

## Preliminary information Special Committee To Evaluate and Clarify the Role Of The Condemnation Commission

### Purpose of the Committee

To establish a way for the Appointments Committee, in its role as nominating body of the Condemnation Commission, to obtain clarity with respect to the role(s) and authority assigned to the Condemnation Commission as stated the Town Municipal Code

### Argument

The existing Town Code ([§157b](#)) does not adequately explain the authority and responsibility assigned to Condemnation Commission.

### Objectives

1. Provide clarity necessary for both the Condemnation Commissioners to understand and fulfill their duties within the law and for the RTM, as appointing body, to evaluate what skills and experience are necessary to perform the duties assigned the Commissioners.
2. Consolidate or summarize the divers references within the Municipal Code to the roles and responsibilities assigned to the Condemnation Commission related to Parking, Public Works, and the Flood and Erosion Control Board.

### Foundational Questions

1. Have all the reference to the role of the Condemnation Commission within the Municipal Code been identified?
2. Are there State Statutes and Special Acts which also define the role of the Commission
3. Is an amendment(s) of the Code necessary or can objectives 1 and 2 be satisfied through interpretation or other means?
4. What are the best ways to accomplish the objectives considering the effect of the short RTM term and its high turnover rate?

### Background

The Town Charter ([§157b](#)), in establishing the role and authority of the Condemnation Commission, conveys to it unspecified duties “with respect to the condemnation of land and assessment of damages” *formerly invested in the Sewer Commissioners and the Highway Commission.*

These (unspecified) duties and powers of said *Sewer Commissioners and Highway Commission*, appear to be derived from the conveyance of again unspecified powers and duties *formerly invested in the Selectman.*

A search for the code identifying the aforementioned conveyed duties and powers of the Selectman was unsuccessful. Its location was not found in the *Index of the Representative Town Meeting minutes 1792-1937* nor was it be located the archives of the minutes of RTM.

Neither members of the Condemnation Commission nor those of the Appointments Committee were able to provide an interpretation of the “formerly invested” powers. The Town Attorney suggested that a special committee to explore this matter and make recommendations to the RTM was an appropriate measure.

As a consequence of this impediment to performing basic diligence, the Appointments Committee has delayed nominating candidates to new terms. Under [sec 306](#) of the Town Charter, current members of the Condemnation Commission, appointed last in 2015, continue to serve over 2 years beyond their appointed terms.

In January 2018, the RTM adopted a resolution to establish a special Committee to examine the Municipal Code with respect to the Condemnation Commission and report back the RTM by 9/2018 with any findings and suggestions

### Committee Membership:

---

Jude Collins: *Condemnation Commission*.....(203) 918-1076 ....jude.collins@greenwichct.org  
 open: *Land Use Committee*.....  
 Dean L. Goss: *Public Works Committee*.....(203) 869-1484 ....deangoss@verizon.net  
 Katherine Hynes: *Legislative and Rules Committee*..(401) 387-5107 ....kvhynes@gmail.com  
 John Eddy: *Appointments Committee* .....(203) 550-7122 ....john.eddy@greenwichct.org  
 Carl Carlson *Alt. Appointments Committee* ....(203)869-1405.....carlgrcarlson@hotmail.com

**Appendix A to Preliminary information**  
**Special Committee To Evaluate and Clarify the Role Of The Condemnation Commission**  
Code which contains reference to the Condemnation Commission.. [Hyperlinks in blue](#)

[§157 \(b\)](#)

**Sec. 157. - Condemnation Commission.**

(b) The Condemnation Commission shall exercise all the powers and perform all the duties which were formerly conferred and imposed by law upon the Town Highway Commission and upon the Sewer Commissioners in respect to the condemnation of land and the assessment of damages arising out of such condemnation of land, and in respect to the assessment of benefits arising out of the construction of highways and the construction or connection of sewers. No appeal shall be taken from the action of the Condemnation Commission except within thirty (30) days from the filing of its report. If, after the making of any assessment of benefits, the land upon which it is made shall be divided, the Assessor shall have all the powers and duties formerly conferred or imposed by law upon the Sewer Commissioners with respect to the apportionment of such assessment.

