into Subsecs. (a) and (b) and in Subsec. (a) adding language making definitions applicable to subpart (D), inserting Subdiv. designators and making conforming changes for each definition, in Subdivs. (1) and (2) requiring new car dealer and used car dealer to be qualified to conduct business in accordance with the requirements of Sec. 14-52a and deleting reference to having a suitable and adequate place of business determined to be such by the commissioner, in Subdiv. (2) excluding leasing or renting businesses that sell used motor vehicles incidental to their primary business from the definition of "used car dealer" provided they satisfy criteria in Subparas. (A) and (B), in Subdiv. (3) requiring repairer to be qualified to conduct business in accordance with the requirements of Sec. 14-52a and deleting reference to having a suitable place of business, and in Subsec. (b) specifying the list of services that may be performed without being construed as the repairing of motor vehicle under subpart (D).

Zoning appeals board can go no further than apply the test incorporated in the Statute. 143 C. 634. Cited. 154 C. 540. Variance does not provide automatic extension of nonconforming use, when 164 C. 85 Cited. 165 C. 15. Offense charged and offense found were separate and distinct and constituted a taking of the plaintiff's property without due process. Id. 42. Commissioner upheld in suspending plaintiff's, repairer's, and wrecker's licenses for violation of this section and regulations thereunder. 167 C. 304.

Cited. 29 CS 330.

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-51a. Civil penalties.** The commissioner may, after notice and hearing, impose a civil penalty of not more than one thousand dollars (\$1,000.00) on any person, firm or corporation who violates any provision of Sections 14-54 to 14-67a, inclusive, or of not more than two thousand dollars (\$2,000.00) on any person, firm or corporation who violates Section 14-52.

(P.A. 73-674, S. 2; P.A. 81-206, S. 1; P.A. 82-303, S. 1; P.A. 02-70, S. 46.)

History: P.A. 81-206 converted the criminal fines into civil penalties imposed by the commissioner; P.A. 82-303 increased penalty for violations of Sec. 14-52 from one thousand to two thousand (\$1,000.00-\$2,000.00) dollars and substituted reference to Sec. 14-53 for reference to Sec.

14-51; P.A. 02-70 deleted reference to repealed Sec. 14-53, effective July 1, 2002.

Cited. 36 CS 321.

(Return to  
Chapter Table of  
Contents)

(Return to  
List of  
Chapters)

(Return to  
List of  
Titles)

**Sec. 14-52. License required for selling or repairing motor vehicles. Surety bonds required for selling, repairing, leasing or renting motor vehicles. Penalty.** (a) No person, firm or corporation may engage in the business of the buying, selling, offering for sale or brokerage of any motor vehicle or the repairing of any motor vehicle without having been issued either a new car dealer's, a used car dealer's, a repairer's or a limited repairer's license. The license fee for each such license, payable to the Commissioner of Motor Vehicles, shall be as follows: (1) New motor vehicle dealer, seven hundred dollars (\$700.00) (2) used motor vehicle dealer, five hundred sixty dollars (\$560.00) ; and (3) repairer or limited repairer, three hundred forty dollars (\$340.00). Each such license shall be renewed biennially according to renewal schedules established by the commissioner so as to effect staggered renewal of all such licenses. If the adoption of a staggered system results in the expiration of any license more or less than one (1) year from its issuance, the commissioner may charge a prorated amount for such license fee. Not less than forty-five (45) days prior to the date of expiration of each such license, the commissioner shall mail to each licensee an application for renewal. Any licensee which has not filed the application for renewal accompanied by the prescribed fee prior to the date of expiration of its license shall cease to engage in business. An application for renewal filed with the commissioner after the date of expiration shall be accompanied by a late fee of one hundred dollars (\$100.00). The commissioner shall not renew any license under this subsection which has expired for more than forty-five (45) days.

(b) (1) Except as provided in Subsection (c) of this section, each applicant for a repairer's or a limited repairer's license shall furnish a surety bond in the amount of five thousand dollars (\$5,000.00).

(2) Except as provided in Subsection (c) of this section, each applicant for a new car dealer's or a used car dealer's license shall furnish a surety bond in the amount of twenty thousand dollars (\$20,000.00).

(3) Each applicant for a leasing or rental license issued pursuant to Section 14-15, who is engaged in the leasing or renting of motor vehicles for periods of thirty (30) days or more shall furnish a surety bond in the amount of ten thousand dollars (\$10,000.00).

(4) Each such bond required under subdivisions (1) to (3), inclusive, of this subsection shall be conditioned upon the applicant or licensee complying with the provisions of any state or federal law or regulation relating to the conduct of such business and provided as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of the license or such licensee going out of business. Such bond shall be executed in the name of the state of Connecticut for the benefit of any aggrieved party, but the penalty of the bond shall not be invoked except upon order of the commissioner after a hearing held before said commissioner in accordance with the provisions of Chapter 54.

(c) The commissioner may request information from any applicant for a repairer's license or used car dealer's license concerning the financial status and ability of such applicant to comply with the

requirements of this subpart and the regulations adopted thereunder. The commissioner shall review such information to determine if the applicant has sufficient financial resources to conduct the business in a manner consistent with the reasonable security and protection of its customers in regard to the duties and responsibilities imposed by the provisions of this subpart and the regulations adopted thereunder. The commissioner may refuse to issue a license if the applicant fails to provide any such information requested or, if, after review by the commissioner, the commissioner is not satisfied as to such applicant's financial status. The commissioner may, in any case deemed appropriate, grant a license on condition that the applicant post a surety bond, in accordance with the provisions of Subsection (b) of this section, in an amount prescribed by the commissioner that is greater than the minimum amount required by the applicable provisions of said Subsection (b). Any applicant aggrieved by any decision of the commissioner made pursuant to this subsection shall be afforded an opportunity for hearing in accordance with the provisions of Chapter 54. The commissioner may adopt regulations in accordance with Chapter 54 to carry out the provisions of this subsection.

(d) Any person, firm or corporation engaging in the business of the buying, selling, offering for sale or brokerage of any motor vehicle or of the repairing of any motor vehicle without a license shall be guilty of a Class B misdemeanor.

(e) The Commissioner of Motor Vehicles shall transmit to the Commissioners of Revenue Services and Environmental Protection a summary of any complaint that the Commissioner of Motor Vehicles receives alleging that a person, firm or corporation is engaging in the business of the buying, selling, offering for sale or brokerage of any motor vehicle or of the repairing of any motor vehicle without a license.

(1949 Rev., S. 2392; 1953, S. 1308d; 1961, P.A. 581, S. 10; 1967, P.A. 384; P.A. 75-577, S. 25, 126; P.A. 77-305; 77-376, S. 1, 3; P.A. 81-172, S. 4; P.A. 83-489, S. 8, 17; P.A. 84-254, S. 37, 62; 84-391, S. 5, 8; 84-508; 84-528, S. 1; P.A. 85-613, S. 29, 154; P.A. 86-58; June Sp. Sess. P.A. 91-13, S. 6, 21; P.A. 93-164, S. 2; P.A. 95-301; P.A. 96-167, S. 8; P.A. 02-70, S. 22.)

History: 1961 act increased license fees; 1967 act included brokerage of motor vehicles in activities requiring license; P.A. 75-577 added provision that failure to secure license is an infraction; P.A. 77-305 deleted provision re infraction; P.A. 77-376 increased fee for new motor vehicle dealer from twenty-five to fifty dollars (\$25.00-\$50.00), for used motor vehicle dealer from twenty to forty dollars (\$20.00-\$40.00) and for repairer from twelve to twenty-four dollars (\$12.00-\$24.00); P.A. 81-172 included a provision for a limited repairer's license; P.A. 83-489 doubled license fees; P.A. 84-254 increased the license fees scheduling increases to take effect as of July first of 1985, 1989, 1991 and 1993, and made editorial change for grammatical correctness in sentence following Subdiv. (3), substituting "shall" for "to"; P.A. 84-391 provided for the staggered renewal of dealers' and repairers' licenses, deleting provision whereby licenses ran from day of issuance to last day of February next following; P.A. 84-508 specified that license fee is payable to motor vehicles commissioner and added Subsec. (b) requiring an applicant for a dealer's or repairer's license to furnish a surety bond; P.A. 84-528 added Subsec. (c) providing that any person, firm or corporation repairing motor vehicles without a license shall be guilty of a class C misdemeanor; P.A. 85-613 made technical change in Subsec. (a)(3); P.A. 86-58 amended Subdiv. (3) of Subsec. (b) to provide that surety bond penalty may be invoked upon order of motor vehicle commissioner after administrative hearing and eliminated reference to court adjudication; June Sp. Sess. P.A. 91-13 increased new motor vehicle dealer license fee from two hundred twenty-five to five hundred sixty dollars (\$225.00-\$560.00) and seven hundred dollars (\$700.00) after July 1, 1993, increased the used motor vehicle license fee from two hundred twenty-five to four hundred fifty dollars (\$225.00-\$450.00) and five hundred sixty dollars (\$560.00) after July 1, 1993, increased the repairer or limited repairer license fee from one hundred thirty-five to

two hundred seventy dollars (\$135.00-\$270.00) and three hundred forty dollars (\$340.00) after July 1, 1993, changed renewal requirement of each license from annual to biennial and deleted obsolete fee increases; P.A. 93-164 amended Subsec. (b) by increasing the repairer's and limited repairer's license surety bond from two thousand five hundred dollars to five thousand dollars (\$2,500.00-\$5,000.00), increasing the new car dealer's and used car dealer's license surety bond from five thousand dollars to twenty thousand dollars (\$5,000.00-\$20,000.00) and inserting new Subdiv. (3) requiring an applicant for a leasing or rental license pursuant to Sec. 14-15 to furnish a ten-thousand dollar (\$10,000.00) surety bond, renumbering and revising former Subdiv. (3) accordingly; P.A. 95-301 amended Subsec. (c) to change penalty for unlicensed motor vehicle repair business, from Class C misdemeanor to Class B misdemeanor, and added Subsec. (d) re transmission of summaries of complaints re such unlicensed businesses; P.A. 96-167 amended Subsec. (a) to add provisions re mailing of application for renewal, failure to file such application with fee, imposition of one-hundred-dollar (\$100.00) late fee for application filed after date of license expiration and to provide that commissioner shall not renew license which has expired for more than forty-five (45) days; P.A. 02-70 amended Subsec. (a) to delete provisions re fees applicable prior to July 1, 1993, and repayment of fees to commissioner, amended Subsec. (b) to add an exception re Subsec. (c) in Subdivs. (1) and (2) and to make a technical change for purposes of gender neutrality in Subdiv. (4), inserted new Subsec. (c) to allow commissioner to request financial information from any applicant for a repairer's license or used car dealer's license, to review the information to determine if the applicant has sufficient financial resources to conduct business, to allow commissioner to refuse to issue a license if the applicant fails to provide information or if the commissioner is unsatisfied as to the applicant's financial status, to allow commissioner to grant a license on condition that applicant post a surety bond, to provide opportunity for a hearing and to allow commissioner to adopt regulations, redesignated existing Subsecs. (c) and (d) as Subsecs. (d) and (e), amended Subsec. (d) to make the buying, selling, offering for sale or brokerage of any motor vehicle without a license a Class B misdemeanor and amended Subsec. (e) to require commissioner to transmit to the Revenue Services and Environmental Protection Commissioners a summary of any complaint alleging the buying, selling, offering for sale or brokerage of any motor vehicle without a license and to make a technical change for purposes of gender neutrality.

See Sec. 14-67I re motor vehicle junk yard licenses.

See Sec. 14-331 re revocation or suspension of gasoline dealer's or distributor's license.

See Chapter 881b re infractions of the law.

Cited. 134 C. 151. Cited. 143 C. 634. Cited. 154 C. 540. Surety bond furnished in accordance with section does not provide indemnity for that portion of a civil judgment incorporating award of attorney's fees or award of punitive damages. 267 C. 524.

Punitive damages are not provided for by this Section. 70 CA 790. Plaintiff was not entitled to recover punitive damages and attorney's fees in the calculation of "loss". *Id.*

Failure to obtain license will preclude repairer from enforcing a contract for repair. 36 CS 321. Subsec. (a):  
Cited. 218 C. 265.

Subsec. (c):  
Cited. 9 CA 686.

(Return to  
Chapter Table of  
Contents)

(Return to  
List of  
Chapters)

(Return to  
List of  
Titles)

**Sec. 14-52a. Grounds for refusal to grant or renew license.** The commissioner may, after notice and hearing, refuse to grant or renew a license to a person, firm or corporation to engage in the business of selling or repairing motor vehicles pursuant to the provisions of Section 14-52 if the applicant for or holder of such a license, or an officer or major stockholder if the applicant or licensee is a firm or corporation, has been convicted of a violation of any provision of laws pertaining to the business of a motor vehicle dealer or repairer including a motor vehicle recycler, or of any violation involving fraud, larceny or deprivation or misappropriation of property, in the courts of the United States or of any state. At the time of application for or renewal of such a license, each applicant or licensee shall make full disclosure of any such conviction within the last five (5) years.

(P.A. 73-200, S. 1; P.A. 80-243; P.A. 84-374, S. 1, 3; P.A. 96-167, S. 9; P.A. 02-70, S. 23.)

History: P.A. 80-243 required notice and hearing before commissioner refuses to grant or renew license and required applicant or licensee to make full disclosure of conviction of law violation; P.A. 84-374 divided the section into Subsecs. and inserted new language in Subsec. (b), prohibiting the commissioner from refusing to grant or renew a repairer's license where another independently owned business shares the same property; P.A. 96-167 amended Subsec. (a) substituting "recycler" for "junk yard"; P.A. 02-70 allowed commissioner to refuse to grant or renew a dealer or repairer license if the applicant has been convicted of any violation involving fraud, larceny or deprivation or misappropriation of property and deleted Subsec. (a) designator and former Subsec. (b) re prohibiting commissioner from refusing to grant or renew repairer's license where another independently owned business shares the same property.

(Return to  
Chapter Table of  
Contents)

(Return to  
List of  
Chapters)

(Return to  
List of  
Titles)

**Sec. 14-52b. Surrender of new car dealer license in event of cancellation, termination or failure to renew franchise by manufacturer. Manufacturer to operate as a dealer on a temporary basis. Issuance of used car dealer's license to entity owned or controlled by a manufacturer. Extension of temporary license.** (a) In the event a manufacturer licensed in accordance with the provisions of Section 14-67a cancels, terminates or fails to renew any franchise, as defined in Section 42-133r, with a new car dealer, as defined in Section 14-51, the Commissioner of Motor Vehicles, upon receipt of written notice of such action by the manufacturer, shall, unless the dealer holds one or more additional franchises, demand that such new car dealer surrender such license to the commissioner. If such action is contested by such dealer in accordance with the provisions of Sections 42-133r to 42-133ee, inclusive, the commissioner shall not demand surrender of such license, and no replacement motor vehicle dealer shall be named for the dealer's point or location, except in accordance with subdivision (10) of Section 42-133cc, until the proceedings to contest such action by the manufacturer are finally determined after all means of administrative, judicial and appellate review have been exhausted and the decision is adverse to the dealer.

