

AN ORDINANCE
ESTABLISHING CITATIONS AND FINES
FOR ILLEGAL LITTERING OR DUMPING
IN THE TOWN OF LEDAYRD

Be it ordained by the Town Council of the Town of Ledyard: *“An Ordinance Establishing Citations and Fines for Illegal Littering or Dumping in the Town of Ledyard”* is hereby enacted.

Section 1: Authority

Pursuant to provisions of Connecticut General Statutes 22a-250 *“Littering or Dumping Prohibited-Orders-Procedures-Penalties”*.

Section 2. Purpose

To establish procedures so that citations and fines may be imposed as a method of enforcing the illegal littering or dumping in the Town of Ledyard to protect public property, private property, maintain respectable neighborhoods, and the town as a whole.

Section 3. Scope of Provisions

To prohibit anyone from throwing, scattering, spilling, placing or causing to be blown, scattered, spilled, thrown or placed, any materials upon any public property, private property belonging to another, or any state waters (CGS § 22a-250(a)).

Section 4. Definitions

- a. Dumping – To discard on any public property in the Town of Ledyard or on private property not owned by such person that is not licensed or permitted to receive waste, or private residential property or vacant lot not owned by such person, more than one cubic foot of volume such as garbage bags or contents thereof, to include but not be limited to bulky waste, compostable materials, yard waste, hazardous material, large appliances, or similar materials, as defined in CGS Section 22a-115a.
- b. Litter – Waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, or welfare.
- c. Chief Elected Officer – Is the Mayor elected by the electors of the municipality and serves as the head of such municipality; and has such other powers and duties as prescribed in the Town Charter.
- d. Enforcement Officer (Designee)- Person selected or designated to carry out a duty or role.
- e. Citation Hearing Committee - The Mayor shall appoint one or more Citation Hearing Officer(s), as defined in and pursuant to C.G.S., Section 7-152c to serve on the Citation Hearing Committee.

- f. Violator – Person found to be dumping.
- g. Public Property - Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, spaces, grounds, and buildings in the Town of Ledyard.
- h. Private or Residential Property - Any property designed or used either wholly or in part for private residential purposes, commercial or industrial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and including any yard, grounds, walk, driveway, parking lot, porch, steps, vestibule.
- i. Property Owner -Any person or entity who has taken title to a property.
- j. Bulky Waste - Stoves or refrigerators, bedsprings, mattresses, hot-water tanks, furniture and other large household items, including construction materials such as scrap lumber, pipe or other materials resulting from construction, or from demolition refuse.
- k. Compostable Materials: All putrescible and non-putrescible waste, including brush, leaves and yard waste, garden clippings, food scraps, dead animals, and ashes.
- l. Garbage Bag - A heavy-duty disposable paper or plastic sack designed to store waste, with sufficient wall strength to maintain physical integrity when lifted by the top.
- m. Hazardous Waste - Any material which has been designated as hazardous by the Federal Environmental Protection Agency or the State Department of Environmental Protection.
- n. Licensed or Permitted Waste Facility– Property or facility that has received license or permit from the State Department of Energy & Environmental Protection (DEEP) to receive waste.
- o. Public Nuisance - Condition, activity, or situation that interferes with the use or enjoyment of property.
- p. Vacant Lot - Property - A period of sixty (60) days or longer during which the property subject to this Ordinance is not legally occupied.

Section 3. Dumping Violations

- (1) Through written complaint or through the normal operations of the Town, the Enforcement Officer(s) shall be responsible to investigate and determine whether dumping has occurred according to the definitions in this Ordinance.
- (2) The Enforcement Officer(s) shall investigate and shall obtain evidence of the alleged dumping (video, photographs, etc.) and document conditions of dumping if any, and file a written report with the Mayor or his/her designee should they find.

- a. That a property owner is guilty of illegally dumping or allowed someone else to illegally dump; or
- b. That someone is guilty of illegally dumping on private property that is owned by another.
- c. That someone is guilty of illegally dumping of public property.