**Flood and Erosion Control Board**

[§47](#)

**Sec.47- Condemnation procedure.**

The board is authorized to enter upon and to take and hold, by purchase, condemnation or otherwise, any real property or interest therein which it determines is necessary for use in connection with the Flood or Erosion Control System. Whenever the Board is unable to agree with the owner of any such property as to the compensation to be paid for the taking thereof, the board, in the name of the Town, may bring condemnation proceedings in accordance with the procedure provided by the General Statutes for condemnation by municipal corporations generally. In such case, the court or judge may permit immediate possession of such property by the Board in accordance with the procedure provided by the General Statutes.

(RTM, 11/12/57.)

**Planning and Zoning Commission**

[§82\(a\)\(4\)](#)

**Sec.82 , - Definitions.**

(a) For the purposes of this Article, the following terms shall have the meanings provided in this Section. (1) Commission means the Planning and Zoning

Commission of the Town. (2) Planning and Zoning Board of Appeals means the Planning and Zoning Board of Appeals of the Town. (3) Town means the Town of Greenwich. (4) Town Agency means any person, board, department, commission, commissioner, committee or officer duly authorized to act for and in behalf of the Town in any capacity, including but not limited to the Board of Selectmen, the Board of Estimate and Taxation, the Department of Finance, the Fire Department, the Police Commission, the Department of Public Works, the Planning and Zoning Board of Appeals, the Board of Health, the Recreation Board, the Board of Human Services and the Condemnation Commission.

## **Parking**

### **§125 (a)(1).**

#### **Sec.125 - Determination of allotments; notice; amounts.**

(a) All allotments by the Board of Estimate and Taxation from funds appropriated for the acquisition or improvement of public parking areas shall be allotted by seven (7) affirmative votes of the Board of Estimate and Taxation. In making any such allotment, the Board of Estimate and Taxation shall by seven (7) affirmative votes determine: (1) What portion, if any, of such cost shall be reimbursed to the Town by the assessment of benefits in the manner hereinafter provided and the parking district to be benefited by such acquisition or improvement, and to be assessed for such benefits. In its determination of the area or areas of benefit, the Board of Estimate and Taxation may divide the same into benefit zones or sub-areas of benefit and may determine what portion in percentage of the total amount to be assessed as benefits shall be made a charge upon and apportioned by the Condemnation Commission over and upon each benefit zone or sub-area of benefit in proportion to the benefit received;

### **§127 through §133**

#### **Sec. 127. - Appeal to Condemnation Commission.**

(a) When any property owner is aggrieved by the inclusion of his property within a parking district, or by the exclusion of his property therefrom, he may appeal such inclusion or exclusion to the Condemnation Commission, provided written notice of such appeal is filed by the appellant with the Commission and the Town Clerk within fifteen (15) days after approval of such parking district by the Representative Town Meeting or the Board of Estimate and Taxation if Representative Town Meeting approval is not required. (b) The Condemnation Commission, after hearing such appeal, may affirm the map of the parking district as originally drawn or may amend the same by the exclusion or inclusion, as the case may be, of the appellant's property. The Condemnation Commission shall file its decision with the Town Clerk and give written notice of its decision

to the appellant and to the Town Counsel and, in case of any such amendment, shall file an amended parking district map with the Town Clerk. Such appeal shall stay all proceedings for the collection of any tax or assessment imposed on property of the appellant by reason of its inclusion within such parking district, but shall stay no other proceedings or actions.

(S.A. 177 § 6, 1957.)