(b) Except as provided in Subsections (c) and (d) of this section, no person, firm or corporation licensed as a manufacturer in accordance with the provisions of Section 14-67a may be the holder of a new or used car dealer's license issued in accordance with the provisions of Section 14-52, except a

manufacturer may operate as a dealer on a temporary basis in accordance with the provisions of subdivision (8) of Section 42-133cc. The provisions of this subsection shall apply to any firm or corporation that is owned or controlled by a manufacturer, as determined by the commissioner. Any applicant for a new or used car dealer license that is denied a license under the provisions of this subsection shall be entitled to a hearing in accordance with the provisions of Chapter 54.

(c) Notwithstanding the provisions of Subsection (b) of this section, the commissioner may issue a used car dealer's license to a person, firm or corporation, owned or controlled by a manufacturer, engaged primarily in the business of rental of motor vehicles and industrial and construction equipment, provided: (1) Motor vehicles offered for sale by any such person, firm or corporation are limited to motor vehicles that have been previously used exclusively and regularly in the conduct of the business or motor vehicles traded in by purchasers of such previously used motor vehicles, (2) any warranty repairs performed by such person, firm or corporation are limited to motor vehicles that such person, firm or corporation owns, has previously owned, or has taken in trade, and (3) any retail financing provided or arranged by such person, firm or corporation is limited to vehicles sold by such person, firm or corporation.

(d) The commissioner may extend the period of a license issued to a manufacturer to operate a dealership on a temporary basis, in accordance with the provisions of Subsection (b) of this section and subdivision (8) of Section 42-133cc, for not more than one additional year, up to a maximum period of two (2) years, if the commissioner is satisfied that such manufacturer has made and is continuing to make bona fide efforts to sell and transfer the dealership to a person, firm or corporation that is qualified to hold a new or used dealer's license.

(P.A. 95-260, S. 13, 24; P.A. 02-70, S. 24.)

History: P.A. 95-260, S. 13 effective June 13, 1995; P.A. 02-70 designated existing provisions as Subsec. (a) and amended same to make a technical change for the purposes of gender neutrality, inserted new Subsec. (b) to allow a licensed manufacturer to hold a dealer's license on a temporary basis in accordance with Sec. 42-133cc(8) and to be entitled to a hearing if denied a license, inserted new Subsec. (c) to allow the commissioner to issue a used car dealer's license to an entity engaged primarily in the business of renting vehicles and industrial and construction equipment, and inserted new Subsec. (d) to allow commissioner to extend the temporary license issued to a licensed manufacturer for not more than one (1) additional year, up to a maximum period of two (2) years, if commissioner is satisfied that the manufacturer has and is continuing to make bona fide efforts to sell and transfer the dealership to an entity qualified to hold a dealer's license.

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-53. Location of business to be approved.** Section 14-53 is repealed, effective July 1, 2002.

(1949 Rev., S. 2393; 1953, S. 1309d; 1961, P.A. 581, S. 11; P.A. 83-489, S. 9, 17; P.A. 84-254, S. 38, 62; P.A. 02-70, S. 87.)

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-54. Location to be approved by local authority.** (a) Any person who desires to obtain a license for dealing in or repairing motor vehicles in a municipality having a population of no less than twenty thousand (20,000) shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be obtained from the zoning commission. The provisions of this section do not apply to (1) a transfer of ownership to a spouse, child, brother, sister or parent of a licensee, (2) a transfer of ownership to or from a corporation in which a spouse, child, brother, sister or parent of a licensee has a controlling interest, or (3) a change in ownership involving the withdrawal of one or more partners from a partnership.

(b) Any person who desires to obtain a license for dealing in or repairing motor vehicles in a municipality with a population of less than twenty thousand (20,000) shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be approved by the board of appeals. In addition thereto, such certificate shall be approved by the chief of police where there is an organized police force or, where there is none, by the commander of the state police barracks situated nearest to such proposed location. The provisions of this section shall not apply to (1) a transfer of ownership to a spouse, child, brother, sister or parent of a licensee, (2) a transfer of ownership to or from a corporation in which a spouse, child, brother, sister or parent of a licensee has a controlling interest, or (3) a change in ownership involving the withdrawal of one (1) or more partners from a partnership.

(1949 Rev., S. 2394; 1953, S. 1310d; P.A. 77-614, S. 486, 587, 610; P.A. 78-303, S. 85, 136; P.A. 84-195; P.A. 89-244, S. 2; P.A. 03-184, S. 2; June 30 Sp. Sess. P.A. 03-6, S. 70; P.A. 05-218, S. 22; P.A. 06-133, S. 23.)

History: P.A. 77-614 and P.A. 78-303 made state police department a division within the department of public safety, effective January 1, 1979; P.A. 84-195 exempted from the approval of location requirement transfers of ownership to an immediate family member or certain changes in ownership; P.A. 89-244 exempted from the approval of location requirement transfers of ownership to or from a corporation in which an immediate family member of a licensee has a controlling interest; P.A. 03-184 replaced requirement for approval of certificate by chief elected official or zoning board of appeals with requirement that the certificate be obtained from the zoning commission, planning and zoning commission or other board or authority of the municipality; June 30 Sp. Sess. P.A. 03-6 replaced provision authorizing the zoning commission or combined planning and zoning commission to issue certificate of approval with provision that in any town or city with a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be obtained from the board of appeals; P.A. 05-218 replaced provisions re certificate obtained from board of appeals and approved by chief of police or commander of state police situated nearest to location with provision re-certificate obtained from zoning commission and made a technical change; P.A. 06-133 designated existing provisions as Subsec. (a) and amended same to apply only to municipalities having population of no less than twenty thousand (20,000) and added Subsec. (b) applicable to municipalities having population of less than twenty thousand (20,000) , effective June 6, 2006.

Cited. 134 C. 151. Cited. 140 C. 210. In determining application of certificate of approval of a motor vehicle repair business, the zoning commission acts in a special capacity and not under

municipal zoning ordinances or zoning statutes. It serves as the local agency named by the general assembly to determine whether a certificate of approval should be issued. 143 C. 634. Cited. 147 C. 469. Cited. 154 C. 540. Cited. 218 C. 265.

Cited. 21 CA 347. Cited. 24 CA 369. Cited. 28 CA 500. Local zoning board of appeals acts as an agent of the state when it undertakes consideration of a certificate of approval and therefore is governed by Uniform Administrative Procedure Act. 48 CA 599.

Cited. 12 CS 70.

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 14-55. Hearing.** Section 14-55 is repealed, effective October 1, 2003.

(1949 Rev., S. 2395; 1961, P.A. 384; 1967, P.A. 866, S. 2; P.A. 80-206; P.A. 02-70, S. 25; P.A. 03-184, S. 10; 03-265, S. 9; 03-278, S. 40.)

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 14-56. Commissioner to decide if requested by local authority.** Section 14-56 is repealed.

(1949 Rev., S. 2396; 1961, P.A. 581, S. 12; 1967, P.A. 270, S. 1.)

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 14-57. Appeal.** Any person aggrieved by the performance of any act provided for in this subpart (D) by such local authority may take an appeal therefrom to the superior court for the judicial district within which such town or city is situated, or in accordance with the provisions of Section 4-183. Any such appeal shall be privileged.

(1949 Rev., S. 2397; 1949, S. 1311d; 1967, P.A. 145; 1971, P.A. 870, S. 36; P.A. 76-436, S. 341, 681; P.A. 77-603, S. 31, 125; 77-604, S. 71, 84; P.A. 78-280, S. 1, 4, 5; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 99-215, S. 24, 29; P.A. 02-70, S. 26.)

History: 1967 act stated that appeals are privileged; 1971 act deleted reference to superior court; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 77-603 deleted reference to courts in counties other than Hartford county and to judicial districts and made appeals in accordance with Sec. 4-183 if act appealed from was performed by commissioner; P.A. 77-604 restored reference to counties other than Hartford and to judicial districts and qualified provision re appeals in accordance with Sec. 4-183 by specifying that venue is to be in Hartford county; P.A. 78-280 deleted reference to counties and replaced Hartford county with judicial district of Hartford-New Britain; P.A. 88-230 replaced "judicial district of

Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced "judicial district of Hartford" with "judicial district of New Britain", effective June 29, 1999; P.A. 02-70 deleted reference to any act by the commissioner and the phrase "except venue for such appeal shall be in the judicial district of New Britain if such act was performed by the commissioner" (Revisor's note: The reference to "subdivision (D)" was changed editorially by the Revisors to "subpart (D)" for clarity of reference).

See Sec. 52-192 re precedence of appeals under this section in order of trial.

No fatal objection to joinder of application for approval as to gasoline station under Section 14-321 and application for approval as to repair business under Section 14-54. 134 C. 151. Commission can go no further than apply the test incorporated in the statute. 143 C. 634. Cited. 148 C. 456.

Cited 24 CA 369.

Appeal in superior court not in conflict with Section 52-7. 14 CS 450.

(Return to <u>Chapter Table of</u> <u>Contents</u> )	(Return to <u>List of</u> <u>Chapters</u> )	(Return to <u>List of</u> <u>Titles</u> )
--	---	---

**Sec. 14-58. Application. General registration of motor vehicles. Documents to be issued to drivers. Photostatic copies of registration certificate as proof of ownership.** (a) Each new car dealer, used car dealer or repairer before engaging in such business shall make a separate sworn application to the commissioner for a license to engage in such business in each place of business conducted by such dealer. The application shall include any information that may be required by the commissioner on blanks to be furnished by said commissioner. Each application shall be accompanied by a fee of one hundred forty dollars (\$140.00) for each place of business conducted by the applicant, together with the fee for the type of license for which the applicant is making application, and such fee or fees shall not be subject to prorating and shall not be subject to refund. No such license shall be transferable. When such licensee adds buildings or adjacent land to such licensee's licensed place of business, the commissioner may require the licensee to furnish satisfactory evidence of compliance with the provisions of Section 14-54, or with other applicable provisions of law, administered by the municipality wherein such business is located, concerning building or zoning requirements. When a change of officers of a corporation engaged in such business is made, a notice of the change shall be sent to the commissioner within a period of fifteen (15) days from the date of the change. The commissioner may suspend the license of any corporation, after notice and hearing, when the newly appointed or elected officers cannot be considered as qualified to conduct the business as provided in Section 14-51.

(b) Each such licensee shall, instead of registering each motor vehicle owned by such licensee or temporarily in such licensee's custody, make application to the commissioner for a general distinguishing number and mark, and the commissioner may issue to the applicant a certificate or certificates of registration containing the distinguishing number and mark assigned to such applicant, and made in a form and containing any further information that the commissioner may determine, and, thereupon, each motor vehicle owned by the applicant or temporarily in the applicant's custody shall be

regarded as registered under and having assigned to it such general distinguishing number and mark until sold. For the registration of all motor vehicles, registered under a general distinguishing number and mark, the commissioner shall charge a fee at the rate of seventy dollars (\$70.00) per year. No new car dealer may be issued more than one such registration for each ten (10) sales transactions in a year or no repairer or limited repairer may be issued more than three (3) registrations in a year, unless such licensee makes application for an additional registration to the commissioner, in such form and containing such information as the commissioner may require to substantiate such request. No used car dealer may be issued more than three (3) such registrations in a year, provided an additional registration may be issued for each ten (10) sales transactions in excess of thirty (30) such transactions upon submission of such application for an additional registration. The commissioner may issue to each such licensee such additional registrations as the commissioner deems necessary. The commissioner may withdraw any registration previously issued or may limit the number of registrations which any licensee is eligible to receive or to hold, in any case where the licensee has been found to be in violation of any of the provisions of Section 14-64.

**Sec. 14-318. Definitions.** Terms used in this chapter shall be construed as follows, unless another construction is clearly apparent from the language or context in which the term is used or unless the construction is inconsistent with the manifest intention of the General Assembly:

(1) The following terms shall be construed as they are defined in Section 14-1: "Fuels", "motor vehicle" and "person";

(2) "Commissioner" means the Commissioner of Consumer Protection or any assistant to the Commissioner of Consumer Protection who is designated and authorized by, and who is acting for, the Commissioner of Consumer Protection;

(3) "Distributor" means any person, wherever resident or located, who imports fuels or causes fuels to be imported into this state, for sale or use; a person who produces, refines, manufactures or compounds fuels within this state; and a person who distributes gasoline by tank wagon in this state;

(4) "Local authority" means the selectmen or town manager of a town, the mayor of a city or the warden of a borough or other board or authority designated by local charter, regulation or ordinance, except in any town or city having a zoning commission and a board of appeals, "local authority" means the board of appeals;

(5) "United States Government Motor Gasoline" means gasoline which is or may be prescribed by the federal specification board of the United States government for use as fuel for motor vehicle, motor boat and similar engines;

(6) "United States Aviation Gasoline, Domestic Grade" means that gasoline which is or may be prescribed by the federal specification board of the United States government for use as aviation fuel; and

(7) "Retail dealer" means any person operating a service station, filling station, store, garage or other place of business for the sale of motor fuel for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine.

(1949 Rev., S. 2535; P.A. 84-429, S. 43; June Sp. Sess. P.A. 91-9, S. 1, 10; P.A. 03-184, S. 9; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1.)

History: P.A. 84-429 divided Section into Subsecs., rephrased provisions, added definition of "local authority" in Subdiv. (3) and made other technical changes; June Sp. Sess. P.A. 91-9 deleted reference to "commissioner" in Subdiv. (1), inserted new definition of "commissioner" as Subdiv. (2) and renumbered remaining Subdivs. accordingly; P.A. 03-184 amended definition of "local authority" in Subdiv. (4) to include other board or authority designated by local charter, regulation or ordinance and to make a technical change; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004.

Cited. 131 C. 714.

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-319. License required for sale of gasoline. Prohibited grounds for refusal to grant or renew license.** (a) No person shall sell or offer for sale any gasoline or other product intended for use in the propelling of motor vehicles using combustion type engines over the highways of this state without having applied for and received from the commissioner a license to sell such gasoline or other product. Each person applying for any such license shall, in such application, state the location of each place or station where such person intends to sell or offer for sale any such gasoline or other product. Each such license shall be renewed annually. A license fee for each such place or station shall be charged as follows: For each station containing one (1) pump, fifty dollars (\$50.00); and, for each station containing more than one (1) pump, fifty dollars (\$50.00) plus fourteen dollars (\$14.00) for each pump in excess of one. The fees shall be paid to the commissioner.

