

**LEGAL NOTICE TO BE PUBLISHED WESTPORT NEWS, Friday April 4, 2008:**

At the meeting of the Representative Town Meeting held Tuesday April 1, 2008, the following ordinance was adopted as follows:

RESOLVED: That upon the recommendation of the Planning & Zoning Commission, an ordinance entitled “Zoning Enforcement” is hereby approved. *(Second reading. Full text available below and from the Town Clerk’s Office.)*

**CHAPTER \_\_**

**Zoning Enforcement**

**ARTICLE I**

**§ \_\_\_\_\_. Purpose**

The intent of zoning enforcement is to protect the public health, safety and welfare of the Town and to provide for compliance with the zoning regulations. There are standard policies for all zoning enforcement procedures conducted by the Planning and Zoning Department and such policies are available to the public in that Department.

The purpose of this ordinance is to encourage compliance with the zoning regulations of the Town and to establish a means by which the Town may more effectively enforce its zoning regulations by implementing fines for violations.

**§ \_\_\_\_\_. Statutory Authority; Authorization to Issue Citations**

This ordinance is adopted pursuant to C.G.S. Sections 8-12a and C.G.S. Section 7-152c, as the same may be amended. Pursuant to C.G.S. Section 8-12a, the Zoning Official is hereby authorized to issue citations for any violation of the zoning regulations of the Town to the extent and in the manner provided herein.

**§ \_\_\_\_\_. Definitions.**

The following terms shall have the meanings indicated:

- a) Zoning Official—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.
- b) Violation – Any activity, condition or event that does not conform to the zoning regulations. A condition shall include, but not be limited to, the placement of signs that do not comply with the zoning regulations.

§ \_\_\_\_\_. **Notification; Issuance of citations.**

Upon the determination by the Zoning Official that a Violation exists, the Zoning Official is authorized to issue citations as follows:

**A. Notification of Violation.**

The Zoning Official shall provide written notice to any person who violates the zoning regulations. The notice(s) of violation shall state the Violation(s) and the date(s) by which said Violation(s) shall be remedied. Upon the failure of the person(s) to remedy the Violation(s) or to commence corrective action to the satisfaction of the Zoning Official within the time specified in the notice, the Zoning Official shall issue a citation as provided for in Subsection B hereof.

This Subsection A shall not apply to those persons who have received a notice of violation or citation within the previous twenty-four month period for the same Violation(s). Repeat offenders shall be issued a citation without first receiving a notice of violation.

**B. Citation Issuance.**

The Zoning Official shall issue a citation when a Violation(s) persists beyond the date by which the Zoning Official required that the Violation(s) be remedied or beyond the date that corrective action be commenced or, in the event a person had received a notice of violation or citation within the previous twenty four month period for the same Violation(s).

The citation shall state:

- (i) A description of the Violation(s).
- (ii) The initial fine(s) of \$150 plus such other penalties, costs and/or fees due for each Violation.
- (iii) That after four (4) days from the date of the citation, each day thereafter that the Violation(s) exists shall constitute a separate Violation(s) and shall be subject to an additional \$150 fine.
- (iv) That the uncontested payment of such fine(s), penalties, costs and/or fees shall be made within ten (10) days of the date of the citation.
- (v) That such person(s) may contest his/her liability before a citation hearing officer by delivering in person or by mail within ten (10) days of the date of the citation a written demand for a hearing.
- (vi) That if he/she does not demand such a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.

Any notice of violation or citation issued hereunder shall be sent to the person(s) named in the citation by certified mail, return receipt requested and simultaneously by regular United States Postal Service mail.

Once a written demand for a hearing has been received by the Planning and Zoning Department, no additional citations shall be issued for the same Violation(s), nor shall daily fines be imposed until after the conclusion of the hearing procedure as set forth in Section \_\_\_\_\_ hereof.