## **Sec. 128. - Acquisition of real property; procedure.**

(a) After funds have been appropriated and allotted for the acquisition of any area for public parking, the Director of Parking Services may acquire such area by negotiation and, upon authorization of the Representative Town Meeting, may apply to the Condemnation Commission appointed under the provisions of Section 157 hereof, hereinafter called "the Commission," for the condemnation of such real property required for such purpose and for an assessment of damages. The Commission shall not take by eminent domain, for the purposes of this Article, any property of a corporation which has the right of eminent domain. This Article shall not affect the powers of eminent domain of such corporation.

(b) The Commission shall notify all persons claiming interest in such real property of a hearing on such proposed taking, notice of which shall be given to such persons at least ten (10) days before such hearing by leaving copies of such notice with them or at their places of abode in the Town, if they reside therein, or, if they do not reside in the Town, by registered or certified mail addressed to their last-known addresses, and by publication in a newspaper published or having circulation in the Town at least ten (10) days before such hearing. After such hearing the Commission shall determine whether or not such taking is necessary and, upon finding that it is necessary, shall determine and assess damages resulting from such taking and shall file in the office of the Town Clerk a certificate as to its determination of such necessity of taking and shall therein designate by number each lot or parcel taken, the owner thereof, if known, and the damages assessed in each instance. (c) The Commission, within five (5) days after the filing of the certificate, shall give written notice of such determination of necessity and assessment and the amount thereof in each case to each person claiming interest in each lot or parcel taken, addressed to him at his last-known post office address, and by publishing in a newspaper published or having circulation in the Town, within five (5) days after such filing, a notice of the filing in the office of the Town Clerk of the certificate of necessity and assessment of damages. Upon the filing of such certificate, title to the real property to be acquired shall vest in the Town. (d) The assessment of damages shall be deemed final and conclusive upon such filing, without other notice to any person, subject to the right of appeal as provided in Section 149 hereof. The Town shall pay the

amounts thus assessed to the persons claiming interest in each lot or parcel upon acceptance thereof. After the Town obtains title to real property acquired for public parking, the Director of Parking Services shall cause the same to be improved for public parking of vehicles after the allotment of funds therefor as herein provided.

**(S.A. 177 § 7, 1957; RTM, 6/13/2005; RTM, 4/10/2006; RTM, 6/12/2006.)**

#### **Sec. 129. - Certification of cost of acquisition or improvements.**

(a) The Director of Parking Services shall advise the Comptroller when such public parking areas have been acquired or improved. The Comptroller shall thereupon compute and ascertain the total cost of acquisition or improvement thereof. In such total cost shall be included all expenses in connection with the acquisition of land, buildings, easements and other property, or in the improvement thereof, all sums paid by the Town to surveyors, engineers, architects, inspectors, attorneys and other persons in connection therewith, the cost of any work done by the Town, all expenses in connection with any assessment of benefits, and the interest on notes or bonds issued by the Town, or on funds advanced by the Town at a rate not to exceed six percent (6%) per annum, to pay the expense of such acquisition or improvement computed to the time at which the first installment of any assessment or tax becomes due, but not in excess of four (4) years' interest. (b) The Comptroller shall certify such total cost. The part of such cost which has been determined shall be assessed or taxed against the property within a parking district in accordance with the provisions of this Article. Where such cost is to be assessed, such certification shall be to the Condemnation Commission, and where such cost is to be taxed, such certification shall be to the Board of Estimate and Taxation.

**(S.A. 177 § 8, 1957; RTM, 6/13/2005; RTM, 4/10/2006; RTM, 6/12/2006.)**

#### **Sec. 130. - Apportionment and assessment of benefits.**

After receiving from the Comptroller the certificate of cost, the Condemnation Commission shall apportion among and assess against the several lots or parcels of real property within the area or sub-areas of benefit as shown on the parking district map all or such part of the cost of acquisition or improvement which is to be assessed against the property benefited within such area or sub-areas of benefit in the proportion, as nearly as may be, to the benefit which each lot or parcel shall derive therefrom. In determining such apportionment the Commission, among other things, may consider whether such benefits are direct or remote, the present and prospective use of the real property and the improvements thereon, the increase in the value of the real property and the improvements thereon benefited by such improvement and the frontage, size,

shape and assessed value of such property. In the performance of its duties the Commission may employ such personnel and experts as may be necessary.