(b) The commissioner shall not refuse to grant or renew any license under this section on the ground that (1) any licensed activity shall be conducted by the licensee on real property on which shall also be located one (1) or more other businesses, enterprises, or activities, whether or not licensed under Section 14-52, owned or operated by one or more persons, other than the licensee, or (2) the licensee shall make use of any common areas or facilities together with the owner or operator of any such other business, enterprise or activity.

(c) In determining whether to grant or to renew any license under this section, the commissioner shall consider whether the applicant or licensee has been found in any judicial or administrative proceeding to have violated the requirements of Subsection (c) of Section 14-332a.

(1949 Rev., S. 2536; 1961, P.A. 581, S. 18; P.A. 83-489, S. 13, 17; P.A. 84-254, S. 52, 62; 84-374, S. 2, 3; 84-391, S. 7, 8; P.A. 94-36, S. 21, 42; P.A. 98-128, S. 3, 10.)

History: 1961 act increased license fees; P.A. 83-489 increased license fees for each place or station as follows: For each station containing one pump, from seven to fourteen dollars (\$7.00-\$14.00); for each station containing more than one pump, from seven dollars (\$7.00) plus two dollars (\$2.00) for each pump in excess of one to fourteen dollars (\$1.00-\$14.00) plus four dollars (\$4.00) for each pump in excess of one (1); P.A. 84-254 periodically increased the fees scheduling the increases to take effect on July first of the following years: 1985, 1989, 1991 and 1993; P.A. 84-374 divided section into Subsecs. and inserted new language in Subsec. (b), prohibiting the commissioner from refusing to grant or renew a gasoline sales license where another independently owned business shares the same property; P.A. 84-391 provided for the staggered renewal of gasoline sales licenses, deleting

provision whereby licenses expired on first day of October following issuance; P.A. 94-36 amended Subsec. (a) by eliminating a staggered schedule of renewing licenses and a prorated license fee and made technical changes, effective January 1, 1995; P.A. 98-128 added Subsec. (c) to require commissioner to consider whether an applicant or licensee has violated the requirements of Subsec. (c) of Sec. 14-332a, effective July 1, 1998.

See Secs. 16a-6 and 16a-22d re information to be submitted by applicant.

See Sec. 21a-10(b) re staggered schedule of license renewals.

History of statutes concerning licensing of gasoline stations. 123 C. 312. Cited. 125 C. 720. Applicant for station in New Haven is not required to comply with Section 14-321 before applying to commissioner under this section. 128 C. 701. Cited. 131 C. 715. Does not preclude zoning board from considering size of lot for proposed station in determining whether it will imperil public. 134 C. 155. Cited. 135 C. 709. Cited. 138 C. 326. A later decision of zoning appeals board constituted a conclusive determination that there had been a change in conditions and amounted to a revocation of certificate issued six (6) years before. 139 C. 677. Cited. Id., 680. Cited. 140 C. 622. Cited. 142 C. 66. Cited. 144 C. 61. Cited. 147 C. 517. Cited. 149 C. 514.

Cited. 3 CA 556.

Cited. 3 CS 224.

(Return to  
Chapter Table of  
Contents)

(Return to  
List of  
Chapters)

(Return to  
List of  
Titles)

**Sec. 14-320. Approval of gasoline station location by commissioner.** No station or place of business for the wholesale or retail sale of gasoline shall be established or maintained in a place adjoining a state highway, or in a town or city containing fewer than ten thousand (10,000) inhabitants according to the last-preceding census of the United States, unless the person establishing or maintaining such station has procured from the commissioner a certificate stating that, in the opinion of the commissioner, the location of such station or place of business will not imperil the safety of the public. The commissioner may revoke any such certificate whenever, in his opinion, such station will, by reason of its location, imperil the safety of the public. For the initial examination of the location of each such station there shall be charged the sum of one hundred dollars (\$100.00), and on and after July 1, 1985, one hundred fifty dollars (\$150.00), on and after July 1, 1989, two hundred twenty-five dollars (\$225.00), on and after July 1, 1991, two hundred eighty dollars (\$280.00), and on and after July 1, 1993, three hundred fifty dollars (\$350.00). For the examination of each pump which is to be added to or relocated on the premises of any licensed station and of the proposed location and plan of installation of such pump, there shall be charged a fee of fourteen dollars (\$14.00), and on and after July 1, 1985, twenty-one dollars (\$21.00), on and after July 1, 1989, thirty-two dollars (\$32.00), on and after July 1, 1991, forty dollars (\$40.00), and on and after July 1, 1993, fifty dollars (\$50.00). For the examination of the location of any such station upon the change of ownership of such station, there shall be charged a fee of fourteen dollars (\$14.00), and on and after July 1, 1985, twenty-one dollars (\$21.00), on and after July 1, 1989, thirty-two dollars (\$32.00), on and after July 1, 1991, forty dollars (\$40.00), and on and after July 1, 1993, fifty dollars (\$50.00).

(1949 Rev., S. 2537; 1959, P.A. 221, S. 1; 1961, P.A. 581, S. 19; February, 1965, P.A. 52; P.A. 83-

489, S. 14, 17; P.A. 84-254, S. 53, 62.)

History: 1959 act increased fee for initial examination of location; 1961 act increased fees for examination of additional pumps and for examination of location on change of ownership; 1965 act added provision re relocated pumps; P.A. 83-489 increased fees as follows: For the initial examination of the location of each such station, from fifty to one hundred dollars (\$50.00-\$100.00); for the examination of each pump to be added to or relocated on the premises of a licensed station and of the proposed location and plan of installation of such pump, from seven to fourteen dollars (\$7.00-\$14.00), and for the examination of the location of any such station upon the change of ownership of such station, from seven to fourteen dollars (\$7.00-\$14.00); P.A. 84-254 periodically increased the fees scheduling the increases to take effect July first of the following years: 1985, 1989, 1991 and 1993.

Action of commissioner is reviewable only where he has acted arbitrarily, illegally or abused his discretion. 117 C. 262. Cited. 149 C. 513. Revocation cannot be by letter and without hearing. 149 C. 517.

Cited. 3 CS 224.

<u>(Return to</u>	<u>(Return to</u>	<u>(Return to</u>
<u>Chapter Table of</u>	<u>List of</u>	<u>List of</u>
<u>Contents)</u>	<u>Chapters)</u>	<u>Titles)</u>

**Sec. 14-321. Approval of gasoline station location by local authorities.** Any person who desires to obtain a license for the sale of gasoline or any other product, under the provisions of Section 14-319, shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired. The certificate of approval shall be obtained from the zoning commission, planning and zoning commission or local authority of the town, city or borough where the station or pump is located or is proposed to be located. A certificate of approval shall not be required in the case of the transfer of the last issued license from one (1) person to another provided no more than one (1) year has elapsed since the expiration of such license, or in the case of a renewal of a license by the holder of the license, or in the case of the addition or discontinuance of pumps. If adjoining physical properties are altered or changed, the applicant shall conform to the provisions of this section. The commissioner shall not issue any license under the provisions of Section 14-319 for which a certificate of approval is a prerequisite unless the certificate is presented to him within three (3) years after the date on which it was issued.

(1949 Rev., S. 2538; February, 1965, P.A. 229; P.A. 82-460, S. 7; P.A. 84-429, S. 44; P.A. 03-184, S. 4.)

History: 1965 act changed provision re transfer of station to transfer of the last issued license and added requirement that license not be issued if a required certificate has not been presented within three (3) years of its issuance; P.A. 82-460 provided that a license cannot be transferred if more than one (1) year has elapsed since its expiration; P.A. 84-429 rephrased provisions, substituted term "local authority" for definitional language and made other technical changes; P.A. 03-184 added provision authorizing a zoning commission or planning and zoning commission to issue a certificate of approval.

See Sec. 14-331 re-revocation or suspension of license.

Authority of mayor to issue or refuse certificate of approval of location. 109 C. 586. Denial of

certificate of approval is reviewable only to determine if it was arbitrary, illegal or in abuse of discretion. 110 C. 80; 128 C. 264; id., 354. 1927 act applies in New Haven, and authority is in mayor, not board of appeals, by virtue of exception in 1929 act. 123 C. 311; 128 C. 264. 1927 act held unconstitutional; this section is an amendment of the 1929 act and does not apply to New Haven. 128 C. 701, 706. Cited. 134 C. 150. Plaintiff held not a "holder" seeking renewal of license and application must be based upon certificate of approval by the zoning board of appeals. 135 C. 706. Cited. 138 C. 326; Id., 453. Cited. 139 C. 681. Cit4ed. 140 C. 622, 650. In passing on an application for a certificate of approval for the use of certain property for the retail sale of gasoline, a zoning board of appeals serves, not in a zoning capacity, but as an agent of the state to pass upon suitability of the location in view of traffic and other conditions, and to determine whether the proposed use of the location would imperil the safety of the public. 142 C. 64. Zoning board of appeals is acting as agency of the state in determining suitability. 143 C. 316. Cited. 144 C. 61. When acting under this section, a board of appeals is not dealing primarily with zoning but is performing a separate function delegated to it as an agency of the state. 147 C. 517; 148 C. 507. Cited. 149 C. 513. Prior to 1965 amendment, dicta to effect certificate of local authority must be presented within reasonable time after approval granted. Id., 516. For the board validly to reverse an earlier decision by granting a subsequent application for approval of the same location, there has to be a showing of material change in conditions, that is, a change which militated against the objections formerly relied on. 150 C. 75. Cited. Id., 511, 559. Board acts as an agent of the state under this section and Section 14-322, its sole function being to determine if the site in question will be suitable according to statutory criteria designed to promote and protect the public safety. 153 C. 95. Disapproval of application on grounds of potential traffic hazard anticipated from planned nearby shopping center was within discretion of board. Id., 257. When acting under this section, zoning board of appeals is acting as a special statutory agent of the state. Id., 259. Cited. Id., 433. Where plaintiff's application to board does not make it clear whether a permit under the zoning ordinance or an approval under the statutes is requested, the board must decide each issue separately and the required number of votes for each must be met in order for the application to be approved. 154 C. 32, 36. Cited. Id., 540. Probative value of conflicting evidence of suitability of property is for the board to decide. 155 C. 350. Zoning board acting under this section as special statutory agent of state is governed by requirements of Section 14-322. Id., 539. Nonconforming use as gasoline station may survive period when station had been used for automobile repair work. 158 C. 86. In passing upon application for approval of location, zoning board as administrative agency of state is required to hold hearing Id., 208. Proceedings under this section and Section 14-322 are not zoning matters. Certificate of approval should not be issued where location is violative of zoning regulations. 159 C. 234. Cited. 170 C. 154.

Cited. 3 CA 556.

Station operator enjoined by motor vehicle commissioner where zoning board issued certificate of approval in error. 1 CS 165. Cited. 4 CS 462. History discussed. 5 CS 1. Authority of zoning board to issue certificate of approval. Id. Statute not applicable to municipalities it did not affect before 1935. Id., 214. Cited. 8 CS 277; Id., 499. Constitutionality. 10 CS 462. Cited. 26 CS 476. Hearing provided for in Section 14-322 must take place not less than two (2) nor more than four (4) weeks from filing of application and not merely be assigned during that period for some future date. 27 CS 112.

[\(Return to  
Chapter Table of  
Contents\)](#)

[\(Return to  
List of  
Chapters\)](#)

[\(Return to  
List of  
Titles\)](#)

**Sec. 14-322. Hearing and finding of suitability.** Section 14-322 is repealed, effective October 1, 2003.

(1949 Rev., S. 2539; 1967, P.A. 794; P.A. 82-89; P.A. 84-429, S. 45; P.A. 03-184, S. 10.)

<u>(Return to</u> <u>Chapter Table of</u> <u>Contents)</u>	<u>(Return to</u> <u>List of</u> <u>Chapters)</u>	<u>(Return to</u> <u>List of</u> <u>Titles)</u>
--	---	---

**Sec. 14-323. Commissioner to decide if requested by local authorities.** Section 14-323 is repealed.

(1949 Rev., S. 2540; 1959, P.A. 253, S. 1; 1967, P.A. 309, S. 1.)

<u>(Return to</u> <u>Chapter Table of</u> <u>Contents)</u>	<u>(Return to</u> <u>List of</u> <u>Chapters)</u>	<u>(Return to</u> <u>List of</u> <u>Titles)</u>
--	---	---

**Sec. 14-324. Appeal.** Any person aggrieved by the performance of any act provided for in Sections 14-319 to 14-321, inclusive, by the local authority may take an appeal therefrom to the superior court for the judicial district within which such town or city is situated, or in accordance with the provisions of Section 4-183, except venue for such appeal shall be in the judicial district of New Britain if the act was performed by the commissioner.

(1949 Rev., S. 2541; 1967, P.A. 309, S. 2; P.A. 76-436, S. 348, 681; P.A. 77-603, S. 39, 125; 77-604, S. 72, 84; P.A. 78-280, S. 5, 127; P.A. 84-429, S. 46; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 99-215, S. 24, 29; P.A. 03-184, S. 6.)

History: 1967 act replaced reference to repealed Sec. 14-323 with reference to Sec. 14-322; P.A. 76-436 replaced court of common pleas with superior court and added reference to judicial districts, effective July 1, 1978; P.A. 77-603 replaced previous appeal provision with requirement that appeals be made in accordance with Sec. 4-183 except venue is in Hartford county; P.A. 77-604 restored provision re appeals to superior court and qualified venue provision for appeals in accordance with Sec. 4-183 so that Hartford county is site of appeal only if commissioner's act involved; P.A. 78-280 replaced Hartford county with judicial district of Hartford-New Britain; P.A. 84-429 substituted term "local authority" for definitional language and made another technical change; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced "judicial district of Hartford" with "judicial district of New Britain", effective June 29, 1999; P.A. 03-184 deleted reference to Sec. 14-322.

Nature of appeal. 109 C. 585; 110 C. 82. Appeal from zoning board of appeals on gasoline license application must be taken under this section, not under Section 8-8. 116 C. 556. Burden of proof that board acted improperly is upon appellants. 118 C. 178. Cited. 123 C. 315. No fatal objection to joinder of application for approval as to gasoline station under Section 14-321 and application for approval as to repair business under Section 14-54. 134 C. 151. In directing board to pursue the course which it

selected the court encroached on administrative function of board. 138 C. 464. One may be aggrieved when he is affected only in a representative capacity. 139 C. 677. Trial court had no jurisdiction over appeal from action of commissioner in reinstating revoked certificate of approval of location since none of sections enumerated authorized commissioner to so reinstate. 149 C. 515. What constitutes being aggrieved when appealing from a finding of suitability of location under Section 14-322. 150 C. 510. Plaintiffs must show that they are specially aggrieved. 151 C. 510.