The Enforcement Officer's report shall state whether or not illegal dumping was within the meaning of this Ordinance. Such report shall be kept by the Town and may be available to the violator and property owner upon request.

Section 4. Violator and/or Property Owner Notification

Whenever the Town of Ledyard finds:

1. That a property owner is guilty of illegally dumping or allowed someone else to illegally dump; or
2. Finds that someone is guilty of illegally dumping on property owned by another,
3. Finds that someone is guilty of illegally dumping on public property.

Written notice of the violation shall be given to the violator and property owner issuing cease and desist orders to stop or prevent anyone from causing or engaging in any activity or condition that is likely to result in imminent and substantial damage to the environment or public health; public nuisance to neighboring properties, the neighborhood, or the town as a whole. Such orders may require the alleged violator to discontinue, abate, or alleviate the underlying condition or activity (CGS § 22a-7).

A copy of the notice of the violation shall be provided either by hand delivery or by mail. Said notice shall specify that the violator has seven days, from the date notice was hand delivered or mailed, to remediate the conditions, or the Town will take enforcement action. In the case of an unidentified property owner or one whose address is unknown, the Enforcement Officer shall publish a notice in in a local newspaper stating the property is cited for illegal dumping, and, if applicable, whether the property has been determined to be abandoned.

The notice shall contain the following information:

- a. The address of the affected property.
- b. The exact nature of the violation.
- c. The time allowed for corrective action shall be in accordance with CGS 7-148.
- d. The penalty for continued violation of this Ordinance.
- e. The availability of a hearing procedure before the Appeals Committee pursuant to CGS 7-152c; and
- f. The penalty for violation of this ordinance shall be \$100 for each day that a violation continues.

2. Prior to the expiration of the seven-day period specified in subsection 4-1 of this section, the property owner may request additional time for remediation. The Enforcement Officer may determine an alternate timetable of a reasonable length of time, if warranted. Such timetable will be in writing and must be signed by both the Enforcement Officer and the property owner. Failure to comply with the agreed upon timetable will make the property owner liable for retroactive fines and penalties as designated in Section 6 subsections (A) and (B).
3. After the expiration of the seven-day period specified in subsection 4-1 of this section and without the alternate timetable specified in subsection (B) above, the Town of Ledyard, through its designated agents, may enter dumping premises during reasonable hours for the purposes of remediating the conditions. Costs associated with the remediation to remove the debris may be recovered by the Town in accordance with C.G.S. Section 49-73(b).

Section 5. Creation or Continuation of Illegal Dumping Prohibited

No person, firm or corporation, no owner, agent, tenant, operator, possessor of real property, and no other person responsible for the care, maintenance and/or condition of real property, shall cause or allow any dumping on property that is not licensed or permitted to receive waste, as defined in Section 4 of this Ordinance, to be created or continued.

Section 6. Enforcement: Criminal Violations And Civil Penalties

A. Criminal Violations: Pursuant to C.G.S. 7-148 (c) (7) (H) (xv), any person or entity who, after written notice and a reasonable opportunity to remediate dumping conditions as specified in Section 4-1 of this Ordinance, willfully violates Section 5 of this Ordinance, may be fined by the State of Connecticut not more than two hundred and fifty dollars (\$250.00) for each day for which it can be shown, based upon an actual inspection of the property on each such day, the dumping conditions continued to exist after written notice to the owner or occupant, as provided in Section 4-1. This section is designated as a violation pursuant to C.G.S. 53a-27.

1. No person or entity shall be found guilty of a violation pursuant to Section 6(A) and a civil penalty pursuant to Section 6(B) of this Ordinance for the same occurrence.
2. Any person who is a new owner or occupant shall, upon request, be granted a thirty-day extension of the notice and opportunity to remediate, provided pursuant to Section 6-1 prior to imposition of a fine; if the dumping is remediated during said extension, the case shall be dismissed.

