



Town of Westport
Planning & Zoning Commission
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PLANNING AND ZONING DEPARTMENT
ZONING ENFORCEMENT POLICY

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PURPOSE AND AUTHORITY

The purpose of this policy statement is to provide standard policies for all zoning enforcement procedures conducted by the Planning and Zoning Department (hereinafter “P&Z Department”). The authority to enforce the Town of Westport Zoning Regulations (hereinafter “Regulations”) is provided by the Connecticut General Statutes.

POLICY STATEMENT

The intent of zoning enforcement is to protect the public health, safety, and welfare of the Community and to provide for compliance with the Regulations. The P&Z Department will enforce its Regulations in a fair and equitable manner and will provide policies and procedures that are clear and that provide the property owner with an understanding of the regulations and the procedures available to bring the property into zoning compliance. Enforcement of the Regulations by the Commission and its professional staff will include both proactive and reactive enforcement procedures as defined below.

When staff first determines a zoning violation, the P&Z Department seeks to focus on working with the violator to remedy the zoning violation in the most efficient and timely manner. Initially, the P&Z Department is more focused on having the owner bring the subject property into compliance with the Regulations rather than punishing the violators by issuing a citation (i.e., fine) or cease and desist order.

When the P&Z Department works with violators who are in the process of bringing a property into compliance with the Regulations, the staff documents its actions and makes those records available to the public. Persons interested in the status of a pending zoning violation may review files regarding the violation in the P & Z Department office.

ENFORCEMENT POLICIES

The P&Z Department will try to make every effort to consistently process complaints and manage enforcement actions. Deviation from established procedures should be documented and justified when adherence to these guidelines is not practical. The following are general policies:

- The Regulations shall be enforced by the P&Z Department and the duly authorized staff (the Zoning Enforcement Officer and/or others designated by the Director of Planning & Zoning.)
- All zoning related complaints shall be on complaint forms available at the P&Z Department.
- The P&Z Department will investigate anonymous complaints. However, such complaints will receive a lower priority than those complaints lodged by a resident who discloses his or her identity unless staff determines that the reported violation may pose an immediate threat to the public health, safety, or welfare of the community.
- Zoning is not to be used as a means of furthering neighbor and/or civil disputes. In such cases, the staff may advise the complainant to address the issue by private means.
- All Zoning Enforcement letters and orders shall include the following: the nature of the violation; the date of inspection; the regulation being violated; the means to comply with the regulation; and the appeal process.

ENFORCEMENT PRIORITIES

The P&Z Department shall prioritize all zoning enforcement actions in the following order:

1. Violations that pose immediate danger to the public health, safety, or general welfare of the community;
2. Violations related to development projects that are in the construction phase;
3. Proactive enforcement programs initiated by the Commission and/or P&Z Department;
4. Reactive or complaint based enforcement programs;
5. Anonymous complaints, unless the P&Z Department determines that the reported violation may pose an immediate threat to the public health, safety, and welfare of the community.

ENFORCEMENT PROCEDURES

When conducting proactive and/or reactive enforcement action, the P&Z Department shall adhere to the following procedures:

STEP ONE - COMPLAINT FILED

A concerned citizen must complete a Zoning Complaint Form. A complaint can also be filed by the Zoning officials if a violation is observed, or if the P&Z Commission brings an apparent violation to the P&Z Department's attention. Anonymous complaints are accepted, but are given a lower priority. All complaints shall be recorded and entered into the zoning file for the subject property and into the enforcement database. No action will be taken if the Zoning Official determines that the complaint is not considered a zoning violation.

STEP TWO – PRIORITIZE

The violation shall be given an enforcement priority by the Zoning Official per the enforcement priorities list above.

STEP THREE - CONDUCT A SITE INSPECTION

Prior to the inspection, staff will verify basic zoning information regarding the property. A site inspection is required to determine whether there is a zoning violation or any other issues associated with the property.

STEP FOUR - PROPERTY RESEARCH

The P&Z Department shall conduct a check of its records for the subject property, as well as any other Town records which will establish important background information regarding the subject property, such as: its location within a Zoning District, its zoning designation, approved uses for the property, previously granted zoning permits and/or variances, and pending violations and/or zoning applications.

STEP FIVE – ENFORCEMENT

If it is determined that a violation exists, the following procedural options are (A. Issuance of a cease and desist order, B. Issuance of citations for violations, or C criminal prosecution), which are not mutually exclusive and may be used in any combination, may be followed to remove the violation:

OPTION A: CEASE & DESIST

The issuance of cease and desist orders shall adhere to the following procedures:

1. *FIRST NOTICE OF VIOLATION (hereinafter "NOV") & REQUEST FOR VOLUNTARY COMPLIANCE*

- Zoning official will attempt to make contact with the property owner and/or tenant to resolve the issue.
- First contact may take place in person at the property or over the telephone. A First NOV confirming the details of the violation will either be delivered in person (in accordance with the policy stated below) or be mailed to the violator, regardless of whether the P & Z Department is able to contact the property owner.
- If verbal contact cannot be made, a first NOV will be sent to the violator requesting voluntary compliance. The NOV provides the violator with information about the violation and instructions on how to remedy the violation. The notice also provides the violator with a 10 day deadline within which the P & Z Department must be contacted to discuss how and when the violation will be remedied. In the event the violator fails to contact the P & Z Department within the 10 days, a second NOV will be sent except if the violator requests and is granted an abeyance as described in Step 6.
- For sites where a zoning official is able to observe a zoning violation and make immediate contact with the property owner or tenant, a First NOV may be issued on the spot using a special First NOV form that provides for a hand written notice with carbon copies. Such notice may be delivered in person to such property owner or tenant. The zoning official shall obtain the signature of the recipient on the form and if such notice is given to a tenant, the zoning official shall also send the carbon copy thereof via regular mail, to the property owner. In such cases, the Second NOV shall be sent by certified and regular mail.