Unconstitutional for board to refuse certificate on ground that public convenience does not require it. 3 CS 304. Cited. 5 CS 1; Id. 214.

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 14-325. Curb pumps.** No license shall be issued to sell gasoline or other fuels by means of any curb pump, or of any pipe or hose extending over or under any sidewalk, except the renewal of the license of such curb pump, pipe or hose, if the same was licensed for the sale of gasoline or other fuels on June 1, 1935, and has been continuously licensed for such purpose at such location since that date; and except that any such license may be transferred or devised by a holder thereof to his child or spouse.

(1949 Rev., S. 2542; February, 1965, P.A. 585.)

History: 1965 act added exception for transfer or devise to child or spouse of holder.

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 14-325a. Air compressors.** Any person licensed under Section 14-319 to dispense motor fuel for sale to the public for any motor vehicle, as defined in Section 14-1, shall provide for free public use an air compressor for the purpose of tire inflation during the hours such premises are open for business. Each such licensee shall post a sign in a conspicuous location upon the premises and in such form as the commissioner may require, informing the public of the availability of an air compressor for free public use during the hours such premises are open. Such compressor shall be capable of producing at least eighty (80) pounds per square inch pressure at the outlet.

(P.A. 79-260; P.A. 88-100; P.A. 04-92, S. 1; 04-217, S. 31.)

History: P.A. 88-100 required each licensee to post a sign informing public of availability of an air compressor for free public use; P.A. 04-92 eliminated exemption from requirement to provide free air for owner of retail food store that dispenses motor fuel; P.A. 04-217 eliminated reference to Sec. 14-1(47), effective January 1, 2005.

**Sec. 4-183. Appeal to Superior Court.** (a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision may appeal to the Superior Court as provided in this section. The filing of a petition for reconsideration is not a prerequisite to the filing of such an appeal.

(b) A person may appeal a preliminary, procedural or intermediate agency action or ruling to the Superior Court if (1) it appears likely that the person will otherwise qualify under this chapter to appeal from the final agency action or ruling and (2) postponement of the appeal would result in an inadequate remedy.

(c) (1) Within forty-five (45) days after mailing of the final decision under Section 4-180 or, if there is no mailing, within forty-five (45) days after personal delivery of the final decision under said section, or (2) within forty-five (45) days after the agency denies a petition for reconsideration of the final decision pursuant to subdivision (1) of Subsection (a) of Section 4-181a, or (3) within forty-five (45) days after mailing of the final decision made after reconsideration pursuant to subdivisions (3) and (4) of Subsection (a) of Section 4-181a or, if there is no mailing, within forty-five (45) days after personal delivery of the final decision made after reconsideration pursuant to said subdivisions, or (4) within forty-five (45) days after the expiration of the ninety-day (90) period required under subdivision (3) of Subsection (a) of Section 4-181a if the agency decides to reconsider the final decision and fails to render a decision made after reconsideration within such period, whichever is applicable and is later, a person appealing as provided in this section shall serve a copy of the appeal on the agency that rendered the final decision at its office or at the office of the Attorney General in Hartford and file the appeal with the clerk of the superior court for the judicial district of New Britain or for the judicial district wherein the person appealing resides or, if that person is not a resident of this state, with the clerk of the court for the judicial district of New Britain. Within that time, the person appealing shall also serve a copy of the appeal on each party listed in the final decision at the address shown in the decision, provided failure to make such service within forty-five (45) days on parties other than the agency that rendered the final decision shall not deprive the court of jurisdiction over the appeal. Service of the appeal shall be made by United States mail, certified or registered, postage prepaid, return receipt requested, without the use of a state marshal or other officer, or by personal service by a proper officer or indifferent person making service in the same manner as complaints are served in ordinary civil actions. If service of the appeal is made by mail, service shall be effective upon deposit of the appeal in the mail.

(d) The person appealing, not later than fifteen (15) days after filing the appeal, shall file or cause to be filed with the clerk of the court an affidavit, or the state marshal's return, stating the date and manner in which a copy of the appeal was served on each party and on the agency that rendered the final decision, and, if service was not made on a party, the reason for failure to make service. If the failure to make service causes prejudice to any party to the appeal or to the agency, the court, after hearing, may dismiss the appeal.

(e) If service has not been made on a party, the court, on motion, shall make such orders of notice of the appeal as are reasonably calculated to notify each party not yet served.

(f) The filing of an appeal shall not, of itself, stay enforcement of an agency decision. An application for a stay may be made to the agency, to the court or to both. Filing of an application with the agency shall not preclude action by the court. A stay, if granted, shall be on appropriate terms.

(g) Within thirty days (30) after the service of the appeal, or within such further time as may be allowed by the court, the agency shall transcribe any portion of the record that has not been transcribed and transmit to the reviewing court the original or a certified copy of the entire record of the proceeding appealed from, which shall include the agency's findings of fact and conclusions of law, separately stated. By stipulation of all parties to such appeal proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(h) If, before the date set for hearing on the merits of an appeal, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(i) The appeal shall be conducted by the court without a jury and shall be confined to the record. If alleged irregularities in procedure before the agency are not shown in the record or if facts necessary to establish aggrievement are not shown in the record, proof limited thereto may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(j) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court shall affirm the decision of the agency unless the court finds that substantial rights of the person appealing have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) in excess of the statutory authority of the agency; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. If the court finds such prejudice, it shall sustain the appeal and, if appropriate, may render a judgment under Subsection (k) of this section or remand the case for further proceedings. For purposes of this section, a remand is a final judgment.

(k) If a particular agency action is required by law, the court, on sustaining the appeal, may render a judgment that modifies the agency decision, orders the particular agency action, or orders the agency to take such action as may be necessary to effect the particular action.

(l) In all appeals taken under this section, costs may be taxed in favor of the prevailing party in the same manner, and to the same extent, that costs are allowed in judgments rendered by the Superior Court. No costs shall be taxed against the state, except as provided in Section 4-184a.

(m) In any case in which a person appealing claims that he cannot pay the costs of an appeal under this section, he shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such fees, costs and necessary expenses, including the requirements of bond, if any. The application shall conform to the requirements prescribed by rule of the judges of the Superior Court. After such hearing as the court determines is necessary, the court shall render its judgment on the application, which judgment shall contain a statement of the facts the court has found, with its conclusions thereon. The filing of the application for the waiver shall toll the time limits for the filing of an appeal until such time as a judgment on such application is rendered.

(1971, P.A. 854, S. 18; P.A. 73-620, S. 12-14, 18, 19; P.A. 76-436, S. 252, 681; P.A. 77-603, S. 1, 125; P.A. 78-280, S. 10, 127; P.A. 79-163; P.A. 84-43, S. 1; P.A. 88-230, S. 1, 12; 88-317, S. 23, 107; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 99-39; 99-215, S. 24, 29; P.A. 00-99, S. 20, 154; P.A. 06-32, S. 2.)

History: P.A. 73-620 added proviso that in conflict between state and federal statutes or regulations, federal provisions prevail, required that record contain findings of fact and conclusions of law changed place for filing petition from Hartford county court of common pleas to court where

aggrieved person resides and added Subsec. (h) re waiver of fees; P.A. 76-436 replaced court of common pleas with superior court and included judicial districts, effective July 1, 1978; P.A. 77-603 allowed party to file petition in Hartford county in certain instances, inserted new Subsec. (h) re costs and relettered former Subsec. (h) as Subsec. (i); P.A. 78-280 deleted references to court of common pleas and counties and replaced reference to Hartford county with "the judicial district of Hartford-New Britain"; P.A. 79-163 changed time for filing petition from thirty (30) to forty-five (45) days after decision and provided for notifying agency of appeal; P.A. 84-43 amended Subsec. (b) by providing that if a rehearing is requested the time periods for filing a petition and serving copies of the petition runs from the "mailing of the notice" of the decision, and by providing that service may be made upon an agency by mail "without the use of a sheriff or other officer"; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 88-317 substantially amended the section, repealing, adding, rephrasing and reordering provisions, adding new subsections and re-lettering existing subsections, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-39 amended Subsec. (c) by clarifying that service of appeal by mail is effective upon depositing appeal in mail; P.A. 99-215 replaced "judicial district of Hartford" with "judicial district of New Britain" in Subsec. (c), effective June 29, 1999; P.A. 00-99 changed reference to sheriff to state marshal in Subsecs. (c) and (d), effective December 1, 2000; P.A. 06-32 amended Subsec. (c) by designating existing provision re forty-five (45) day period after mailing or personal delivery of the final decision as new Subdiv. (1), adding new Subdivs. (2) to (4) re time periods applicable in the case of reconsideration of the final decision, specifying "whichever is applicable and is later" and deleting former subdiv. designators.

Cited. 168 C. 413; Id., 435. Cited. 171 C. 345; Id., 691. Cited. 172 C. 263. Applies to appeals from decisions of claims commission when not precluded by Section 4-164(b). Id., 603. Cited. 173 C. 352. To qualify under this section for an appeal to the courts from final appeal of an administrative agency one must demonstrate he is aggrieved by the decision, that he has a personal and legal interest in the subject matter and that such interest has been specially and adversely affected by the decision. Id., 384. Cited. Id., 462, 465, 467, 469. Cited. 176 C. 1; Id., 191; Id., 533. Cited. 177 C. 584; Id., 599; Id., 610; Id., 623. Cited. 179 C. 111; Id., 415; Id., 694. Cited. 183 C. 76; Id., 128. Cited. 184 C. 75. Cited. 186 C. 153; Id., 198. Cited. 188 C. 44. Exceptions to doctrine of exhaustion of administrative remedies discussed. Id., 90. Cited. Id., 152. Cited. 191 C. 173; Id., 384. An agency decision to reject a bid or to award a contract has none of the attributes of a formal hearing, nor is a formal hearing required by law. For this reason, the agency's decision does not involve a contested case and the disappointed bidder cannot assert standing under this statute. Id., 497. Cited. 192 C. 234. Cited. 193 C. 379. Cited. 194 C. 677. Cited. 195 C. 534; Id., 543. Cited. 196 C. 451. Cited. 197 C. 320. Cited. 198 C. 445. Cited. 200 C. 261. Cited. 203 C. 295. Cited. 204 C. 17; Id., 67; Id., 259; Id., 609; Id., 672. Cited. 205 C. 116; Id., 767. Cited. 206 C. 636. Cited. 207 C. 296. Exhaustion doctrine discussed. Id., 346. Cited. Id., 547; Id., 674. P.A. 1988 88-317, S. 23(c) amendment cited. Id., 683. Cited. 208 C. 187; Id., 663; Id., 709. Cited. 209 C. 544. Cited. 210 C. 531; Id., 549; Id., 646; Id., 697. Cited. 211 C. 436; Id., 464; Id., 508; Id., 690. Cited. 212 C. 157; Id., 415. Cited. 213 C. 126; Id., 184; Id., 216. Cited. 214 C. 601. Cited. 215 C. 49; Id., 517; Id., 616; Id., 701. Cited. 216 C. 228; Id., 237; Id., 627. Cited. 217 C. 193. Cited. 218 C. 335; Id., 729. Cited. 219 C. 168. Cited. 220 C. 86; Id., 192; Id., 516. Cited. 221 C. 217; Id., 422; Id., 482. Cited. 222 C. 414; Id., 541; Id., 621. Cited. 224 C. 666. Cited. 225 C. 13; Id., 297. Cited. 226 C. 80; Id., 105; Id., 358; Id., 818. Cited. 227 C. 545; Id., 848. Cited. 228 C. 271. Cited. 229 C. 51; Id., 664. Cited. 230 C. 441. Cited. 231 C. 391. Cited. 232 C. 181; Id., 401. Cited. 233 C. 370. Cited. 234 C. 424; Id., 624. Cited. 235 C. 334. Cited. 236 C. 681; Id., 722. Cited. 237 C. 272. Cited. 238 C. 337.

Cited. 239 C. 32; Id., 124; Id., 638. Cited. 240 C. 1. Cited. 241 C. 282. Denial of petition to intervene pursuant to Sec. 22a-19 was not a final decision within meaning of statute because it is not the agency determination in a contested case because, in turn, it does not determine the legal rights, duties or privileges of a party and instead, it is more properly considered as a preliminary or intermediate ruling of the agency. 259 C. 131.

Cited. 1 CA 1. Cited. 2 CA 68. Cited. 3 CA 97; Id., 484; Id., 707. Cited. 4 CA 143; Id., 216. Cited. 5 CA 219. Cited. 6 CA 47; Id., 473. Cited. 7 CA 748. Cited. 12 CA 47; Id., 455. Cited. 13 CA 1; Id., 315; Id., 818. Cited. 14 CA 413. Cited. 17 CA 165; Id., 429. Cited. 18 CA 4; Id., 13; Id., 40; Id., 291. Cited. 19 CA 360; Id., 428; Id., 713. Cited. 21 CA 678. Cited. 23 CA 188; Id., 435. Cited. 24 CA 44; Id., 163. Cited. 25 CA 543; judgment reversed, see 222 C. 541. Cited. 27 CA 377; Id., 590. Cited. 28 CA 435; Id., 733. Uniform Administrative Procedure Act does not govern commission's actions prior to appeal to superior court. 30 CA 85. Cited. Id., 463; Id., 720; Id., 738. Cited. 31 CA 155. Cited. 32 CA 335. Cited. 33 CA 247; Id., 541; Id., 775. Cited. 34 CA 123; Id., 567. Cited. 35 CA 474. Cited. 36 CA 155. Cited. 37 CA 423; Id., 653; judgment reversed, see 238 C. 361.; Id., 777. Cited. 38 CA 506. Cited. 41 CA 1; Id., 641; judgment reversed, see 240 C. 824; Id., 827. Cited. 42 CA 39; judgment reversed, see 241 C. 310; Id., 519; Id., 631. Cited. 44 CA 143; Id., 611; Id., 702. Cited. 45 CA 225; Id., 476; Id., 577. Trial court properly dismissed plaintiff's claims for failure to exhaust administrative remedies. 48 CA 102. Damage to professional reputation indirect result of agency hearing and not grounds for immediate judicial appeal. 52 CA 513. Substantial evidence standard is satisfied if the record provides a substantial basis of fact from which the fact in issue can be reasonably inferred; in order to determine whether there was substantial evidence, trier of fact must have conducted a complete and thorough investigation. 57 CA 767. Because commissioner did not give plaintiff opportunity to remedy application's deficiencies or to request that application be deemed complete as submitted and have those deficiencies examined in the forum of a public hearing as required by Sec. 22a-374, plaintiff has met requirements for an appeal from a final decision in a contested case. 71 CA 395.

