

**LEGAL NOTICE
TOWN OF MADISON
PUBLIC HEARING**

The Board of Selectmen of the Town of Madison hereby gives notice that it will conduct a Public Hearing on Wednesday, July 1, 2009 at 7 p.m – Room A – Town Campus, for the purpose of receiving public comment, opposition and support for proposed **new** ordinances: “**Ordinance Establishing Citation Procedures and Fines for Zoning Violations**”, “**Ordinance Establishing Citation Procedures and Fines for Inland Wetlands and Watercourses Violations**” and “**Ordinance Establishing Fees for Land Use Applications**”.

**ORDINANCE ESTABLISHING CITATION PROCEDURES
AND FINES FOR ZONING VIOLATIONS**

It is hereby ORDAINED by the Town of Madison under the authority granted by Connecticut General Statutes Section 8-12a, that:

1. The Zoning Enforcement Officer is authorized to issue citations for violations of the Zoning Regulations of the Town of Madison, to the extent and in the manner provided by this Ordinance. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. If sent by regular mail, the day of receipt of the citation shall be deemed to be three business days after the day of mailing. The Zoning Enforcement Officer shall file and retain an original or certified copy of the citation.

2. The fine for the first such citation issued to any person with respect to any specific parcel of land shall be One Hundred Fifty Dollars (\$150) per day of continuing violation. All fines shall be made payable to the Town of Madison.

3. The citation shall inform the person cited:
 - a. Of the allegations against him or her and the amount of the fines due;
 - b. That if the person cited does not wish to contest his or her liability, he or she must pay the fine to the Town within 30 days after the day of receipt of the citation;

4. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town within the time allowed under paragraph 3 of this Ordinance, the Zoning Enforcement Officer or other Town official shall send a notice to the person cited, informing such person:

- a. Of the allegations against him or her, the amount of the fines, and the imposition of the administrative fee set forth in paragraph 5;
- b. That the person cited may contest liability before a Hearing Officer appointed by the Board of Selectmen, as provided in paragraph 8 of this Ordinance, by delivering, in person or by mail, within ten days of the date of the notice, a written demand for a hearing;
- c. That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and
- d. That such judgment may issue without further notice.

5. If the person who is sent notice pursuant to paragraph 4 of this Ordinance wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, together with an additional administrative fee of Twenty-Five Dollars (\$25), either in person or by mail. All fines and fees shall be made payable to the Town of Madison. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the notice described in paragraph 4 of this Ordinance shall be deemed to have admitted liability, and the Zoning Enforcement Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines and fees provided for by this Ordinance and shall follow the procedures set forth in paragraph 7 of this Ordinance.

6. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The presence of the Zoning Enforcement Officer shall be required at the hearing if requested by the person who was issued the citation. A

person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The Zoning Enforcement Officer may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Inland Wetlands and Watercourses Regulations. The Hearing Officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and from and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against such person as provided by this Ordinance, including an additional hearing fee of Fifty Dollars (\$50).

7. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days nor more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a Superior Court facility designated by the Chief Court Administrator, together with an entry fee of Eight Dollars or such other amount as may be required by state law. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

8. The Board of Selectmen shall appoint one or more citation Hearing Officers to conduct the hearings provided by this Ordinance. Neither the Zoning Enforcement Officer nor any official or employee of the Town of Madison may be appointed as a Hearing Officer pursuant to this Ordinance. The rate of compensation of the Hearing Officer shall be determined by the Board of Selectmen.

9. No citation shall be issued pursuant to this Ordinance unless (i) the Zoning Enforcement Officer has provided notice of the violation to the person who would receive the citation; (ii) the notice specifies a reasonable time for the violation to be corrected; and (iii) the violation is not corrected within the time required. The Hearing Officer shall not uphold the issuance of any citation if he or she determines that the time provided for the violation to be corrected was unreasonable under all of the circumstances.

ORDINANCE ESTABLISHING CITATION PROCEDURES AND FINES FOR INLAND WETLANDS AND WATERCOURSES VIOLATIONS

It is hereby ORDAINED by the Town of Madison under the authority granted by Connecticut General Statutes Section 22a-42g, that:

1. The Inland Wetlands Agent is authorized to issue citations for violations of the Inland Wetlands and Watercourses Regulations of the Town of Madison, to the extent and in the manner provided by this Ordinance. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. If sent by regular mail, the day of receipt of the citation shall be deemed to be three business days after the day of mailing. The Inland Wetlands Agent shall file and retain an original or certified copy of the citation.

