

An Ordinance Amending Building Department Permit and Fire Marshal Service Fees and Regulations

Pursuant to Chapter 98 of the Connecticut General Statutes, as such section may be amended from time to time, the Town of Preston (the Town) hereby adopts the following procedure for the issuance of Building Permits, charges for Fire Marshal services, and citations issued for violations of this Ordinance.

A. Building Permit Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to move a lot line that will affect any existing building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, fire protection, or plumbing system, the installation of which is regulated by and not exempt from the permitting requirements of the State of Connecticut Building Code or any relevant Municipal Ordinance, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

B. Work commencing before permit issuance:

Any person who commences any work, or causes work to be done, on a building, structure, electrical, gas mechanical, plumbing, or fire protection system before obtaining the necessary permits shall be subject to enforcement action according to this Ordinance, and any applicable Zoning Regulations and relevant Connecticut State Statutes.

The fine for each violation of this Ordinance shall be \$100 for the first 5 days of violation and an additional \$100 per day for each day that such violation continues thereafter, payable to the Town of Preston Treasurer. Upon application for a permit, the Building Official is authorized to conduct a pre-permit inspection of work done without the benefit of permits and inspections and shall charge the applicant an additional building permit fee for his time according to the Building Department Fee Schedule.

C. Building Permit Fees and Associated Regulations:

The Board of Selectmen of the Town of Preston are hereby Authorized at any regular or special Selectmen's meeting to set any fees and associated regulations for Building Permit fees and Fire Marshal plan review and inspection fees as deemed appropriate at their discretion. Prior to the setting of any such fees, the proposed fee schedule and associated regulations shall be posted along with the agenda for said Selectmen's meeting at which it will be acted upon. After the setting of any fees, the Selectmen will, within ten days thereafter, post the new fee schedule in the Town Clerk's office, the Building Department, and publish a copy of said schedule in a newspaper having general circulation in the Town of Preston as well as publishing on the Town's website.

D. Building Permit Valuations

Permit construction cost valuations shall be made according to the Connecticut State Building Code. Valuations shall be the full and fair value of the construction cost. At the time of project completion, the Building Official is authorized to request proof of the total construction cost for work done under all approved permits, and the owner, agent, or contractor shall furnish an affidavit of the total construction costs to the Building Official. If the final cost exceeds the fee declared in the application for the building permit, or the Building Official's estimate of permit value as may apply, a certificate of occupancy or completion shall not be issued until the additional fees have been paid to the Town for Building Official and Fire Marshal fees. The fee assessed shall be calculated based on the fee schedule in effect at the time of permit issuance.

E. Fire Marshal Service Fees

The Board of Selectmen of the Town of Preston are hereby Authorized at any regular or special Selectmen's meeting to set any fees and associated fee regulations for Fire Marshal plan review and inspection services as deemed appropriate at their discretion. Prior to the setting of any such fees, the proposed fee schedule and associated regulations shall be posted along with the agenda for said Selectmen's meeting at which it will be acted upon. After the setting of any fees, the Selectmen will, within ten days thereafter, post the new fee schedule in the Town Clerk's office, the Fire Marshal's office, and publish a copy of said schedule in a newspaper having general circulation in the Town of Preston as well as publishing on the Town's website.

F. Refunds

In the case of a revocation of a permit, withdrawal of application, abandonment, or discontinuance of a building project, the volume of the work completed shall be computed and any excess fee for incomplete work shall be returned to the permit holder upon written request to the Building Official or Fire Marshal as applicable. The Building Official or Fire Marshal as applicable shall establish the value of the completed work, assess administrative, plan review fees and inspections fees as may be necessary and fair to account for the Building Department's or Fire Marshal's staff time and general municipal administrative overhead, and forward the approved fee refund request to the Director of Finance who shall make reimbursement to the applicant.

G. Appeal

Any person aggrieved of the forgoing sections D through F may appeal the Building Official's or Fire Marshal's decision to the Preston Hearing Officer. Said appeals shall be in writing, with supporting documentation affirming the claim, and be submitted to the First Selectmen's office within 30 days of the Building Official's written finding of value or fees due. The Municipal Review Hearing Officer may uphold the Building Official's findings in whole or in part, or may order modification of same, based on the factual documents presented.

H. Fee Exemptions

Town funded projects on property owned by, or located on premises leased by the Town of Preston, The Preston Board of Education, a not-for-profit Public Library or Fire Department receiving financial support from the Town of Preston, shall be exempt from permit or inspection fees, except that the State portion of any permit fee and any outside plan review costs shall be paid to the Building Department or Fire Marshal as applicable by the department sponsoring the project.