Cited. 30 CS 118. Trial de novo on appeal, discretionary. Id., 262. Cited. Id., 309. Appeal from administrative agency not civil action. Id., 333. Cited. 31 CS 15. Exhaustion requirement was accepted rule before enactment of chapter. Id., 65. Sections 16-35 and 16-39 are the "other means of review, redress, relief or trial de novo" as contained in Subsec. (a). Id. The time and method for an appeal pursuant to this section from an administrative agency are mandatory and jurisdictional. Id., 186. Cited. Id., 212. Cited. 32 CS 104. Challenge to regulation should follow statutory procedure, commencing under Section 4-176. Court should not grant injunction in lieu of this procedure. Id., 153. Cited. Id., 300. "Failure to exhaust all administrative remedies" applied so as to deprive court of jurisdiction. 33 CS 86. Cited. 34 CS 199. Cited. Id., 225. Cited. 35 CS 186; 36 CS 1. Court has no authority to enter an interim enforcement order against appellant at appellee's request. Sole interim action authorized is stay requested by nonprevailing party at administrative hearing. Id., 285. Common sense and federal case law indicate where record is incomplete for some reason, remand to agency to take additional evidence is only method to insure meaningful judicial review. Id., 297. Cited. Id., 305. Cited. 38 CS 460; Id., 712. Cited. 39 CS 56; Id., 99; Id., 176; Id., 257; Id., 443; Id., 462. Cited. 40 CS 505; Id., 520; Id., 554. Cited. 41 CS 267. Cited. 42 CS 57; Id., 84; Id., 129; Id., 157; Id., 217; Id., 291; Id., 306; Id., 558; Id., 599; Id., 602. Cited. 43 CS 1; Id., 175; Id., 246; Id., 340; Id., 386; Id., 457. Cited. 44 CS 21; Id., 223; Id., 230. Cited. 45 CS 57.

Subsec. (a):

Cited. 170 C. 668. Cited. 171 C. 348. This section is principally addressed to forms of relief which are available after relief has been sought through an agency. 173 C. 352. Cited. 175 C. 415. Cited. 177

C. 616; 178 C. 586. Cited. 189 C. 550. Cited. 191 C. 497. Same reasons that support the prohibition against appeals from interlocutory orders in trial court are equally pertinent in the administrative context. 202 C. 150. Cited. 205 C. 324. Cited. 207 C. 346. Cited. 208 C. 709. Cited. 210 C. 349. Cited. 214 C. 560; Id., 726. Cited. 224 C. 693. Cited. 226 C. 670; Id., 792. Cited. 229 C. 31. Cited. 233 C. 486. Cited. 234 C. 411; Id., 488; Id., 704. Cited. 235 C. 128. Cited. 237 C. 209. Cited. 238 C. 361. Cited. 239 C. 599. Cited. 240 C. 141; Id., 824; Id., 835. Cited. 242 C. 152. Trial court lacked jurisdiction because plaintiff had no statutory right to appeal from board's refusal to hold commutation hearing. 272 C. 647.

Cited. 3 CA 464; Id., 531. Cited. 21 CA 629. Cited. 33 CA 727. Cited. 34 CA 352. Cited. 35 CA 111. Cited. 41 CA 866. Cited. 42 CA 700; judgment reversed, see 240 C. 835. Plaintiff was not aggrieved by final decision because hearing, which was not required by statute, did not constitute a contested case within meaning of statute. 75 CA 215.

Cited. 38 CS 24.

Subsec. (b):

Cited. 170 C. 3. Statutory right of appeal subject to strict compliance with time limitations. 177 C. 584. Cited. 181 C. 324. Discussion of venue provisions. 186 C. 198. Cited. 188 C. 90. Unnecessary to name and serve a hearing board as a defendant. A hearing board is not an agency for purposes of appeal under UAPA. 198 C. 445. Cited. 201 C. 350. Cited. 202 C. 150. Cited. 204 C. 60. Cited. 205 C. 324. Department of public health was a party of record required to be cited and served an appeal in addition to board of examiners in podiatry. Id., 674. Cited. 210 C. 597. Cited. 211 C. 78. Court lacked jurisdiction where plaintiffs failed to comply with service requirements. 212 C. 157. Cited. 215 C. 517. Cited. 216 C. 667. Cited. 217 C. 143.

Cited. 1 CA 1. Cited. 3 CA 416. Construction of "agency" as used in statute to mean "hearing officer" would contravene Sec. 4-166(1), consequently service on hearing officer not required. 3 CA 464. Cited. 5 CA 643. Cited. 6 CA 148. Time requirement determined by notice containing commissioner's finding of fact, conclusion of law and the order of suspension. 7 CA 748. Cited. 10 CA 14. Cited. 14 CA 376. Cited. 15 CA 569. Cited. 16 CA 604; judgment reversed, see 212 C. 628. Cited. 18 CA 132. Cited. 21 CA 629. Cited. 22 CA 253. Cited. 34 CA 18. Cited. 35 CA 812. Cited. 37 CA 694.

Section requires only that a copy of the appeal be served on parties of record at a Blue Cross rate hearing before the insurance commissioner, not that they be made parties. 31 CS 257. Appeals under this section and Section 33-167 are heard and decided together. Id. Cited. Id., 456. Cited. 38 CS 538. Petitions filed must include citations and amendments thereto cannot cure defects in service of process. Id., 712.

Subsec. (c):

Cited. 186 C. 198. Cited. 200 C. 489. Cited. 204 C. 60. Cited. 207 C. 346. Cited. 216 C. 667. Cited. 217 C. 130. P.A. 88-317, Sec. 23(c) cited. Id. Cited. Id., 143. P.A. 88-317, S. 23(c) cited. Id. Cited. 219 C. 204. Time within which appeals may be filed controlled by provisions in effect when underlying agency proceedings commenced. 221 C. 482. P.A. 88-317 cited. Id. Subdiv. (1) cited. Id., 922. Subdiv. (1): Service of process pursuant to this section does not require a citation; judgment of appellate court in *Tolly v. Department of Human Resources*, 26 CA 938 reversed. 225 C. 13. Failure to meet time limitation for filing appeal deprives trial court of subject matter jurisdiction over appeal. 227 C. 848.

Cited. 233 C. 153. Cited. 235 C. 128. Cited. 237 C. 209. Cited. 239 C. 437. Service of process of appeals from administrative agencies is deemed perfected as of the date it is postmarked. 249 C. 503.

Cited. 24 CA 662; judgment reversed, see 223 C. 618. Cited. 31 CA 922. Cited. 37 CA 653; judgment reversed, see 238 C. 361. Cited. 45 CA 620. Service is not completed until the appeal is in possession of the subject agency or the attorney general's office. 48 CA 711. Forty-five (45) day filing requirement is a mandatory jurisdictional requirement. 61 CA 270. Service of process by a person who lacked statutory authority did not deprive trial court of subject matter jurisdiction for an administrative appeal when in every other respect service met requirements of the statute. 69 CA 563. Court found service requirement of the statute to be directory and not mandatory and, in the absence of a showing of prejudice, found service by a person who lacked statutory authority not to be the equivalent of a total failure of service of process. *Id.* Failure of party to file administrative appeal under the UAPA within the forty-five (45) days required deprives trial court of subject matter jurisdiction over an appeal. Thus, upon landlord's failure to file a timely appeal from Banking Commissioner's order requiring defendant landlord to return a security deposit, commissioner's findings and conclusions became final, binding and not subject to review. 76 CA 824.

Standards for granting stay. Application of balancing test. 35 CS 13. Singular nature of an appeal from freedom of information grant requires issuance of stay in order to preserve the statutory right of appeal under Section 1-21i(d). Release of information would render an appeal moot. *Id.*, 186. Cited. 43 CS 10.

Subsec. (d):

Failure of board to follow form prescribed in statute not cause for reversal where conclusion supported by plaintiff's own testimony. 177 C. 344. Cited. 202 C. 453. Cited. 217 C. 130. Cited. 219 C. 204.

Cited. 34 CA 343. Cited. 45 CA 620.

Subsec. (e):

Trial court has no power to take any evidence. It may only order evidence, if required, be taken by the agency. 174 C. 271. Cited. *Id.*, 366. Cited. 200 C. 489. Cited. 201 C. 592. Cited. 202 C. 405. Cited. 219 C. 204.

Cited. 3 CA 531. Cited. 37 CA 653; judgment reversed, see 238 C. 361.

Subsec. (f):

Cited. 172 C. 292. Cited. 174 C. 258; *Id.*, 366. Cited. 176 C. 82. Cited. 177 C. 78. Cited. 204 C. 507. Cited. 220 C. 307. Cited. 223 C. 573. Cited. 228 C. 651.

Cited. 3 CA 531. Cited. 5 CA 520. Cited. 15 CA 569. Cited. 18 CA 241. Cited. 29 CA 576. Cited. 38 CA 168.

It was impermissible for court to, in effect, try the matter de novo when parties inserted new facts at the appellate level. 39 CS 520. Cited. 40 CS 293.

Subsec. (g):

Hearing in which teacher did not have notice of all charges brought against her held in violation of chapter 54. 167 C. 368. The court cannot substitute its discretion for that legally vested in the commission, but determines on the record whether there is a logical and rational basis for the decision of the commission or whether, in the light of the evidence, it has acted illegally or in abuse of its discretion. 168 C. 294. Cited. Id., 504. Although the commissioner acts in a quasi-judicial capacity, his function is that of an administrative agency and conclusions reached by him are upheld if legally supported by evidence. Id., 587. Scope of judicial review in appeal from administrative agency. 170 C. 327. Cited. 171 C. 348. (6) cited. Id., 349. Cited. Id., 705. (5) Evidence is sufficient to sustain agency finding if it affords "a substantial basis of fact for which fact in issue can be reasonably inferred". Id., 705. Cited. 172 C. 292. (3) cited. 174 C. 366. Cited. Id., 529. (5) cited. 175 C. 174. Cited. 176 C. 11; Id., 320; Id., 374. Cited. 177 C. 78. (5) cited. Id., 344; 181 C. 324. Cited. 179 C. 128. Lay commission acted without substantial evidence and arbitrarily when it relied on its own knowledge and experience concerning technically complex issue of pollution control. 180 C. 421. Cited. 181 C. 69. Decision of commission was affected by an "error of law"; it is for the courts, and not administrative agencies to expound and apply governing principles of law. Id., 324. Cited. Id., 544. Cited. 182 C. 314. Cited. 196 C. 623. (1) cited. 197 C. 91. Cited. 200 C. 1; Id., 133. (6) cited. Id., 145. Cited. Id., 489. Cited. 202 C. 405; Id., 453. Cited. 207 C. 77. Cited. 208 C. 442. Cited. 210 C. 214. Cited. 212 C. 100. Cited. 218 C. 580; Id., 757. Cited. 222 C. 380. Cited. 232 C. 91.

(1) Cited. 4 CA 307. Cited. Id., 468. Cited. 13 CA 477; judgment reversed, see 210 C. 214. (5) cited. Id., 477; judgment reversed, see 210 C. 214. Cited. 15 CA 569. Cited. 19 CA 334; Id., 539. (4) cited. Id., 539. Cited. 34 CA 352. Cited. 35 CA 191. Cited. 38 CA 73.

Court, on examining record of Blue Cross rate hearing, affirms insurance commissioner's modification of rate schedules as there is sufficient evidence to support his judgment. 31 CS 257. Where the finding of facts and the record did not disclose evidence of sufficient probative force to establish violation of Section 14-222, the commissioner's conclusion of law was erroneous. Id., 325. Motion for stay of administrative decision affecting amendment to rate schedules does not operate as authorization for original request. Id., 172. Cited. 35 CS 28; 36 CS 1; Id., 18. (6) cited. Id., 166. Appeal of agency decision permitted. Id., 271. Cited. 40 CS 233; Id., 512.

Subsec. (h):

Cited. 214 C. 505. Proof that one's attorney provided incompetent representation during the course of department proceedings may constitute a showing of a "good reason" for failing to present evidence. 259 C. 288.

Cited re appeal under Sec. 5-248c. 57 CA 767.

Subsec. (i):

Cited. 214 C. 505. Cited. 218 C. 646. Cited. 219 C. 139. Proof of aggrievement requires evidentiary hearing only in absence of a sufficient administrative record; judgment of appellate court in *State Library v. Freedom of Information Commission*, 41 CA 641 et seq. reversed. 240 C. 824. Cited. 241 C. 310.

Cited. 10 CA 14. Cited. 20 CA 474. Cited. 43 CA 39; Id., 133.

Subsec. (j):

Cited. 215 C. 590. Cited. 216 C. 253. Subdiv. (4) cited. 217 C. 153. Cited. 218 C. 580. Cited. 219

C. 51. Subdiv. (2) cited. Id., 121. Cited. Id., 139. Cited. 222 C. 380. Cited. 226 C. 704. Cited. 228 C. 158; Id., 651; Id., 699. Subdiv. (5) cited. 229 C. 31. Subdiv. (5) cited. 231 C. 328. Cited. 232 C. 122; Id., 599. Cited. 233 C. 486. Subdiv. (5) cited. 234 C. 312. Subdiv. (6) cited. Id. Cited. 235 C. 778. Cited. 236 C. 96; Id., 250. Cited. 237 C. 209. Cited. 239 C. 207; Id., 599. Cited. 240 C. 119; Id., 141. Cited. 241 C. 310. Subdiv. (5) cited. 242 C. 79. Cited. Id., 599. Applies only to remands after rulings on the merits of an administrative appeal. 258 C. 529. Reaffirmed previous holdings that trial court order remanding administrative appeal under UAPA was final decision and further proceedings cannot affect parties' rights. 262 C. 222.

Cited. 20 CA 474. Subdiv. (5) cited. 27 CA 346. Subdiv. (6) cited. Id. Subdiv. (6) cited. 28 CA 262. Subdiv. (5) cited. Id., 500; 29 CA 576. Cited. 32 CA 56. Cited. Id., 501. Subdiv. (5) cited. Id., 727. Cited. 34 CA 352. Subdiv. (5): Judgment of trial court dismissing appeal is reversed. See also *Nelson Navigation Co. v. Department of Liquor Control*, 27 CA 614 and 226 C. 418. Id. Cited. Id., 510; Id., 620. Cited. 35 CA 111; Id., 384. Cited. 37 CA 303; Id., 694. Cited. 38 CA 322; Id., 506. Cited. 41 CA 67. Cited. 42 CA 402. Cited. 43 CA 133; Id., 636. Cited. 44 CA 611. Cited. 45 CA 83. Subdiv. (5) cited. Id., 225. It is not the role of the court to substitute its judgment for that of zoning board of appeals in case involving certificate of approval pursuant to Sec. 14-54 when there was substantial evidence on the record to support board's decision. 48 CA 599. Subdiv. (5): Standard of review discussed. 49 CA 513. Substantial evidence rule governing judicial review of administrative fact-finding under Uniform Administrative Procedure Act discussed. 62 CA 45. Section sets forth a substantial evidence rule which governs judicial review of administrative fact-finding. 72 CA 452.