2. The fine for the first such citation issued to any person with respect to any specific parcel of land shall be Two Hundred Fifty Dollars (\$250). The fine for the second citation issued to any person with respect to any specific parcel of land shall be Five Hundred Dollars (\$500). The fine for any subsequent citation shall be One Thousand Dollars (\$1,000). A separate citation may be issued for each day of a continuing violation. All fines shall be made payable to the Town of Madison.

3. The citation shall inform the person cited:

- a. Of the allegations against him or her and the amount of the fines due;
- b. That if the person cited does not wish to contest his or her liability, he or she must pay the fine to the Town within 30 days after the day of receipt of the citation;

4. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town within the time allowed under paragraph 3 of this Ordinance, the Inland Wetlands Agent or other Town official shall send a notice to the person cited, informing such person:

- a. Of the allegations against him or her, the amount of the fines, and the imposition of the administrative fee set forth in paragraph 5;
- b. That the person cited may contest liability before a Hearing Officer appointed by the Board of Selectmen, as provided in paragraph 8 of this Ordinance, by delivering, in person or by mail, within ten days of the date of the notice, a written demand for a hearing;

- c. That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and
- d. That such judgment may issue without further notice.

5. If the person who is sent notice pursuant to paragraph 4 of this Ordinance wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, together with an additional administrative fee of Twenty-Five Dollars (\$25), either in person or by mail. All fines and fees shall be made payable to the Town of Madison. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the notice described in paragraph 4 of this Ordinance shall be deemed to have admitted liability, and the Inland Wetlands Agent shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines and fees provided for by this Ordinance and shall follow the procedures set forth in paragraph 7 of this Ordinance.

6. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The presence of the Inland Wetlands Agent shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The Inland Wetlands Agent may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Inland Wetlands and Watercourses Regulations. The Hearing Officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and from and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against such person as provided by this Ordinance, including an additional hearing fee of Fifty Dollars (\$50).

7. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days nor more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a Superior Court facility

designated by the Chief Court Administrator, together with an entry fee of Eight Dollars or such other amount as may be required by state law. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

8. The Board of Selectmen shall appoint one or more citation Hearing Officers to conduct the hearings provided by this Ordinance. Neither the Inland Wetlands Agent nor any official or employee of the Town of Madison may be appointed as a Hearing Officer pursuant to this Ordinance. The rate of compensation of the Hearing Officer shall be determined by the Board of Selectmen.

9. No citation shall be issued pursuant to this Ordinance unless (i) the Inland Wetlands Agent has provided notice of the violation to the person who would receive the citation; (ii) the notice specifies a reasonable time for the violation to be corrected; and (iii) the violation is not corrected within the time required. The Hearing Officer shall not uphold the issuance of any citation if he or she determines that the time provided for the violation to be corrected was unreasonable under all of the circumstances.

**TOWN OF MADISON
ORDINANCE ESTABLISHING FEES FOR
LAND USE APPLICATIONS**

IT IS HEREBY ORDAINED:

Pursuant to the provisions of Section 8-1c of the Connecticut General Statutes, the Town of Madison adopts the following fee schedules for applications to the Planning and Zoning Commission, the Planning and Zoning Administrator (as agent for the Planning and Zoning Commission), the Zoning Board of Appeals, the Inland Wetlands Agency, and the Inland Wetlands Official (as agent for the Inland Wetlands Agency).

A. Fees that Must Be Submitted With the Application

The following fees shall be due at the time the application is filed. The failure to submit any such fee shall render the application incomplete and shall be grounds for the relevant commission, board or agent to refuse to process the application or to deny the application.

| APPLICATION TYPE | FEE |
|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| ZONING | |
| Regulation Text Amendment/Zone Change | \$500 |
| Floating Zone | \$500 |
| Special Exception Permit/Site Plan Review (<i>The Maximum Fee Shall Be \$3,000</i>) | \$150 plus \$25 per dwelling unit and/or \$5 per 100 sq. ft. of non-residential use |
| Special Exception Permit Modification/Site Plan Review Modification (<i>The Maximum Fee Shall Be \$3,000</i>) | \$150 plus \$25 per new dwelling unit and/or \$5 per 100 sq. ft. of non-residential use (new construction or substantial reconstruction) |