**(S.A. 177 § 9, 1957.)**

**Sec. 131. - Filing of proposed apportionment and assessment of benefits.**

After the Condemnation Commission has prepared its proposed apportionment and assessment of benefits, it shall file the proposal in the office of the Town Clerk, designating by number with reference to a map each lot or parcel benefited, the owner thereof, if known, and the benefit to be apportioned and assessed in each instance. Such map may be the parking district map, or a new map filed with the apportionment and assessment.

**(S.A. 177 § 10, 1957.)**

**Sec. 132. - Notice of hearing.**

After the making and filing of the proposed apportionment and assessment of benefits, the Condemnation Commission shall give notice thereof to all persons claiming interest in each lot or parcel to be assessed and of a hearing to be held at a specified time and place to consider and review the proposed apportionment and assessment of benefits. The notice shall be given at least ten (10) days before the hearing by mailing a copy thereof to each of such persons, addressed to him at his last-known post-office address, and by publishing a copy thereof in a newspaper published or having circulation in the Town at least ten (10) days before such hearing.

**(S.A. 177 § 11, 1957.)**

**Sec. 133. - Hearing on apportionment and assessment of benefits.**

(a) The Condemnation Commission shall meet, at the time and place specified, to hear objections to such proposed apportionment and assessment of benefits and may modify and correct the same. On completion of such apportionment and assessment of benefits, the Condemnation Commission shall file the same in the office of the Town Clerk, designating by number with reference to the map each lot or parcel benefited, the owner thereof, if known, and the benefit apportioned and assessed thereto. (b) The Condemnation Commission, within five (5) days after the filing of the completed apportionment and assessment of benefits, shall give written notice thereof and of the amount of the assessment of benefits in each case to each person claiming interest in each lot or parcel taken, addressed to him at his last-known post-office address, and by publishing in a newspaper published or having circulation in the Town, within five (5) days after such filing, a notice of the filing in the office of the Town Clerk of the completed apportionment and assessment of benefits. The assessment of benefits shall

be deemed final and conclusive upon such filing, without other notice to any person, subject to the right of appeal as provided in Section 149 hereof.

**(S.A. 177 § 12, 1957.)**

**Sec. 136. - Collection of assessment.**

The Tax Collector shall, upon warrant from the Condemnation Commission, have authority to collect the assessments and interest by foreclosure of the liens or by such other remedies as may be available to him for the collection of any Town taxes.

**(S.A. 177 § 15, 1957.)**

**Sec. 144. - Entry upon property.**

The Selectmen, Director of Parking Services, the Commissioner of Public Works, members of the Condemnation Commission and their respective agents, engineers and surveyors and such other persons as may be necessary to enable them to perform their duties under this Article are authorized to enter upon any property, in accordance with the provisions of General Statutes Section 48-13, for the purpose of making surveys, examinations or investigations and preparing maps, and for such other purposes as may be necessary in the performance of their duties under this Article.

**(S.A. 177 § 23, 1957; RTM, 6/13/2005; RTM, 4/10/2006; RTM, 6/12/2006.)**

**Sec. 148. - Correction of irregularities; waiver.**

(a) Any error or mistake in the designation of an owner of property assessed or taxed pursuant to the provisions of this Article, or in the description of such property, or any clerical or other error in any of the proceedings, shall not invalidate the assessment or tax, with respect to other properties. An owner who can show to the satisfaction of the Condemnation Commission that he has been prejudiced because of a clerical or other error in any of the proceedings before the Condemnation Commission shall have the right to a hearing before the Condemnation Commission. Upon the request for such hearing, the Condemnation Commission shall hold a hearing after such notice thereof as it shall deem appropriate. (b) No error or mistake in the designation of an owner of property assessed or taxed pursuant to the provisions of this Article, or in the description of such property, and no clerical or other error in any of the proceedings shall invalidate any notes or bonds issued pursuant to the provisions of this Article. In case any assessment or tax shall be or become void or shall fail or have failed for want of jurisdiction or for any irregularity in the assessment or the laying and levying of any tax, the Town shall have power, and it shall be its duty, to cause the same to be re-assessed or taxed in a proper manner. (c) Any of

the provisions of this Article may be waived in writing by the affected property owner.