Subdiv. (5) cited. 42 CS 413. Scope of judicial review. 45 CS 292.

Subsec. (k):

Cited. 234 C. 312. Cited. 235 C. 778. Cited. 236 C. 96; Id., 250. Cited. 237 C. 209.

Cited. 20 CA 474. Cited. 24 CA 662; judgment reversed, see 233 C. 618.

<a href="#"><u>(Return to Chapter Table of Contents)</u></a>	<a href="#"><u>(Return to List of Chapters)</u></a>	<a href="#"><u>(Return to List of Titles)</u></a>
--	---	---

**Sec. 4-184. Appeal from final judgment of Superior Court.** An aggrieved party may obtain a review of any final judgment of the Superior Court under this chapter. The appeal shall be taken in accordance with Section 51-197b.

(1971, P.A. 854, S. 19; P.A. 76-436, S. 475, 681.)

History: P.A. 76-436 replaced court of common pleas with superior court and made review subject Sec. 52-7, effective July 1, 1978.

Cited. 171 C. 345; Id., 691. Cited. 172 C. 263. Cited. 173 C. 462. Cited. 186 C. 153. Freedom of information commission was not an aggrieved party and therefore was not eligible to appeal. 191 C. 173. Cited. 192 C. 234. Cited. 202 C. 405. Cited. 204 C. 672. Cited. 208 C. 187. Cited. 210 C. 597. Cited. 216 C. 253.

# APPENDIX B

# Town of Thomaston

# ZONING BOARD OF APPEALS Application Packet



**ZONING BOARD OF APPEALS**  
**GUIDELINES AND PROCEDURES**  
**FOR APPLICANTS**

The following guidelines have been adopted by the Thomaston Zoning Board of Appeals in order to assist applicants in applying for a Certificate of Use, Certificate of Variance, a ruling and/or interpretation or any other decision that the Board may make pursuant to the powers authorized by the Connecticut General Statutes.

Applications requesting variances to the Zoning Regulations are often submitted to the Zoning Board of Appeals and many times the applicants do not quite understand exactly why a variance is required and what the granting of a variance means to the Town of Thomaston. A variance is required when an applicant is proposing something on their property that is not permitted by the Zoning Regulations. In effect, you are requesting that the rules be broken for you based upon your unique situation as it relates to your property.

All applicants should follow the guidelines in the order as listed below:

1. Visit the Building and Land Use Office, Thomaston Town Hall, Third Level, 158 Main Street. An office appointment can be arranged by calling (860) 283-8411 Monday to Wednesday 8:00 am to 4:00 pm, Thursday 9:00 am to 6:30 pm, and Fridays 8:30 am to 12 noon.
2. The Land Use Officer will explain the application process in detail, respond to any comments or questions regarding the application form, and inform you as to the documentation required to complete the process.
3. The Land Use Officer will inform you as to the date and time of the next regularly scheduled meeting of the Zoning Board of Appeals and the deadline date for submitting the completed application. The Zoning Board of Appeals meets in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main St. the third Tuesday of each month, unless otherwise noted. All meeting dates, meeting minutes, and agendas are posted in the Office of the Town Clerk and are available for review on the Town of Thomaston website [www.thomastonct.org](http://www.thomastonct.org)
4. In order to post the proper legal notice, the application form and other documentation must be complete. Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next regularly scheduled meeting. This requirement ensures that the required legal notices can be properly prepared, worded, and published in the newspaper in a timely manner as required by the Connecticut General Statutes.
5. A checklist attached to the application must be completed and submitted as part of the application.

The following items must be submitted with your application:

- Cash or a check for the required fee made payable to the Town Of Thomaston.
- A legal description of the property obtained from the Land Records in the Thomaston Town Clerk's Office which includes the date of transaction and a complete copy of the deed. You can visit the Assessor's Office and look at your property card to obtain the volume and page number of your deed in the Land Records.

- A map/plot plan of the property detailing the location and design of all existing and proposed structures on the property. A plot plan is a bird's eye view of a property showing how a building is situated on a property. A plot plan typically shows setbacks of how far existing buildings or structures are located from the rear, side, and front yard property lines. The distances from these structures to property lines and the percentage of lot/ground coverage and floor area coverage shall be shown on the plot plan. A plot plan typically shows any easements, rights of way or drainage public or private that exist on a property. You may draw the plot plan yourself, but it must be clean, neatly done, and as accurate as possible. In certain instances, the Board may require an A- 2 survey by a Land Surveyor licensed in the State of CT in order to reach a decision.
  - Architectural drawings of any proposed additions(s), showing the interior floor plan, dimensions, front, side, and rear views. Architectural drawings must include doors, windows, and any other permanent structures. Existing ground elevations must also be shown.
  - A signed copy of the Notice to All Zoning Board of Appeal Applicants must be submitted with the Application for a variance.
  - The applicant may submit photographs with the application or at the Public Hearing. All submitted photographs become part of the record and will remain with the application file in the Building and Land Use Office.
6. Your application form and other documentation must be submitted to the Land Use Office for final review. This will help insure the completeness of the application. The Thomaston Land Use Officer will provide all necessary forms and applications. The Land Use Officer can be of assistance in reviewing your plans; however, the officer cannot be responsible for the design of your plans or indicate the possible outcome of the Zoning Board of Appeals decision and/or any future appeal to the Superior Court.
  7. As soon as the completed application form and related documentation has been received, the process will begin. You will be notified as to the date, time, and place of the public hearing via first class mail. All affected property owners, including yourself, are usually notified within ten (10) to fourteen (14) days prior to the public hearing.
  8. Once the application is received, the required legal notice posted in the newspaper, and adjoining property owners are notified, **the applicant must attend the public hearing on the application.**
  9. **The applicant and or his agent must attend the public hearing and must be prepared to present the application to the Zoning Board of Appeals on the night of the public hearing.** The following is a typical meeting scenario that may occur at a regular meeting of the Thomaston Zoning Board of Appeals:
    - The Chairman or presiding Officer of the Zoning Board of Appeals calls the meeting to order.
    - The Chairman announces the application on the public hearing agenda and then requests the Secretary of the Zoning Board of Appeals to read aloud the legal notice that was published twice in the newspaper.

- The Board will then ask if anyone is in the room to present the Variance Application. **Please be aware that the Board has already received a copy of your application along with a staff memo reviewing the application. It is highly recommended that the applicant retain a copy of the submitted application and documents for their use when presenting the application to the Board.**
  - The applicant must either sit or stand at the meeting table and explain to the Board exactly what type of variance is being requested e.g. a front, rear, or side yard property setback that is different than what is permitted by the Zoning Regulations of the Town of Thomaston.
  - The applicant and or his agent must be prepared to explain to the Board what hardship or unusual characteristics of their property warrant a variance from the Zoning Regulations, e.g. the unusual or unique characteristics of your property as compared to other properties in the same zoning district that makes it difficult for you to use your particular property in compliance with the Zoning Regulations of the Town of Thomaston.
  - Financial difficulties or gains, health problems or any self-created hardships do not justify the receipt of a variance from the Zoning Board of Appeals.
  - The Board will ask the applicant and or his agent questions as to what other options permitted by the Zoning Regulations were explored by the applicant before an application for a variance was submitted to the Zoning Board of Appeals.
10. The Board must consider the following facts when reviewing a request for a variance. The Board is not being adversarial when it asks questions of the applicant or listens to public comment on an application. The Board has a responsibility pursuant to the Connecticut General Statutes to consider the following:
- Does the applicant have reasonable use of their property without the variance?
  - Are there extraordinary or unique physical conditions e.g. slope, wetlands, peculiar and unique to the property in question that amount to more than an inconvenience to the property owner and have these unique characteristics arisen from the property itself rather than a situation that is personal to the current property owner e.g. a growing family requires an addition to the existing home on a small lot and the addition will be located less than the permitted setback from the property lines as prescribed by the Zoning Regulations of the Town of Thomaston.
  - Would the strict application of the Zoning Regulations deprive the applicant of substantially the same rights enjoyed by owners of other lots in the zoning district subject to the same zoning regulation?
  - Will the granting of the variance be in harmony with the Plan of Conservation and Development of the Town of Thomaston?
  - Will the granting of the variance be in character with the surrounding neighborhood?

11. After the Board has heard from the applicant and the public and asked questions, the Board has the following options:
- The Board can close the hearing and render a decision that night.
  - The Board can continue the hearing for thirty-five (35) days in order to permit the applicant to provide more information for the next public hearing. Once the public hearing is closed, no new information can be submitted by the applicant or received by the Board from any parties.
  - The Board can close the hearing and table action on the application because the Board has sixty-five (65) days from the date of the close of the public hearing to render a decision on the application.
  - The Board may continue the public hearing and schedule a site walk to visit the property, which is the subject of the variance application. A site walk is not a meeting at which testimony will be taken by the Board members rather it is an opportunity for the Board members to see the property themselves prior to rendering a decision on an pending application.
12. If the Board makes a decision on the application, staff will send a letter of the Board's decision to the applicant and publish a legal notice in the newspaper within fifteen (15) days from the date of the decision of the Board. If the Board approves the application it may take up to two (2) weeks after the decision for staff to have the Certificate of Variance ready for the applicant to file on the Land Records of the Town of Thomaston as the Certificate of Variance must be signed by a Officer of the Board before it can be filed on the Land Records.

**The above "Guidelines and Procedures for Applicants" was adopted at a regular meeting of the Thomaston Zoning Board of Appeals on January 13, 2009.**

---

Peter Fuller, Chairman  
Thomaston Zoning Board of Appeals

---

Edward Eaton, Secretary  
Thomaston Zoning Board of Appeals



Zoning Board of Appeals  
 158 Main Street,  
 Thomaston, Ct 06787  
 Telephone: 860-283-8411  
 Fax: 860-283-2893  
 Website: [www.thomastonct.org](http://www.thomastonct.org)

**APPLICATION TO THE ZONING BOARD OF APPEALS**

Application No. \_\_\_\_\_ Date: \_\_\_\_\_ Fee: \_\_\_\_\_  
 Applicant Name \_\_\_\_\_ Address \_\_\_\_\_  
 Home Phone # \_\_\_\_\_ Other Phone # \_\_\_\_\_  
 Owner (s) Name \_\_\_\_\_ Address \_\_\_\_\_  
 Home Phone # \_\_\_\_\_ Other Phone # \_\_\_\_\_  
 Applicant Email \_\_\_\_\_ Owner Email \_\_\_\_\_

To the Zoning Board of Appeals, I; - We; hereby apply for the following (check one):  
 \_\_\_\_\_ a Variance from the Zoning Regulations \_\_\_\_\_ a Certificate of Non-Conforming Use  
 \_\_\_\_\_ a Motor Vehicle Certificate Approval of Location  
 \_\_\_\_\_ an Approval of Location for Gasoline Sales

For the purpose of \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Specify all the variances requested	Applicable Zoning Regulation
_____	_____
_____	_____
_____	_____

**Specify the nature of the Hardship:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Has any previous appeal been filed in connection with this property? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, when and for what purpose? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Property Location Pertaining to the Appeal \_\_\_\_\_

Assessor's Map \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ Zone \_\_\_\_\_

Located on the east; west; north; south; side of \_\_\_\_\_ street.

It is approximately \_\_\_\_\_ feet distant from the intersection of \_\_\_\_\_ street  
 with \_\_\_\_\_ street.

Is the property within 500 feet of an abutting Town? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, which towns? \_\_\_ Harwinton \_\_\_ Litchfield \_\_\_ Terryville \_\_\_ Waterbury \_\_\_ Watertown

**Note: Please use the attached checklist to verify the application is complete and all the required paperwork is submitted with it.**

**Mail to: Thomaston Zoning Board of Appeals  
Town Hall  
158 Main Street  
Thomaston, CT 06787**

I; We; hereby depose and say that all of the above statements and the statements contained in any papers submitted herewith are true to the best of my knowledge and belief.

I; We; as the applicant and/or owner hereby consent to necessary and proper access to the Above mentioned property by the Board and its designated agents, at reasonable times to investigate the site conditions and to monitor implementation measures.

Signature of Owner or Owners (if owned jointly; both must sign)-Date Signature of Applicant-Date

---

---

Please Note: State law requires that the hearing on your application must commence within 65 days after receipt of the application.

**If the application is submitted by a Limited Liability Corporation (LLC) or a Limited Liability Partnership (LLP) or if the owner of the property is an LLC or LLP the applicant must provide written documentation as to who are the members of the LLC or LLP.**

**The applicant must provide written permission from the members of the LLC or LLP permitting the filing of the Variance Application. This permission may be in the form of a written corporate resolution signed and dated by all members of the LLC or LLP or other signed and dated authorization from the owners of the property.**

**If it is member-managed LLC or LLP, all members of the LLC or LLP must sign a written document granting permission for the application to be filed.**

Form #1 ZBA Page 2, Rev.1, 11/19/2002      Form #1 ZBA Page 2, Rev. 2 1/13/09



Town of Thomaston  
Zoning Board of Appeals  
158 Main Street  
Thomaston, Ct 06787  
Telephone: 860-283-8411  
Fax: 860-283-2893  
Website: [www.thomastonct.org](http://www.thomastonct.org)

## APPLICATION CHECKLIST FOR ZONING BOARD OF APPEALS

**This checklist must be submitted with the completed application  
(Please check as each item is completed)**

- Check/cash for the required fee made payable to the Town of Thomaston.
- Legal description of the property. The legal description can be obtained from the Town Clerk's Office.
- Map of the property showing all structures with complete dimensions and setbacks from the front, rear and side yard property lines. A carefully drawn plot plan by the applicant should suffice. The board does reserve the right to require an A-2 survey of the property.
- Show locations of septic, well, sewer line, and inland wetlands. If the property has a septic system or a well, evidence of written approval from the Torrington Area Health District is required. If the property is serviced by public sewer, evidence of written approval from the Superintendent of the Water Pollution Control Authority may be required depending upon the scope of your application. If the property has inland wetlands and watercourses, then an application and approval may be required from the Inland Wetlands and Watercourses Commission (IWWC) or the Wetland Enforcement Officer (WEO). Evidence of the written approval from the IWWC or the WEO must be submitted with your application.
- If an A-2 survey is required, the survey must be prepared by Licensed Land Surveyor in the State of Connecticut. The survey must bear the seal and signature of the surveyor.
- Architectural drawings of any proposed addition(s) showing the interior floor plan the dimensions, front, side and rear views. Existing ground elevations must also be shown. Architectural drawings must include doors, windows, and any other permanent structures.
- The names of all abutting property owners must be provided on a separate sheet of paper and on addressed stamped envelopes. All envelopes must be returned to the Building and Land Use Office a minimum of fifteen (15) days prior to the public hearing.
- The applicant must provide a stamped envelope addressed to themselves.
- The submission of photographs with your application is optional. Any photographs that are submitted with the application or at the public hearing shall become part of the application record. Any photos will remain in the Zoning Board of Appeals file in the Building and Land Use Office.



