



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

April 4, 2008

Revised: July 15, 2012, April 14, 2014

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 Dept."). 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 Dept. will enforce its Regulations in a fair and equitable manner and will provide policies and procedures that are clear and that provide a property owner (or tenant) with an understanding of the regulations and the procedures available to bring their 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 exists, the P&Z Dept. will focus on working with the violator to remedy the zoning violation in the most efficient and timely manner. Initially, the P&Z Dept. will be more focused on having the violator bring the subject property into compliance with the Regulations rather than punishing the violator by either issuing a citation (i.e., fine) and/or filing a cease and desist order on the land records.

The P&Z Dept. will document its actions with respect to zoning violations. Those records will be available to the public and any persons interested in the status of a pending zoning violation may review those files in the P&Z Dept. office.

ENFORCEMENT POLICIES

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

- The Regulations shall be enforced by the P&Z Dept.'s duly authorized Zoning Officials. The Zoning Officials also include the Director and Deputy Director of the P&Z Dept., the Planner and any other person duly authorized by the Town to enforce the Regulations.
- All zoning related complaints shall be submitted on complaint forms available at the P&Z Dept.
- The P&Z Dept. will investigate anonymous complaints only when staff determines that the reported violation may pose an immediate threat to the public health, safety, or welfare of the community.
- The enforcement of the Regulations shall not be used as a means of furthering neighbor and/or civil disputes. If complaints between neighbors are verified as zoning violations the complaints shall be processed as zoning violations.
- All Notices of Violations ("NOV") shall include the following: (i) the nature of the apparent violation; (ii) the date of inspection; (iii) the regulation being violated; (iv) the means to comply with the regulation; (iv) a date upon which the violation shall be remedied or the ZEO contacted; and (v) the appeal process.
- Proactive Enforcement for repeat violations shall be pursued by Zoning Officials as a follow up to a previously named complaint.

ENFORCEMENT PRIORITIES

The P&Z Dept. 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 Dept.;
4. Reactive or complaint based enforcement programs;
5. Violations observed during Zoning Certificate of Compliance (ZCC) inspections.

ENFORCEMENT PROCEDURES

When conducting proactive and/or reactive enforcement action, the P&Z Dept. 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 a member(s) of the P&Z Commission brings an apparent violation to the attention of the P&Z Dept. 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 listed above.

STEP THREE - CONDUCT A SITE INSPECTION

Prior to the inspection, staff will verify basic zoning information regarding the subject property. A site inspection is required to determine whether there is a zoning violation(s). Site inspections that require entering on to a residential property may only be conducted with the expressed consent of the property owner. If the property owner fails to consent to the inspection the Zoning Official may not inspect the property without an Administrative Search Warrant issued by the Superior Court. A Zoning Official may contact a complaining neighbor and if granted permission from said neighbor may attempt to confirm the violation by observations made from the neighbor's property. Zoning Officials may also attempt to confirm a violation by observations made from the street without entering the property. A Zoning Official may rely upon observations made by another Town Official (i.e. the Building Official).

STEP FOUR - PROPERTY RESEARCH

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

STEP FIVE – ENFORCEMENT

If it is determined that a violation exists, the P&Z Dept. may choose to initiate any of the following enforcement procedures: (i) issuance of a cease and desist order, (ii) issuance of a citation [i.e., fine], (iii) initiation of a civil action after consultation with the Town Attorney and/or (iv) initiation of a criminal action after consultation with the State's Attorney. These various procedures are not mutually exclusive and may be used in any combination to attempt to bring the subject property into compliance with the Regulations.

The remainder of this policy covers solely the procedure for issuing citations (i.e., fines). The issuance of a cease and desist order(s) does not need to follow this procedure.

CITATIONS

PURPOSE: Pursuant to Connecticut General Statutes (CGS) Section 8-12a, the and the Zoning Enforcement Ordinance of the Town of Westport , the Zoning Official is authorized to issue citations for violations of the 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. ***NOTICE OF VIOLATION*** (*hereinafter "NOV"*) & ***REQUEST FOR VOLUNTARY COMPLIANCE***
 - The Zoning Official will attempt to make contact with the property owner and/or tenant to resolve the issue.
 - A NOV confirming the Zoning Official's discussion and the details of the violation will subsequently be delivered in person (in accordance with the policy stated below) or be mailed to the violator.
 - If verbal contact cannot be made, a NOV will be sent to the violator requesting voluntary compliance. The NOV will provide the violator with information about the violation and instructions on how to remedy it. The notice will also provide the violator with a 10-day deadline by which the P&Z Dept. must be contacted to discuss how and when the violation will be remedied (30-day deadline if violation

was observed during ZCC inspection). Unless the violator requests and is granted an abeyance as described in step six, if the violator fails to contact the P&Z Dept. within the ten (10) days, a second NOV will be sent (30-day deadline if violation was observed during ZCC inspection). Where the Zoning Official observes a zoning violation and makes immediate contact with the owner and/or tenant, a NOV shall be issued immediately using a special NOV form that provides for a hand written notice with carbon copies. Such notice may be delivered in person to such owner and/or tenant. The Zoning Official shall try to obtain the signature of the recipient on the form. Where such notice is delivered to a tenant, the Zoning Official shall also mail a copy to the owner. In such cases, if a Second NOV is sent, it shall be sent by certified and regular mail.

2. ENFORCEMENT CITATIONS

If the owner has not confirmed with the P&Z Dept. that the violation has been remedied, then the Zoning Official will issue a citation. Properties that have been the subject of previous NOV(s) for the same type of violation within the past 24 months will proceed directly to Enforcement Action.

STEP SIX - ABEYANCE

There may be instances where the violator has been issued a NOV the violator may need additional time to remedy the violation. In these instances, the P&Z Dept. 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 Dept. This technique has been developed in recognition that enforcement of the Regulations requires flexibility in the approach in order to enable compliance. The Zoning Official may grant two (2) abeyance periods not to exceed thirty (30) days each during any enforcement proceeding. Any further abeyance will require written approval from the Director of the P&Z Dept.

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 Courts do not find in favor of the P&Z Dept., and the P&Z Commission elects not to appeal the decision of the Zoning Board of Appeals or the Court. If a case has been closed for any of the above referenced reasons then no fines shall be collected, if due.