**(S.A. 177 § 27, 1957.)**

#### **Sec. 149. - Appeal procedure.**

(a) Any property owner aggrieved by any action of the Condemnation Commission hereunder may, within thirty (30) days after the filing of the evidence of such action with the Town Clerk, appeal to the Superior Court in Fairfield County. The appeal shall be taken by a notice stating the grounds thereof, served personally or by registered or certified mail upon any member of the Condemnation Commission and upon the Town Attorney. On any such appeal, the Court shall review the proceedings of the Commission, and if upon the hearing of the appeal it shall appear to the Court that testimony is necessary for the equitable disposition of the appeal, it may take evidence or appoint a referee or committee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law. Such report shall constitute a part of the proceedings upon which the determination of the Court shall be made. (b) After the hearing upon such appeal, the Court may increase or decrease any assessment of damages or of benefits and may amend the map of the parking district by the exclusion therefrom or inclusion therein of the appellant's property. The judgment of the Court shall be final. Such appeal shall stay all proceedings for the collection of any tax or assessment predicated upon the action appealed until a certified copy of the judgment of the Court is filed in the office of the Town Clerk, but shall stay no other proceedings or acts. All appeals may be consolidated by the Court.

**(S.A. 177 § 28, 1957; as amended by RTM, 9/26/1988.)**

## **Public Works**

### **§159-163**

#### **Sec. 159. - Condemnation of land.**

(a) Whenever the Commissioner of Public Works shall deem it necessary to take any land for the layout, alteration, extension, widening, change of grade or improvement of any highway in the Town and cannot agree with the owners of such land as to the damages which will be sustained or the benefits which will accrue to such owners from such taking, he shall submit the matter with the plan of such land as he shall deem it necessary to take to the Condemnation Commission. The Commission shall notify the owners of such land of a hearing on such proposed taking, notice of which shall be given to such owners at least five (5) days before such hearing by leaving copies of such notice at the places of abode in the Town of such owners if they reside therein, or, if they do not reside

in the Town, by registered mail at their addresses, if known, but if not known, by publication in a newspaper published in the Town at least five (5) days before such hearing. (b) The Commission upon such hearing being had and upon its finding that it is necessary to take such land for the layout, alteration, extension, widening, change of grade or improvement of any such highway, may take such land for such purposes or any of them. The owners of such land shall be paid by the Town for all damages and the Town shall receive from such owners the amount or value of all benefits resulting from such taking.

**(S.A. 347 § 20, 1921; as amended by S.A. 250, 1931.)**

**Sec. 160. - Highways; assessment of damages and benefits.**

(a) The assessment of such damages and of such benefits shall be made by the Condemnation Commission and filed by it with the Town Clerk, and at any time thereafter the physical construction of such layout, alteration, extension, widening, change of grade or other improvement may be made by the Commissioner of Public Works. (b) The Town Clerk shall give notice of such assessment to the property owners affected thereby by mailing to each a copy of the same, postage prepaid. The Treasurer shall pay to any land owner the damages so assessed by the Condemnation Commission or reassessed by the court as hereinafter provided, upon certification of the amount by the Town Clerk if assessed by the Condemnation Commission or by the clerk of the court if reassessed by a committee and accepted by the court as herein provided.