I. Tax Delinquency

Pursuant to Connecticut General Statutes §7-148, no Permit or Certificate of Occupancy shall be issued by the Building Official if it is determined by the Tax Collector that there are delinquent taxes, blight or zoning fines and penalties, water or sewer use charges due to a municipal water or sewer agency against the property for which an application is made, unless the property owner has entered into a payment program approved by the Town Tax Collector to pay-off the delinquent taxes, liens, or sewer use charges, which may be due. The Building Official is authorized to grant emergency waivers of this provision for work documented to be necessary to maintain the health, safety, and welfare of the subject building occupants and or general public, and where a financial hardship has been established.

J. Enforcement of Ordinances

- § J-1 Legislative authority.
- § J-2 Enforcement by citation.
- § J-3 Appointment of hearing officers.
- § J-4 Notice of violation.
- § J-5 Admission of liability.
- § J-6 Hearing procedure.
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§ J-1 Legislative Authority.

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

§ J-2 Enforcement by citation.

Unless otherwise specifically provided in a Town ordinance or the Connecticut General Statutes, this Ordinance may be enforced by citations issued by municipal officers or employees designated by the Board of Selectmen. Such designated municipal officer or

employee may issue a written warning providing notice of the specific violation before issuing the citation.

§ J-3 Appointment of hearing officers.

The Board of Selectmen shall appoint one or more persons who shall serve as hearing officers to conduct hearings into the violation of Town ordinances. The hearing officers shall be qualified by the Selectmen as competent and professionally trained in conducting such hearings, but no police officer or any employee or person authorized to issue citations for the violations of any Town ordinance shall be permitted to serve as a hearing officer.

§ J-4 Notice of violation.

Within 12 months from the expiration of the period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any town ordinance for a violation thereof, the town shall send notice to the owner of the property which is the subject of the violation or such other person as may be appropriate (the "cited person"). Such notice shall inform the cited person:

- A. Of the allegations against the cited person and the amount of the fines, penalties, costs or fees due;
- B. That the cited person may contest liability before a hearing officer by delivering in person or by mail written notice within 10 days of the date thereof;
- C. That if a hearing is not demanded, an assessment and judgment shall be entered against the cited person; and
- D. That such judgment may issue without further notice.

§ J-5 Admission of liability.

If a cited person who is sent notice pursuant to § J-4 wishes to admit liability for an alleged violation, the cited person may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees in person or by mail to the Town at the address specified in the notice. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the cited person or other person making the payment. Any cited person who does not deliver or mail written demand for a hearing within 10 days of the date of the notice provided for in § J-4 shall be deemed to have admitted liability, and the issuing official shall certify the cited person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinance and shall follow the procedures set forth in § J-6 below.

§ J-6 Hearing procedure.

Any cited person who requests a hearing shall be given written notice of the date, time and place for the hearing. The hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of the notice, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation, issued by the issuing official or police officer shall be filed and retained by the town and shall be deemed to be a business record within the scope of Section §52-180 of the Connecticut General Statutes and evidence of the facts contained therein. The hearing officer shall conduct a hearing in the order and form and with such methods of proof as the hearing officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce a decision at the end of the hearing. If the hearing officer determines that the cited person is not liable, then the matter shall be dismissed and the hearing officer's determination shall be entered in writing accordingly. If the cited person is found liable for the violation, the hearing officer shall forthwith enter and assess the fines, penalties, costs or fees against the cited person as provided by the applicable ordinance.

§ J-7 Attendance at hearing.

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

§ J-8 Notice of assessment; judgment.

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the cited person and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court having jurisdiction together with such entry fee as may be required by the Superior Court. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same cited person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and court costs, against the cited person in favor

of the town. Notwithstanding any other provision of the Connecticut General Statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment, and a levy of execution of such judgment may issue without further notice to the cited person.

§ J-9 Appeals.

A cited person against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal. Any appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to Section 52-259 of the Connecticut General Statutes, in the Superior Court having jurisdiction which shall entitle the cited person to a hearing in accordance with the rules of the judges of the Superior Court.

K. Repeal of Old Ordinance

The Amended Ordinance, adopted on January 25, 1990, Establishing Building Permit Fees is HEREBY REPEALED.

Adoption Date: July 25, 2024

Publish Date: July 29, 2024

Effective Date: August 13, 2024