| | |
|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Modification of Floating Zone Concept Plan | \$150 |
| DVD Major Alteration | \$150 |
| DVD Minor Alteration | \$ 50 |
| Accessory Apartment | |
| a. Certificate of Zoning Compliance | \$ 75 |
| b. Annual Residence Statement | \$ 15 |
| Earth Removal/Filling Permit | \$500 |
| Customary Home Occupation | \$ 25 |
| Day Care Facility For Six or Fewer Persons | \$ 25 |
| Bed and Breakfast | \$ 50 |
| Signage | |
| a. Permanent Sign Application | \$100 |
| b. Temporary Sign Application | \$ 50 |
| c. Temporary Sign Annual Renewal | \$ 25 |
| d. Temporary Sign Registration | NC |
| Trailer Permit, Home Under Construction | \$ 50 |
| Review Letter – Zoning Compliance | \$ 25 plus \$50/hr. research |
| PLANNING | |
| Subdivision Regulation Amendment | \$500 |
| Subdivision/Resubdivision Application | \$250 or \$100 per lot (whichever is greater) plus \$1 per linear foot of proposed road or road to be reconstructed or modified |
| Lot Line Revision/Subdivision Modification | \$75 per lot involved plus \$1 per linear foot of road to be modified |
| ZONING BOARD OF APPEALS | |
| Variance Application | \$175 |
| Appeal Of Decision | \$175 |
| Certificate of Location | \$175 |
| PLANNING, ZONING and ZBA | |
| Coastal Site Plan Review | |
| a. Without other application | \$ 75 |
| b. With other application | \$ 50 |
| Extension Of Previous Approval | \$ 50 |
| RESCHEDULED PUBLIC HEARING (Requested By Applicant After Publication) | \$ 45 |
| Additional Fee If CEPA Intervention Is Filed | \$250 |
| INLAND WETLANDS AGENCY | |
| Permitted And Non-Regulated Uses - Section 4 of these Regulations | |
| a. Permitted Uses As Of Right (Section 4.1) | \$ 50 |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| b. Non-Regulated Uses (Section 4.2) | \$ 50 |
| Regulated Uses - Section 6 of the Regulations | |
| a. Residential Uses | \$ 75 plus: \$25.00/lot or \$45.00/acre wetlands, rounded to the nearest tenth of an acre, on the property whichever is more |
| b. Commercial Uses | \$ 75 plus: Fee from Schedule A |
| c. All Other Uses | \$ 75 |
| Significant Activity Application Fee - Section 7.6 of the Regulations | \$175 |
| Map Amendment Applications - Section 16.4 of the Regulations | \$175 plus: Fee from Schedule B |
| Modification, Extension Or Transfer of Previous Approval - Section 12 of the Regulations | \$ 50 (No fee for correcting typographical or other errors.) |
| Wetland Review Area Markers | \$ 2 per Marker |
| Schedule A. For the purpose of calculating the permit application fee, the Regulated Area in Schedule A is the total area of wetlands and watercourses upon which a Regulated Activity is proposed. | |
| Less than and including the first 2,500 sq. ft. of Regulated Area | \$ 18/1,000 sq. ft. of Regulated Area |
| From 2,501 to 50,000 sq. ft. of Regulated Area | \$ 12/1,000 sq. ft. of Regulated Area |
| For any additional amount over 50,000 sq. ft. of Regulated Area | \$ 6/1,000 sq. ft. of Regulated Area |
| Schedule B. For the purpose of calculating the map amendment application fee, the Regulated Area in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change | |
| Less than and including the first 500 linear ft of boundary area | \$ 20/100 linear ft. of boundary |
| From 501 to 1,000 linear ft of boundary area | \$ 15/100 linear ft. of boundary |
| For any additional amount over 1,000 linear ft of boundary area | \$ 8/100 linear ft. of boundary |
| Exemption. Boards, commissions, councils and departments of the Town of Madison are exempt from all fee requirements under Subsection 21.5 of the Inland Wetland Regulations. | |
| STATUTORY FEES | |
| As may be required by State law. | |

B. Consultants' Fees and Expenses

1. Determining Need for Consultants.

Following the submission of any of the foregoing applications, the relevant Commission, Board or Official may determine that it, he or she will require the assistance of professional consultants, including but not necessarily limited to scientific, engineering, and legal consultants,

to review the application or to provide monitoring services. Issues for which such review or monitoring may be needed may include, but are not limited to, compliance with existing laws and regulations; the potential for environmental or other impacts; the need for public improvements, drainage improvements, sediment and erosion-control measures, and other environmental safety measures; and the provision of adequate legal conveyances and financial performance security. It is the purpose of this Ordinance to ensure that any fees and expenses reasonably incurred by the Commission, Board or Official in procuring such services be reimbursed by the applicant.