B. Civil Penalties: Any person or entity who fails to comply with Section 7 of this ordinance, and, thereafter, fails to remediate the dumping conditions within five days of the notice provided pursuant to Section 4-1 may be assessed a civil penalty for each violation of this Ordinance.

The amount of the civil penalty shall be one hundred dollars (\$100.00) per day. Each day the violation cited by this Ordinance shall constitute grounds for the assessment of a separate civil penalty. The issuing officer shall deliver written notice of the civil penalty,

either by hand delivery or by mail, to the owner or violator occupant responsible for the dumping. Said notice will include the nature of the violation and the penalty being assessed.

1. Penalties assessed pursuant to subsection (B) of this section shall be enforceable by citation pursuant to C.G.S. Section 7-152c.
2. Persons or entities assessed a penalty pursuant to subsection (B) of this section shall remit fines for said violation within ten (10) days of the mailing of notice thereof. The fine imposed shall be payable to the Town of Ledyard. Uncontested payments received pursuant to this subsection shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person or entity making the payment.

Section 7. Civil Penalty Citation Hearing Procedure

A. Notification of right to hearing - At the time that the civil penalty is assessed, the violator and the property owner shall be notified in writing of the availability of a hearing before the Citation Hearing Officer to contest the determination of dumping and/or the assessed penalty. Specifically, the property owner will be notified:

1. That the violator may request a hearing to contest the determination of dumping charge and/or the assessed penalty,
2. That the violator must provide a written request for such a hearing within ten days of the date of notification,
3. That if the violator does not demand such a hearing, an assessment and judgment shall be entered against the property owner
4. That the judgment may be issued without further notice.

B. Rights of the Respondent

1. Admission of Liability - If the violator who is sent notice pursuant to subsection (A) above wishes to admit liability for any alleged violation, the violator may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail in accordance with Section 6 (A) (2) above and remediate the property. Payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the violator making the payment.
2. Constructive Admission of Liability - Any person or entity who fails to deliver or mail written demand for a hearing within ten days of the date of the first notice provided for in subsection A above shall be deemed to have admitted liability, and the Enforcement Officer shall certify the violator's failure to respond to the Citation Hearing Board. The Citation Hearing Board shall thereupon enter and assess the fines, penalties, costs or fees provided for in this ordinance including per diem penalties retroactive to the original date of expected remediation as specified in Section 4-1-and shall follow the procedures set forth in Section 7 (C) of this ordinance.

3. Right to Hearing - Any person or entity 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 fifteen days, nor more than thirty days, from the date of the mailing of notice, provided, the Citation Hearing Board may grant, upon good cause shown, any reasonable request by any interested party for continuance.

- C. Formal Hearing Procedure - The Citation Hearing Officer shall preside over a hearing which shall be held in the manner outlined in Connecticut General Statutes, Section 7-152c. The Citation Hearing Officer shall render the decision in writing and file it within five days with the Enforcement Officer, the Mayor, and send it by certified mail, return receipt requested, to the property owner or other responsible person and to all parties in the proceedings. The Citation Hearing Officer may decide one of the following:
 1. Dismissal: If the Citation Hearing Officer determines that the respondent is not liable, the Citation Hearing Officer shall dismiss the matter, and enter the determination in writing.
 2. Finding of Liability: Assessment: If the Citation Hearing Officer determines that the respondent is liable for the violation, the Citation Hearing Officer shall enter and assess the fines, penalties, costs or fees against the respondent, as provided by the Section 8 (A) including per diem penalties retroactive to the expected date of remediation as set forth in Section 6-1.