§ \_\_\_\_\_. **Amount of Fine; Continuing Violations.**

A. The fine for each citation shall be \$150.00 or the maximum amount allowed by C.G.S. Section 8-12a, as amended, whichever is greater, and shall be payable to the Town.

B. Each occurrence of a Violation, and each day that such Violation continues, shall constitute a separate Violation and shall be subject to a separate fine and may be cited as such.

C. The person(s) to whom a citation has been issued shall be responsible for reporting, in writing, subsequent compliance to the Zoning Official. Until such time, the fine(s) shall continue to be imposed on a daily basis.

**§ \_\_\_\_\_. Uncontested payment; time period.**

Any person(s) receiving a citation shall be allowed a period of ten (10) days from the date of the citation to make an uncontested payment of the fine(s), penalties, costs and/or fees specified in the citation. All amounts shall be made payable to the Town.

**§ \_\_\_\_\_. Payment of Fines.**

If the person(s) who has been issued a citation pursuant to this Article wishes to admit liability for any alleged Violation(s), the person(s) may, without requesting a hearing, pay the full amount of the fine(s), penalties, costs and/or fees admitted to the Planning and Zoning office. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person(s) or other person making the payment.

Any person(s) who does not deliver or mail written demand for a hearing within ten (10) days of the date of the citation, shall be deemed to have admitted liability, and the Zoning Official shall certify to the hearing officer that such person(s) has failed to respond. The hearing officer shall thereupon enter and assess the fine(s), penalties, costs and/or fees provided for by this Article and shall follow the procedures set forth in Section\_\_\_\_ D.

**§ \_\_\_\_\_. Hearing procedure for citations.**

- A. The First Selectman shall appoint one (1) or more citation hearing officers. The First Selectman shall not appoint any of the following persons: any employee of the Planning and Zoning Department, any employee of the Building Department, any employee of the Police Department, or any member of the Planning and Zoning Commission or Zoning Board of Appeals.
- B. A person(s) who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of mailing of the notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. An original or certified copy of the citation issued by the Zoning Official shall be filed and retained by the Town and shall be deemed to be a business record within the scope of C.G.S. Section 52-180 and evidence of the facts contained therein. Upon request of the person(s) appealing the citation, the presence of the Zoning Official who issued the citation shall be required at the hearing. A designated Town official other than the hearing officer may present evidence on behalf of the Town. A person(s) wishing to contest liability shall appear at the hearing and may present evidence on his/her behalf. If the person(s) who received the citation fails to appear, the hearing officer may enter an assessment by default against him/her upon a finding of proper notice and liability under the applicable provisions of the zoning regulations. The hearing officer may accept from such person(s) copies of any relevant police reports, zoning inspection reports, and/or any other official documents by mail and may determine thereby that the appearance of such person(s) is unnecessary.

C. The hearing officer shall conduct the hearing in the order and form, and with such methods

of proof, as he/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/her decision at the end of the hearing. If the hearing officer determines that the person(s) 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(s) who received the citation is liable for the Violation, the hearing officer shall forthwith enter and assess the fines, penalties, costs ~~or~~ and/or fees against the person as provided by this Article.

D. If the hearing officer's assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of assessment to the person(s) found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court facility designated by the Chief Court Administrator together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessment against the same person(s) may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of the hearing officer's record of assessment as well as court costs, against such person(s) in favor of the Town. 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 such person(s).

E. A person against whom an assessment has been entered pursuant to this Article is entitled to judicial review by way of appeal in accordance with C.G.S. Section 7-152c(g).

§ \_\_\_\_\_. OTHER REMEDIES

No action taken pursuant to this Chapter shall preclude the Town from pursuing any other enforcement remedy which may be imposed by the Zoning Officer for a Violation as authorized by any state statute, ordinance or zoning regulation.

§ \_\_\_\_\_. EXEMPTIONS

A. Notwithstanding the foregoing, no fine shall be levied against the State of Connecticut or the Town or any of their respective employees while acting within the scope of their employment.

Patricia H. Strauss  
Town Clerk