Town of Thomaston  
Zoning Board of Appeals  
158 Main Street  
Thomaston, Ct 06787  
Telephone: 860-283-8411  
Fax: 860-283-2893  
Website: [www.thomastonct.org](http://www.thomastonct.org)

**Notice to All Zoning Board of Appeals Applicants**  
**This checklist must be submitted**  
**with the completed application.**

1. The Application to the Zoning Board of Appeals must be filled out **completely or it may be denied** by the Board as incomplete.
2. **The Hardship must satisfy Connecticut State Statutes Requirements.**
3. **Application fees are not refundable. The application fee is \$170.00.** \*(Section 22a-27j of the Connecticut General Statutes requires that a \$30.00 additional fee be charged for all ZBA applications).\*  
**The total fee payable to the Town of Thomaston is \$200.00.** Cash or checks are acceptable forms of payment
4. **Torrington Area Health District Approval** is required if the property has an onsite septic system or private water supply.  
**Minimum cost \$35.00.**  
**\* See Applications for Torrington Area Health District in the Building and Land Use Office.**
5. **Inland Wetlands and Watercourses.** If the property has inland wetlands or watercourses located onsite, an application may be required to be submitted to the Inland Wetlands and Watercourses Commission (IWWC) or to the Wetlands Enforcement Officer (WEO). There are fees associated with the submittal of an application to IWWC or the WEO.  
See informational sheet entitled **“Notice to all IWWC Applicants”**.
6. **Stamped Addressed Envelopes:** Applicants must supply stamped addressed envelopes, with the return address left blank, for the Land Use Office to notify all abutting property owners and yourself of the public hearing, this includes properties located on either side of you, in front of you, behind you, and directly across the street from you.
7. **Outside Consultants Costs:** *(An outside consultant means a professional who is not an officer or employee of the Town).*  
If the Board requires a review by an Outside Consultant, e.g. engineer, hydrologist, environmental, or planning consultant, the applicant must pay for the cost of the outside consultants review. If an outside consultant is requested by the Board, a written estimate of the cost for the review is requested by Board Staff and the written estimate is sent to the applicant.

The applicant then pays the Town for the cost of the review and the Town pays the outside consultant for the review. The review of the outside consultant will not begin until the cost of the review is paid by the applicant to the Town of Thomaston. **If the cost of the outside consultant review fee is not paid in a timely manner, it may lead to the denial of your application by the Board as incomplete due to the required statutory time-frames as to when the Board must render a decision on your application.**

**8. Applicants are responsible for all costs associated with this application:**

- Minimum of three (3) legal notices published in the newspaper. Publication is required by the CT General Statutes.  
**Total estimated cost: \$275.00.**
- Certified Mailing of the Decision of the Board required by the CT General Statutes.  
**Minimum cost: \$5.59.**
- If the Board approves your variance request, an Application for a Zoning Permit must be completed.  
**Minimum Zoning Permit fee cost \$90.00. The zoning permit fees vary based upon what is being done on the property.**
- Associated building permit fees once all your approvals and documentation is complete.

By signing this, you acknowledge that you have read all of the information stated in this document entitled “**Notice to all Zoning Board Appeals Applicants**” and agree to pay all costs associated with this application submitted to the Thomaston Zoning Board of Appeals.

\_\_\_\_\_

Applicant or Agent

\_\_\_\_\_

Date

\_\_\_\_\_

Witnessed By

\_\_\_\_\_

Date

**This sheet must be submitted with the completed application.**

## Frequently asked Questions regarding the Zoning Board of Appeals Application Process for Variances

### **What is a variance of the Zoning Regulations?**

A variance permits you to act in a manner that is not permitted within the Zoning Regulations of the Town of Thomaston. An example of a variance would be a request to locate an addition to a house closer to a side and rear yard property line than is permitted by the Zoning Regulations.

An applicant must show the Board of Appeals that because of something particular to your property, the strict application of the Zoning Regulations produces an exceptional difficulty or unusual hardship that is different from the other properties in the same area of town. The hardship or exceptional difficulty cannot be created by the property owner e.g. "self created hardship".

### **Why do I need a variance?**

Whatever you are proposing is not permitted by the Zoning Regulations of the Town of Thomaston.

### **Who can grant a variance to the requirements of the Zoning Regulations?**

The Zoning Board of Appeals pursuant to Section 8-5 and 8-6 of the Connecticut General Statutes is the only Board in Thomaston that can grant a variance to the Zoning Regulations.

### **When does the Zoning Board of Appeals meet?**

The Zoning Board of Appeals meets the second Tuesday of each month unless otherwise noted. The Board meets at 7:00 pm in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main Street, Thomaston, CT. All meeting dates, agendas, and meeting minutes are posted in the Office of the Town Clerk or are available for review on the Town of Thomaston's website [www.thomastonct.org](http://www.thomastonct.org).

### **How does the Zoning Board of Appeals conduct their hearings?**

The Chairman of the Zoning Board of Appeals will call the meeting to order and the Secretary of the Board will read the legal notice into the record of the meeting. The Applicant must then stand or sit at the meeting table and present their application to the Board.

### **How do I obtain an application?**

You can download an application from the Town's website at [www.thomastonct.org](http://www.thomastonct.org) or pick up an application in the Building and Land Use Office on Level 3 of the Town Hall located at 158 Main St., Thomaston, CT. Office Hours are Monday to Wednesday 8:00 am to 4:00 pm, Thursday 9:00 am to 6:30 pm and Fridays 8:30 am to 12:00 noon.

### **How does an Applicant present the application to the Board?**

The Board has already received a copy of your application with a staff memo reviewing the application. It is suggested that the applicant retain a copy of the submitted application so it can be used by the applicant when presenting the application to the Board.

The Applicant must either sit or stand at the meeting table with the Board and explain to the Board exactly what type of variance is being requested i.g. a front, rear, or side yard property setback that is different than what is permitted by the Zoning Regulations of the Town of Thomaston. The applicant must also be prepared to explain to the Board what hardship or unusual characteristics of their property warrants a variance from the Zoning Regulations of the Town of Thomaston. What are the unusual or

unique characteristics of your property as compared to other properties in the same zoning district that make it difficult for you to use your particular property in compliance with the Zoning Regulations?

The Applicant can submit photographs of the property to assist the Board in rendering a decision on the application.

**Does the Board make a decision the same night as the public hearing?**

The Board has thirty-five (35) days to keep the hearing open on the application. If additional information is required, the Board may keep the public hearing open to allow the applicant or anyone else to provide additional information.

If all the information is received the night of the public hearing and the Board does not have any further questions the Board may close the public hearing on the application and render a decision that night.

Please be aware that the Board may close the public hearing the same night the hearing is opened, but may not render a decision until the next monthly meeting.

The Board has sixty-five (65) days from the date the public hearing is closed to render a decision on the application.

**Does the Board visit the property, which is the subject of the variance?**

Yes, the Board members may visit the site individually prior to the public hearing on the Application.

Or

The Board may schedule a field trip to view the site together. The field trip is a posted public meeting of the Board filed with the Town Clerk. There is not any discussion on a field trip. The field trip is intended to provide clarification for Board members.

**How many members are on the Zoning Board of Appeals?**

The Board consists of five regular members and three alternate members.

**Are there a certain number of votes of the Board members that is required in order to grant a variance?**

Yes, pursuant to Section 8-7 of the Connecticut General Statutes there must be four (4) affirmative votes of the Zoning Board of Appeals in order to grant a variance to the Zoning Regulations of the Town of Thomaston.

A vote three (3) in favor and two (2) opposed to the variance request constitutes a denial of the variance.

A tie vote two (2) in favor of the variance and two (2) opposed to the variance constitutes a denial.

A vote two (2) in favor of the variance and two (2) opposed to the variance and an abstention constitutes a denial.

The Zoning Board of Appeals will always ask the applicant if there are only four (4) Board members present if the applicant would prefer that the Board wait to vote on an application until five Board members are present.

**If my application is approved, what is the timeframe to receive my zoning approvals?**

The Zoning Enforcement Officer (ZEO) will publish the legal notice in the newspaper within fifteen (15) days from the date of the decision. An approval letter will be mailed by the ZEO within fifteen (15) days from the date of the approval.

A Certificate of Variance will be signed by an Officer of the Zoning Board of Appeals and the Applicant must file the Certificate of Variance in the Land Records in the Office of the Thomaston Town Clerk within one year from the date of the Approval.

Once the Certificate of Variance is filed then you may complete the administrative application for a Zoning Permit and upon payment of the Application fee for the Administrative Zoning Permit and review by the ZEO, you will receive your Administrative Zoning Permit.

The Zoning Permit does not constitute a Building Permit. Please see the Building Official about necessary building permits.

**Do I need to pay a fee in order to file an application for a Variance?**

Yes, there is an application fee that must be paid. The applicant is also responsible for paying the cost of the publication of any legal notices in the newspaper and any mailing or administrative costs required by Chapter 154 Fees of the Code of the Town of Thomaston and the Connecticut General Statutes.

See Notice to All Zoning Board of Appeals Applicants in the Zoning Board of Appeals Application Packet.

**Is the Application fee refundable if my Application for a Variance is denied by the Zoning Board of Appeals?**

No

**If my Application for a Variance is denied, can I reapply to the Zoning Board of Appeals?**

Yes, you may reapply but be aware Section 8-6 of the Connecticut General Statutes states that **No Zoning Board of Appeals shall be required to hear any application for the same variance or substantially the same variance for a period of six (6) months after a decision by the Zoning Board of Appeals or by a court on an earlier application.**

# Town of Thomaston

## ZBA Application Packet Appeal of ZEO'S Decision



**ZONING BOARD OF APPEALS GUIDELINES AND PROCEDURES**  
**FOR APPLICANTS WHO APPEAL A DECISION**  
**OF THE ZONING ENFORCEMENT OFFICER**

The following guidelines have been adopted by the Thomaston Zoning Board of Appeals in order to assist applicants in submitting an application to appeal the decision of the Zoning Enforcement Officer (ZEO) pursuant to the powers authorized by the Connecticut General Statutes.

Applications requesting to overturn the decision of the ZEO must explain in detail and provide reasons for the appeal. All appeals must be made within thirty (30) days of the receipt of the notice of violation, decision or order.

All applicants should follow the guidelines listed below in the order:

1. Visit the Building and Land Use Office, Thomaston Town Hall, 3<sup>rd</sup> Level, 158 Main Street. An office appointment can be arranged by calling (860) 283-8411 Monday to Wednesday 8:00 am to 4:00 pm, Thursday 9:00 am to 6:30 pm, and Friday 8:30 am to 12noon.
2. The Land Use Officer will explain the application process in detail, respond to any comments or questions regarding the application form, and inform you as to the documentation required to complete the process.
3. The Land Use Officer will inform you as to the date and time of the next regularly scheduled meeting of the Zoning Board of Appeals and the deadline date for submitting the completed application. The Zoning Board of Appeals meets in Meeting Room #1, Fourth Level, Thomaston Town Hall, 158 Main St., the third Tuesday of each month, unless otherwise noted. All meeting dates, meeting minutes, and agendas are posted in the Office of the Town Clerk and are available for review on the Town of Thomaston website [www.thomastonct.org](http://www.thomastonct.org)
4. In order to post the proper legal notice, the application form and other documentation must be complete. Staff to the Zoning Board of Appeals must receive all applications a minimum of twenty (20) days prior to the next regularly scheduled meeting. This requirement ensures that the required legal notices can be properly prepared, worded, and published in the newspaper in a timely manner as required by the Connecticut General Statutes.
5. A checklist attached to the application must be completed and submitted as part of the application.

The following items must be submitted with your application:

- Cash or a check for the required fee made payable to the Town Of Thomaston.
- Reasons, information, and documentation explaining the reason for the appeal of the ZEO's decision.
- Written confirmation that the ZEO has been notified of the appeal.
- The names and addresses of all abutting property owners and of those located directly across the street from the property in question. These names and addresses must appear on a separate sheet of paper and on addressed stamped envelopes with the return address left blank. All envelopes must be returned with the application to the Building and Land Use Office. The applicant and or owner must always include a stamped envelope addressed to themselves.

- A signed copy of the Notice to All Zoning Board of Appeal Applicants who are appealing a decision of the ZEO must be submitted with the application.
  - The applicant may submit photographs with the application or at the Public Hearing. All submitted photographs become part of the record and will remain with the application file in the Building and Land Use Office.
6. Your application form and other documentation must be submitted to the Land Use Office. The Thomaston Land Use Officer will provide all necessary forms and applications.
  7. As soon as the completed application form and related documentation has been received, the process will begin. You will be notified as to the date, time, and place of the public hearing via first class mail. All affected property owners, including yourself, are usually notified within ten (10) to fourteen (14) days prior to the public hearing.
  8. Once the application is received, the required legal notice posted in the newspaper, and adjoining property owners are notified, **the applicant must attend the public hearing on the application.**
  9. **The applicant and or his agent must attend the public hearing and must be prepared to present the application to the Zoning Board of Appeals on the night of the public hearing.** The following is a typical meeting scenario that may occur at a regular meeting of the Thomaston Zoning Board of Appeals:
    - The Chairman or presiding Officer of the Zoning Board of Appeals calls the meeting to order.
    - The Chairman announces the application on the public hearing agenda and then requests the Secretary of the Zoning Board of Appeals to read aloud the legal notice that was published twice in the newspaper.
    - The Board will then ask if anyone is in the room to present the Appeal Application. **Please be aware that the Board has already received a copy of your application along with a staff memo reviewing the application. It is highly recommended that the applicant retain a copy of the submitted application and documents for their use when presenting the application to the Board.**
    - The applicant must either sit or stand at the meeting table and explain to the Board exactly why the ZEO was in error in making his or her decision as the decision relates to the Zoning Regulations of the Town of Thomaston.
    - The ZEO then provides evidence and documentation as to how his or her decision was made as it relates to the Zoning Regulations.
  10. The Board must consider the following facts when reviewing a request to overturn the decision of the ZEO:
    - Did the ZEO make an error in the issuance of an official order or decision as the decision relates to the Zoning Regulations of the Town of Thomaston?
    - The Board is not being adversarial when it asks questions of the applicant or listens to public comment on an application. The Board has a responsibility pursuant to the Connecticut General Statutes to hear all people.