2. Estimate of Fees.

If the assistance of professional consultants is found to be necessary or appropriate at any time after the submission of an application, the relevant Commission, Board or Official may estimate the fees and expenses that such consulting services are likely to entail. The estimate, which shall not be binding on the Commission, Board or Official, may be derived in any reasonable manner, including but not limited to (1) a good-faith estimate of the hours that the consultants are likely to require based upon the specific nature of the application, or (2) a schedule of estimated unit fees (e.g., a standard, per-lot fee or per-acre fee) adopted for general use on the basis of the Commission's, Board's or Official's prior experience with similar applications. Any estimate provided under this Ordinance shall be for the purpose of establishing an escrow account, as described below, and shall not prohibit the Commission, Board or Official from seeking additional consultants' services if the need or desirability of such services is determined after the nonbinding estimate has been provided.

If the likely amount of consulting fees is estimated on the basis of the hours the consultants are likely to require to perform the needed services, but the Commission, Board or Official does not have specific knowledge of the fees the consultants may charge, the estimate of fees may be calculated in accordance with the following schedule:

- i. Technical (including Engineering or Scientific) Consultants \$150 per hour
- ii. Legal Consultants \$250 per hour
- iii. Review by Town Staff (not including any agent issuing a permit) \$50 per hour
- iv. Other Consultants' Expenses As may reasonably be estimated

In the event the Commission, Board or Official, at the time of estimating the consultants' fees, has already secured the services of one or more consultants whose hourly rates differ from those in the foregoing schedule, the hourly rates actually charged by the consultants shall be used for the estimate in lieu of those set forth in the foregoing schedule.

3. Payment of Estimated Fees.

Within ten (10) days after the Commission, Board or Official notifies an applicant of any estimate of fees and expenses made pursuant to this Ordinance, the applicant shall provide a sum equivalent to 100 percent of the estimated amount, except as provided in section 4 of this Ordinance. All such funds received from the applicant shall be deposited into an escrow account

to be held by the Town. Wherever possible, the amount required pursuant to the foregoing provisions must be paid before the Commission, Board or Official holds any required public hearing or makes any decision on the application. If the amount required is not timely paid and the Commission, Board or Official is obliged by the provisions of state law to commence a public hearing or render a decision, the Commission, Board or Official may deny the application as incomplete.

4. Maintenance of Minimum Balance.

The Commission, Board or Official shall require the applicant to maintain a minimum balance in the fee escrow account of 25 percent of the amount of fees estimated pursuant to Section B.2, above. The Commission, Board or Official shall notify the applicant upon receipt of any invoice for consultants' services, the payment of which would cause the escrow account balance to fall below 25 percent of the estimated fees. The applicant shall then have 30 days to provide sufficient additional funds to restore the escrow account balance to at least 25 percent of the estimated fees. If the amount required is not timely paid and the Commission, Board or Official is obliged by the provisions of state law to commence a public hearing or to render a decision, the Commission, Board or Official may deny the application as incomplete.

5. Use of Escrowed Funds.

Funds paid into the escrow account shall be applied as needed to offset the actual consultants' fees and expenses incurred by the relevant commission, board or agent. In the event the amount paid by the applicant exceeds the total amount actually needed to reimburse the fees and expenses incurred by the Commission, Board or Official, the balance remaining in the escrow account shall be promptly returned to the applicant. In the event the amount paid into the escrow fund is less than required to reimburse all applicable consultants' fees and expenses, the applicant shall be required to pay the balance due as a prerequisite to the issuance or maintenance of any final permit or the final approval of any application or petition. If a permit or approval has been issued before the required additional fees are incurred or become due, the applicant shall be obliged to pay the additional fees within 30 days after billing. The failure to pay such fees when due shall be grounds for revocation of the permit or approval.

C. The foregoing fees shall supersede any fees previously established *by the Board of Selectmen, Planning and Zoning Commission or Inland Wetlands Agency*.

D. In the event that any applicant, at the time a nonbinding estimate of consultants' fees is being made pursuant to subsection B, has failed to pay any portion of the fees due under this Ordinance with respect to a prior application, the applicant will be required to provide a sum equivalent to 150 percent, rather than 100 percent, of the estimated fees and expenses.