**(S.A. 347 § 20, 1921; as amended by S.A. 250, 1931.)**

**Sec. 161. - Assessment; attachment of lien.**

The amount of such benefits so assessed by the Condemnation Commission or reassessed by the court, as the case may be, shall constitute a lien upon the land against which such benefits were assessed until the amount thereof shall have been paid by the property owner to the Town with interest at the rate of six percent (6%) per annum commencing three (3) months after the date of the filing of such assessment or of the acceptance by the court of such reassessment. No such lien shall continue against such land unless notice of the same shall have been filed by the Condemnation Commission in the land records of the Town within sixty (60) days after the filing of such assessment or after the acceptance by the court of such reassessment.

**(S.A. 347 § 20, 1921; as amended by S.A. 250, 1931.)**

### **Sec. 162. - Damages and benefits; appeals.**

(a) Any person claiming to be aggrieved by assessment of special damages or of special benefits by the Condemnation Commission may, at any time within thirty (30) days after such assessment shall have been so filed, apply to the Superior Court for Fairfield County for a reassessment of such special damages or special benefits so far as they affect such applicant. The Court shall thereupon cause notice of such application to be given to the Condemnation Commission and shall appoint a committee of three (3) disinterested electors to make such reassessment of special damages or special benefits. (b) The Committee, having given at least ten (10) days' notice to the parties interested of the time and place of its meeting, shall hear the applicant and the Condemnation Commission, view the land and take such testimony as such Committee may deem material and shall thereupon reassess such special damages and special benefits so far as they affect such applicant and forthwith report to the Court. Such report may be rejected for any irregular or improper conduct in the performance of the duties of such Committee. (c) If the report is rejected, the Court or judge shall appoint another committee, the members of which shall proceed in the same manner in which the first were required to proceed. If the report is accepted each assessment shall be conclusive upon such owner and the Town. The pendency of any such application for reassessment shall not prevent or delay the layout, extension, alteration, widening, change of grade or other improvement of any such highway.

**(S.A. 347 § 20, 1921; as amended by S.A. 250, 1931; RTM, 9/26/88.)**

### **Sec. 163. - Condemnation of land for highway drainage.**

(a) When any ditch, drain, gutter or other construction shall be required for the purpose of draining any highway in the Town, or for any other drainage purpose, the Condemnation Commission is authorized to take any land necessary for such purpose and to assess benefits and damages caused by any such construction and for the taking of any such land under the same provisions as are herein provided for the taking of any land found necessary by the Commissioner of Public Works for the layout, extension, alteration, widening, change of grade or other improvement of any highway in the Town. (b) Any person aggrieved by the assessment for such benefits or damages shall be entitled to the same relief provided for in this Article as to the layout, extension, alteration, widening, change of grade or other improvement of any highway in the Town.

**(S.A. 347 § 20, 1921; as amended by S.A. 250, 1931; S.A. 222, 1953.)**

## **§248, Sewers**

### **Sec. 248. - Condemnation of property; hearing.**

(a) Whenever the Commissioner shall deem it necessary to take any land, building, easement and other property for the construction of any sewer, sewerage system, sewage disposal plant or trunk sewer which has been approved and authorized as herein provided, and he shall be unable to obtain the same by purchase at a price considered to be reasonable by the Commissioner and the Board of Estimate and Taxation, he shall apply to the Condemnation Commission for the condemnation of such land, building, easement and other property required for such purpose, and for an assessment of damages. The Condemnation Commission shall thereafter notify all persons claiming interests in such property of a hearing on such proposed taking. Notice shall be given to such persons at least fourteen (14) days before such hearing, leaving copies of such notice with such persons or at their usual places of abode in the Town, if they reside therein, or if they do not reside in the Town, by registered mail addressed to their last-known addresses, and by publication in a newspaper having circulation in the Town at least fourteen (14) days before such hearing. (b) At such hearing the Condemnation Commission shall determine whether or not such taking is necessary, and, upon finding that it is necessary, shall determine and assess damages resulting from such taking. The Condemnation Commission shall file in the office of the Town Clerk a certificate as to its determination of such necessity of taking, the damages resulting therefrom, and its assessment therefor. The Condemnation Commission within ten (10) days after the filing of said certificate, shall give notice of such determination of necessity and of such assessment, and the amount thereof, by mailing a notice thereof to each of such persons claiming interests in such property, addressed to him at his last-known post office address, and by publishing a notice of such filing in a newspaper having circulation in the Town. (c) Upon the filing of such certificate, title to such land, building, easement and other property shall vest in the Town, and such sewer, sewerage system, sewage disposal plant or trunk sewer may thereupon be constructed through or upon such land or other property so taken or through which an easement is so taken. After the filing of such certificate, the Town shall pay to the persons interested in such property the amount of damages as assessed upon acceptance thereof.