- Would the strict application of the Zoning Regulations deprive the applicant of substantially the same rights enjoyed by owners of other lots in the zoning district subject to the same zoning regulation?
11. After the Board has heard from the applicant, the public, and asked questions, the Board has the following options:
- The Board can close the hearing and render a decision that night.
  - The Board can continue the hearing for thirty-five (35) days in order to permit the applicant or ZEO to provide more information for the next public hearing. Once the public hearing is closed, no new information can be submitted by the applicant or received by the Board from any parties.
  - The Board can close the hearing and table action on the application because the Board has sixty-five (65) days from the date of the close of the public hearing to render a decision on the application.
  - The Board may continue the public hearing and schedule a site walk to visit the property, which is the subject of the variance application. A site walk is not a meeting at which testimony will be taken by the Board members rather it is an opportunity for the Board members to see the property themselves prior to rendering a decision on a pending application.
12. If the Board makes a decision on the application, staff will send a letter of the Board's decision to the applicant and publish a legal notice in the newspaper within fifteen (15) days from the date of the decision of the Board.

**The above "Guidelines and Procedures for Applicants" was adopted at a regular meeting of the Thomaston Zoning Board of Appeals on January 13, 2009.**

---

Peter Fuller, Chairman  
Thomaston Zoning Board of Appeals

---

Edward Eaton, Secretary  
Thomaston Zoning Board of Appeals



Zoning Board of Appeals  
158 Main Street  
Thomaston, Ct 06787  
Telephone: 860-283-8411  
Fax: 860-283-2893  
Website: [www.thomastonct.org](http://www.thomastonct.org)

**APPLICATION TO APPEAL A DECISION  
BY THE THOMASTON ZONING ENFORCEMENT OFFICER**

**Applicant Information**

(If there are two or more applicants, provide the following information for each)

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**Property Information**

Owner(s) of subject property: \_\_\_\_\_  
Street address of subject property: \_\_\_\_\_  
Is the property located with 500 feet of any town line? Yes \_\_\_\_\_ No \_\_\_\_\_  
If so, which towns? \_\_\_ Harwinton \_\_\_ Litchfield \_\_\_ Terryville \_\_\_ Waterbury \_\_\_ Watertown

**Appeal Information**

Date of Zoning Enforcement Officer's decision: \_\_\_\_\_  
Description of the Zoning Enforcement Officer's (ZEO) decision: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

**ATTACH TO THIS FORM:**

1. Reasons and information explaining the reason for the appeal of the ZEO's decision.
2. Written confirmation that the ZEO has been notified of the appeal.
3. Application fee; cash or check payable to the Town of Thomaston
4. Applicants are responsible for all costs associated with this application (e.g. legal publications, mailings, engineer reviews).

**If the application is submitted by a Limited Liability Corporation (LLC) or a Limited Liability Partnership (LLP) or if the owner of the property is an LLC or LLP, the applicant must provide written documentation as to who are the members of the LLC or LLP.**

**The applicant must provide written permission from the members of the LLC or LLP permitting the filing of the application. This permission may be in the form of a written corporate resolution signed and dated by all members of the LLC or LLP or other signed and dated authorization from the owners of the property.**

**If it is member-managed LLC or LLP, all members of the LLC or LLP must sign a written document granting permission for the application to be filed.**



Town of Thomaston  
Zoning Board of Appeals  
158 Main Street  
Thomaston, Ct 06787  
Telephone: 860-283-8411  
Fax: 860-283-2893  
Website: [www.thomastonct.org](http://www.thomastonct.org)

## **APPEALS APPLICATION CHECKLIST FOR THE ZONING BOARD OF APPEALS**

**This checklist must be submitted with the completed application  
(Please check as each item is completed)**

- Reasons and information explaining the reason for the appeal of the Zoning Enforcement Officer's (ZEO) decision.
- Written confirmation that the ZEO has been notified of the appeal.
- Application fee; cash or check payable to the Town of Thomaston.
- Applicants are responsible for all costs associated with this application (e.g. legal publications, mailings, engineer reviews).



Town of Thomaston  
Zoning Board of Appeals  
158 Main Street  
Thomaston, Ct 06787  
Telephone: 860-283-8411  
Fax: 860-283-2893  
Website: [www.thomastonct.org](http://www.thomastonct.org)

**Notice to All Zoning Board of Appeals Applicants  
who are appealing a Decision of the Zoning Enforcement Officer**

**This checklist must be submitted with the completed application.**

1. The Application to the Zoning Board of Appeals must be filled out **completely or it may be denied** by the Board as incomplete.
2. **Application fees are not refundable. The application fee is \$170.00.** \*(Section 22a-27j of the Connecticut General Statutes requires that a \$60.00 additional fee be charged for all ZBA applications).\*

**The total fee payable to the Town of Thomaston is \$200.00.** Cash or checks are acceptable forms of payment

3. **Outside Consultants Costs:** (*An outside consultant means a professional who is not an officer or employee of the Town*).

If the Board requires a review by an Outside Consultant i.e. engineer, hydrologist, environmental, or planning consultant the applicant must pay for the cost of the Outside Consultants review. If the Board requires an outside consultant to review your application a written estimate of the cost of the review is requested by Board Staff and the written estimate is sent to the applicant.

The applicant then pays the Town for the Cost of the Outside Consultant and the Town pays the Outside Consultant for the review. The review of the Outside Consultant required by the Commission will not begin until the cost of the review is paid by the applicant to the Town of Thomaston. **If the cost of the outside consultant review fee is not paid in a timely manner, it may lead to the denial of your application by the Board as incomplete due to the required statutory time frames as to when the Board must render a decision on your application.**

5. **Applicants are responsible for all costs associated with this application:**

- Minimum of three (3) legal notices published in the newspaper. Publication is required by the CT General Statutes.  
**Total estimated cost: \$275.00.**
- Certified Mailing of the Decision of the Board required by the CT General Statutes.  
**Minimum cost: \$5.59.**
- If the Board overturns the decision of the Zoning Enforcement Officer request then an Application for a Zoning Permit may be required to be completed.

**Minimum Zoning Permit fee cost \$90.00. The zoning permit fees vary based upon what is being done on the property.**

- Associated building permit fees once all your approvals and documentation is complete.

By signing this, you acknowledge that you have read the all of the Information stated in this document entitled “**Notice to all Zoning Board Appeals Applicants Who are Appealing a Decision of the Zoning Enforcement Officer**” and agree to pay all costs associated with this application submitted to the Thomaston Zoning Board of Appeals.

\_\_\_\_\_  
Applicant or Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witnessed By

\_\_\_\_\_  
Date

**This sheet must be submitted with the completed application.**



# APPENDIX C

# Chapter 154

## FEES

### **Article 1** **Land Use Applications**

- 154-1 Statutory Authority
- 154-2 Purpose
- 154-3 Base Application Fees
- 154-4 Surcharge Fees
- 154-5 Outside Consultants
- 154-6 Enforcement and Collection
- 154-7 When Effective

### **Article 2** **Building Permits**

- 154-9 Authorization and Fee Schedule
- 154-10 Appeals
- 154-11 Waivers
- 154-12 Software Fee

**Appendix A.** Permit Fee Schedule

**Appendix B.** Application Fees

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

**ARTICLE I -  
Land Use Applications  
(Adopted 11-27-2001)**

**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, 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 Purpose**

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, processing, and post-approval review and inspection are paid by the applicant.
- c. Provide the Town's land use commission with adequate technical assistance to review complex applications.
- 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 publication. 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 Appendices A and B.

**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 expanded 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.

#### **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 ten (10) days of the date the invoice is mailed or delivered to 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 fifteen (15) days of publication of a summary of its provisions in a newspaper having a 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.

**Appendix A  
Base Fee Schedule**

<b>Residential dwellings (new construction)</b>	
Single-family	\$100.00
Two-family	\$150.00
Three-family	\$200.00*
Multifamily (4+ units)	\$400.00*
Bed- and- Breakfast/Tourist	\$150.00*
Caretaker	\$100.00
<b>Residential dwelling (additions/conversions)</b>	
Additional room	\$30.00 per room
In-law apartment	\$75.00*
Home occupation	\$25.00*
Group/family day-care-home	\$25.00*
<b>Garages</b>	
One-car	\$30.00
Two-car	\$50.00
Three-car	\$70.00
<b>Decks</b>	
Under 120 square feet	\$20.00
Over 120 square feet	\$30.00
<b>Swimming pools</b>	
In-ground	\$45.00
Above ground	\$25.00
With deck	\$35.00
<b>Storage sheds</b>	
Under 120 square feet	\$20.00
Over 120 square feet	\$30.00
<b>Earth excavation and mining</b>	
0 to 249 cubic yards	No Fee
250 to 1,000 cubic yards	\$150.00 per year renewable/year)
1,000 cubic yards and over	\$250.00 per year*
<b>Commercial buildings/structures</b>	
New construction	
Under 2,500 square feet	\$150.00
Over 2,500 square feet	\$150.00 plus \$25.00 per each additional 1,000 square feet

Additions to existing structures	
Under 2,500 square feet	\$50.00 plus \$25.00 per each additional 1,000 square feet*
<b>Manufacturing building/structures</b>	
New construction	
Under 2,500 square feet	\$200.00*
Over 2,500 square feet	\$200.00 plus \$25.00 per each additional 1,000 square feet*
Additions to existing structures	
Under 2,500 square feet	\$100.00
Over 2,500 square feet	\$210.00 plus \$25.00 per each additional 1,000 square feet*
<b>Subdivisions/Re-subdivisions</b>	
Parcels 1 to 9	\$100.00 per lot*
Parcels 10 to 19	\$150.00 per lot*
Parcels 20 and over	\$175.00 per lot*
<b>Town engineering fees</b>	
Applicants are responsible for all reasonable costs incurred by the Town Engineer during the applications and review process.	
<b>Zone change</b>	
Standard fee	\$150.00 plus \$25.00 per acre*
<b>Zoning Board of Appeals</b>	
Standard fee (public hearing required)	\$170.00
<b>Regulations/publications</b>	
Planning and Zoning Regulations	\$10.00
Inland Wetlands and Watercourses Regulations	\$10.00
Zoning map	\$5.00
Comprehensive Plan of Development	\$10.00
Assessor's maps and other maps	\$5.00

\* May require a public hearing.

The Planning and Zoning Commission or its designate 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.

**ARTICLE II**  
**Building Permits**  
**(Adopted 7-19-2006)**

154-9 Authorization and fee schedule

154-10 Appeals

154-11 Waivers

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.

**1. Building permit fee schedule**

- a. For the first \$1,000.00 of estimated cost of construction, or fraction thereof: \$25.00
- b. For each additional \$1,000.00 of estimated cost of construction up to \$20,000 total cost of construction: \$10.00
- c. For each additional \$1,000.00 of estimated cost of construction in excess of \$20,000.00 total cost of construction: \$8.00
- d. 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: \$150.00
- e. Penalty fee for any check not honored for any reason: \$25.00

**2. Construction cost schedule for residential and commercial buildings.**

Fees for permits shall be calculated using the following: estimated cost of construction schedule:

- a. Living space area: \$70.00 per square foot
- b. Basement: finished \$25.00 per square foot; unfinished \$15.00 per square foot
- c. Accessory buildings, garages, freestanding or attached, and/or decks: \$25.00 per square foot
- d. Covered porches or decks: \$30.00 per foot
- e. Roofing: \$250.00 per square; strip and reroof, \$350.00 per square
- f. Siding, vinyl: \$200.00 per square; vinyl windows: \$150.00 each
- g. Fireplace: masonry, \$8,000.00; pre-fab: \$3,500.00
- h. Factory/industrial/mercantile/hazard: \$50.00 per square foot

- i. Swimming pools: in-ground, \$35.00 per square foot; aboveground, \$15.00 per square foot
- j. Fence for swimming pools; \$10.00 per linear foot (minimum four (4) feet high)
- k. Certificate of occupancy for new house: \$50.00
- l. All other certificates of occupancy: \$25.00
- m. Demolition: cost or estimated value

**C. Cost schedule for mechanical and miscellaneous work**

- a. Electrical: \$3.00 per square foot of living space
  - New service: value of installation, either overhead or underground
- b. Heating and cooling: \$3.00 per square foot of living space
- c. Alarms: \$1.00 per square foot of living space
- d. Plumbing: \$900.00 per fixture
- e. Stoves and decorative appliances: estimated cost or value

**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 or civic organization serving the Town of Thomaston.

## **FEES - Appendix B**

### Thomaston Inland Wetlands and Watercourses Commission

#### **18 Application fees**

##### **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 or delay fees**

- a. Any applicant may petition the Commission to waive, reduce or allow for a delay in 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:
  - The proposed activity or use would clearly result in a substantial public benefit to the environment, public health and safety.
  - The applicant would be deterred from initiating the activity solely or primarily as a result of the amount of the application fee.
  - The amount of the fee is clearly excessive in relation to costs for reviewing and processing the application
- d. 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 four (4) 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, 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.

**18.6 Fee Schedule (Amended 12-15-2004)**

- a. Regulated uses, Section 6
  - Single-family: \$75.00 plus \$50.00 per lot
  - Commercial: \$200.00 plus \$150.00 per lot
  - Subdivision: \$175.00 plus \$175.00 per lot
  - All other uses: \$150.00 plus \$150.00 per lot
- b. Permitted and non-regulated uses, Section 4
  - Uses of right, Section 4.1: no charge.
  - Non-regulated uses, Sections 4.2 and 4.3: \$150.00
- c. Significant activities
  - Operations and uses, Section 7.4: \$225.00
- d. Map/regulation amendment
  - Petition by applicant, Section 15: \$150.00
- e. Modifications to approved plans
  - Previously approved plans, Sections 7.8 and 11.5: \$75.00
- f. Post-application fee
  - Residential: \$100.00
  - Commercial: \$200.00
- g. Extension of permit: \$50.00

**18.7 Schedule A**

- a. In addition to any other applicable fees for proposed activities in wetland area, the following standards shall be used:

<u>Square Feet of Regulated Area</u>	<u>Fee per 1,000 Square Feet</u>
Less than 2,500	\$5.00
2,500 to 50,000	\$10.00
More than 50,000	\$15.00

- b. The fees in this section are in addition to other fees as so noted in Section 18.6a through f.

**18.8 Schedule B**

In addition to any other applicable fees for regulated activities, the Commission shall require the following fee: \$10.00 per one-hundred (100) linear feet for any activity affecting a watercourse area.

**18.9 Regulated activity permit fee**

- a. No regulated activity permit shall be issued until the permit fee has been paid.
- b. The applicant shall have a period of ten (10) days after the Commission’s approval to pay for and obtain the permit.

## **18.10 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. The surcharge fees shall be paid within ten (10) days of the date the invoice is mailed. The invoice shall be sent by certified mail, return receipt requested, or delivered to the applicant.
- c. 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.
- d. 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.