2. *SECOND NOV*

- A second NOV will be issued which will state that a Cease and Desist Order will be issued in 10 days from the date of issuance of the second NOV if the violator does not respond to the second NOV;

- If there is no response to the second NOV within 10 days or if the violation has not been remedied a Cease & Desist Order will be issued except if the violator requests and is granted an abeyance as described in Step 6.
3. *CEASE & DESIST ORDER*
- The Zoning Official will issue a Cease & Desist Order and record it on the Westport Land Records.
 - Cease & Desist Orders will be issued to the property owner simultaneously by certified mail and by regular United States Postal Service mail, and copied to the tenant if applicable. The date of receipt shall be deemed to be four (4) calendar days after the day of the regular mailing.
4. *ENFORCEMENT ACTIONS*
- If the violation still exists after the issuance of a Cease & Desist Order, the violation will be referred to the Town Attorney's office for possible legal action. Properties that have been the subject of previous NOV(s) for the same type of violation will proceed directly to Enforcement action.

OPTION B: CITATIONS

PURPOSE: Pursuant to Connecticut General Statutes (CGS) Section 8-12a, the Zoning Enforcement Officer is authorized to issue citations for violations of the Regulations. Pursuant to § xxx of the Town of Westport Ordinance, the following employees can act as Zoning Officials in the capacity of the Zoning Enforcement Officer to issue citations: The Director of Planning & Zoning, the Deputy Director of Planning & Zoning, the Zoning Enforcement Officer, the Zoning Inspector, or any other person designated by the Town to enforce the zoning regulations . Any such citation shall be served by certified mail, return receipt requested, to the person named in such citation and simultaneously by regular United States Postal Service mail. The date of receipt shall be deemed to be four (4) calendar days after the date of the mailing. The Zoning Official shall retain a copy of the citation.

The issuance of citations shall adhere to the following procedures:

1. *FIRST NOTICE OF VIOLATION (hereinafter "NOV") & REQUEST FOR VOLUNTARY COMPLIANCE*
 - Zoning official will attempt to make contact with the property owner and/or tenant to resolve the issue.

- First contact may take place in person at the property or over the telephone. A First NOV confirming the details of the violation will either be delivered in person (in accordance with the policy stated below) or be mailed to the violator, regardless of whether the P & Z Department is able to contact the property owner.
- If verbal contact cannot be made, a First NOV will be sent to the violator requesting Voluntary Compliance. The NOV provides the violator with information about the violation and instructions on how to remedy the violation. The notice also provides the violator with a 10-day deadline by which the P & Z Department must be contacted to discuss how and when the violation will be remedied. In the event the violator fails to contact the P & Z Department within the 10 days, a second NOV will be sent except if the violator requests and is granted an abeyance as described in Step 6.
- For sites where a zoning official is able to observe a zoning violation and make immediate contact with the property owner or tenant, a First NOV may be issued on the spot using a special First NOV form that provides for a hand written notice with carbon copies. Such notice may be delivered in person to such property owner or tenant. The zoning official shall obtain the signature of the recipient on the form and if such notice is given to a tenant, the zoning official shall also send the carbon copy thereof via regular mail, to the property owner. In such cases, the Second NOV shall be sent by certified and regular mail.

2. *SECOND NOV*

- A second NOV will be issued if the violator does not confirm that the violation has been remedied by the deadline set forth in the First NOV;
- The Zoning Official will issue a second, more stringent NOV requesting a reply within 10 days. This NOV will indicate that a Cease & Desist Order and/or citation will be issued at the end of this 10 day period except if the violator requests and is granted an abeyance as described in Step 6.

3. *ENFORCEMENT CITATIONS*

- If the property owner has not confirmed with the P & Z Department that the violation has been remedied, then the zoning official will issue a

municipal citation. Properties that have been the subject of previous NOV(s) for the same type of violation will proceed directly to Enforcement Action. A citation may be issued for any violation of the Regulations pursuant to Chapter xxx of the Code of the Town of Westport.

OPTION C: PROSECUTION BY STATE'S ATTORNEY

FOR DISCUSSION BY COMMISSION: In the judgment of the Zoning Enforcement Official, certain enforcement actions may be more efficiently or effectively handled by referring the matter to the State's Attorney for criminal prosecution. Such referral shall be made utilizing the enforcement priorities or in cases when a Cease & Desist order or Citation are ignored.

STEP SIX - ABEYANCE

There may be instances where the violator has been issued a *NOV*, *Cease and Desist*, or a *Municipal Citation* and the violator may need additional time to remedy the violation. In these instances, the P&Z Department may agree to an abeyance of the enforcement action, so long as the violator is willing to agree in writing to specific terms of compliance as set forth by the P&Z Department. This technique has been developed in recognition that enforcement of zoning requires flexibility in the approach in order to enable compliance. The Zoning Enforcement Officer may grant two abeyance periods not to exceed 30 days each during any enforcement proceeding. Any further abeyance will require written approval from the Planning & Zoning Director.

STEP SEVEN – CLOSURE

Once the violation has ceased and the violator is in compliance, the Zoning Official can close the case. Cases are also closed if the Zoning Board of Appeals or the Connecticut Courts do not find in favor of the P&Z Department, and the Planning and Zoning Commission elects not to appeal the decision of the Zoning Board of Appeals or Court. No fee shall be collected where the case has been closed for the above referenced reasons. Cease & Desist Orders, if issued, will be removed from the Land Records.