**(S.A. 292, 1949.)**

**§255-258.**

**Sec. 255. - Certification of cost of construction.**

(a) The Commissioner shall advise the Comptroller when such sewer, sewerage system, sewage disposal plant and trunk sewer has been completed. The Comptroller shall thereupon compute and ascertain separately the total cost of construction of the sewer and sewerage system, and the total cost of construction of the sewage disposal plant and trunk sewer. In such total cost shall be included the cost of the acquisition of land, buildings, easements and other property, awards for damages resulting from such construction, all sums paid by the Town to surveyors, engineers, architects, inspectors, attorneys and other persons in connection therewith, the cost of any work done by the Town, the interest on notes or bonds issued by the Town, or on funds advanced by the Town at a rate not to exceed six percent (6%) per annum to pay the expense of such construction computed to the time at which the first installment of the tax, or assessment within an area of present benefit becomes due. (b) The Comptroller shall certify to the Condemnation Commission the total cost of the sewers and sewerage systems and shall certify to the Board of Estimate and Taxation the total cost of sewage disposal plants and trunk sewers, and the part of such cost as has been determined in respect to sewers and sewerage systems which shall be assessed against property within each area of benefit, whether present or future, and in respect to sewage disposal plants and trunk sewers that part which shall be taxed against the property in the sewer district upon the basis of the assessed valuation of the land and improvements thereon.

**(S.A. 333 § 2, 1955; as amended by RTM, 10/14/57.)**

**Sec. 256. - Apportionment of benefits.**

(a) All or such part of the cost of the construction of such sewer or sewerage system, which is to be assessed against the property within an area of benefit, shall be apportioned by the Condemnation Commission against the property in the proportion, as nearly as may be, to the benefit which each lot or parcel derives therefrom. In determining such apportionment the Condemnation Commission, among other factors, may consider whether such benefits are direct or remote, the present and prospective use of the land and the improvements thereon, the increase in the value of the property benefited by such construction, the frontage, size and shape of such property, the valuation of the land in the last-completed grand list of the Town, and the valuation of any buildings or improvements on such land as set forth in the list, and the amount of sewer assessments previously levied on such lot or parcel reduced by the proportionate amount of reasonable depreciation of the improvement for which said sewer

assessments were levied. (b) The Condemnation Commission shall file in the office of the Town Clerk a map showing the separately owned lots or parcels of land specially benefited, and designating by numbers the several lots or parcels of land thus benefited. The Commission shall also file in the office of the Town Clerk its proposed apportionment and assessment of benefits which shall describe by reference to the map or otherwise each lot or parcel of land specially benefited, designate the owner thereof and the benefit to be apportioned thereto. The Town Clerk shall receive the map for filing even though the same may not comply with the requirements of the General Statutes for such filing.

**(S.A. 333 § 3, 1955.)**

#### **Sec. 257. - Notice of hearing.**

After making and filing such map and apportionment, the Condemnation Commission shall serve on each property owner a notice of the completion and filing thereof. Such notice shall state the time and place when and where a hearing to consider and review such apportionment will be held, and shall be given at least thirty (30) days before the hearing by mailing a copy thereof to each of such property owners, addressed to him at his last-known post office address, and by publishing a copy thereof in a newspaper having circulation in the Town. The Condemnation Commission shall meet, at the time and place specified, to hear objections to such apportionment and may modify and correct the same. Upon completion of the apportionment the Condemnation Commission shall file the same in the office of the Town Clerk. The apportionment shall refer to the map upon which the same is based.