- D. Notice of Assessment; Effect
 1. Assessments must be paid to the Town of Ledyard within 10 days of receipt of the Citation Hearing Officer's determination.
 2. Not less than thirty days, but not more than twelve months, after the mailing, as set forth in subsection (D) (1) above, the Citation Hearing Officer shall file a certified copy of the notice of assessment with the clerk of a Superior Court designated by the Chief Court Administrator (as of the date of adoption hereof, the New London judicial district civil courthouse), together with the appropriate entry fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within the twelve-month period, assessments against the same person may be accrued and filed as one record of assessment.
 - a. Entry of judgment: The court clerk shall enter judgment in the amount of the record of assessment, and court costs, allowed by the General Statutes, in favor of the Town pursuant to C.G.S. 7152(c).
 - b. Effect of judgment; levy of execution permitted: Notwithstanding any provision of the General Statutes, the Citation Hearing Officer's assessment, when so entered as a judgment, shall have effect of a civil monetary judgment, and a levy of execution on the judgment may issue without further notice, to the respondent.

- E. A decision of the Citation Hearing Officer may be appealed to Superior Court in accordance with the provisions of C.G.S., Section 7-152c(g).

Section 8. Failure to Respond to Citation

- A. If the violator, agent, or responsible person fails to respond to the citation of dumping or is unwilling or unable to remove the prohibited materials from the property according to the provisions of this Ordinance, the Town may:
 - 1. Cause the removal of the prohibited materials and the cost there of shall be certified to the municipality. Said cost shall be a charge upon the lands and premises where the prohibited materials and the costs thereof shall be certified to municipality. Said cost shall be a charge upon the lands and premises where the prohibited materials were dumped, and charges shall be recoverable in the same manner as any other civil action.
 - 2. In addition to the forgoing procedure, the cost for the removal of the litter or other prohibited materials shall be assessed and the violator shall be billed for the expenses.

Section 9. Collection of Fines Imposed and Costs Incurred

- A. All fines imposed for violation of this Ordinance, and charges for municipal expenses shall be payable to the Town of Ledyard and deposited in the General Fund.
- B. Pursuant to C.G.S., Section 7-148aa, any unpaid fine imposed, and municipal expenses billed pursuant to this Ordinance shall constitute a lien upon the real estate against the violator's property, from the date such fine was imposed.

In addition, pursuant to C.G.S. 49-73, any expenses incurred by the Town pursuant to this Ordinance shall be subject to a lien on the violator's property. Said lien may be foreclosed upon and enforced in the same manner as property tax liens. The Town of Ledyard Tax Collector is hereby empowered to place a lien on the land records in the manner as specified by Connecticut General Statutes provided a copy of said lien is mailed by first class mail to the violator as set forth on the most recent tax assessment list.

Section 10. Municipal Abatement

In any action to enforce this Ordinance or to enforce any violation hereof, including the failure to pay a fine or penalty, the Town of Ledyard may recover its costs, any and all fines provided for herein, equitable and legal relief, along with any reasonable attorney fees and its witness fees and such other relief as permitted by law.

Section 10. Administrative Responsibility

The Enforcement Officer(s) may prescribe administrative procedures necessary for the purpose of effectuating this Ordinance, which procedure shall be approved by the Town Council.

Section 11. Severability

If any section, or part of a section, of this Ordinance shall be held by a court of competent jurisdiction to be invalid, such holding shall not be deemed to invalidate the remaining provisions hereof.

Section 12. Violation

A violation of this Ordinance is a public nuisance.

Section 13. Effective Date

In accordance with the Town Charter this ordinance shall become effective on the twenty-first (21st) day after such publication following its final passage.

S. Naomi Rodriguez, Chairman

Approved / Disapproved on: _____

Fred Allyn, III, Mayor

Published on:

Effective Date:

Patricia A. Riley, Town Clerk

Background: In response to residents concerns that illegal dumping was occurring in town, and there was no process for recourse, this Ordinance was adopted in accordance with provisions provided in Connecticut General Statutes 22a-250 “*Littering or Dumping Prohibited-Orders-Procedures-Penalties*” to protect public property, private property, maintain respectable neighborhoods, and for the town as a whole.