**(S.A. 292, 1949.)**

#### **Sec. 258. - Assessment of benefits.**

The Condemnation Commission shall assess against each lot or parcel of land within an area of benefit the amount of the benefits apportioned to each such lot or parcel. Such assessments shall be set forth in an assessment list which shall be known as the "Sewer Assessment List" for such sewer or sewerage system which shall describe by reference to the map or otherwise each lot or parcel of land specially benefited, the owner thereof and the benefits apportioned and assessed thereto. The Commission shall file said list in the office of the Town Clerk, and within ten (10) days after such filing, shall give notice of such assessment, and the amount thereof, by mailing a notice thereof to each owner, addressed to him at his last-known post office address, and by publishing a notice of such filing in a newspaper having circulation in the Town.

**(S.A. 292, 1949.)**

## **§272**

### **Sec. 272. - Additional assessments.**

In the event that any property at any time derives a material increase in benefits due to an increase in the use of a sewer or sewerage system or as a result of a connection of any sewer or sewerage system with any other sewer or sewerage system, the Condemnation Commission shall make an additional assessment against such property so served or benefited in an amount which shall reflect the value of the increase in benefits to such property resulting from such increased use. In other respects the provisions of this Article relative to the assessment of benefits by the Condemnation Commission in the case of the construction of sewers and sewerage systems, and with respect to the collection and payment thereof, shall apply to additional assessments under this Section.

**(S.A. 292, 1949.)**

## **§281**

### **Sec. 281. - Correction of irregularities in assessments or taxes; waiver.**

(a) Any error or mistake in the designation of an owner of property assessed or taxed pursuant to the provisions of this Article or any prior act, or in the description of such property, or any clerical or other error in any of the proceedings, shall not invalidate the assessment or tax, with respect to other properties. An owner who can show to the satisfaction of the Condemnation Commission that he has been prejudiced because of an error or mistake in the designation of owner or in the description of such property, or because of a clerical or other error in any of the proceedings, shall have the right to a hearing before the Condemnation Commission, and upon the request for such hearing, the Condemnation Commission shall hold a hearing after such notice thereof as it shall deem appropriate. (b) No error or mistake in the designation of an owner or property assessed or taxed pursuant to the provisions of this Article or any prior act, or in the description of such property, and no clerical or other error in any of the proceedings shall invalidate any notes or bonds issued pursuant to the provisions of this Article or any prior act. In case any assessment or tax shall be or become void or shall fail or have failed for want of jurisdiction or for any irregularity in the assessment or levy thereof, the Town shall have power, and it shall be its duty, to cause the same to be re-assessed in a proper manner. (c) Any of the provisions of this Article may be waived in writing by the affected property owner.

**(S.A. 292, 1949.)**

## Appendix B: Referenced Connecticut Statutes

### General: Statutes Chapter [835: Eminent Domain](#)

#### [Statutes §48-13](#)

Sec. 48-13. Inspection and testing prior to condemnation. Upon filing a notice of condemnation of a condemning authority, either before or after the institution of a condemnation proceeding and after reasonable notice to the property owner or owners affected, the Superior Court or any judge thereof may authorize such condemning authority to enter upon and into land and buildings sought or proposed for public uses for the purpose of inspection, survey, borings and other tests. Such condemning authority shall be responsible to the owner or owners of such property for any damage or injury caused by such entrance and use, and such court or judge may require the filing of a bond or deposit of surety to indemnify the owner or owners of property for such damage. This section shall not limit or modify rights of entry upon private property otherwise provided for by law.

(1955, S. 2968d; 1967, P.A. 808, S. 2; P.A. 76-436, S. 648, 681.)