

## SECTION 8.10 – ENFORCEMENT PROCEDURES

### A. GENERAL

#### 1. AUTHORITY

Pursuant to Section 8-1c of the Connecticut General Statutes (hereinafter the “CGS”), the Planning and Zoning Commission (hereinafter the “Commission”) is empowered to establish how the Zoning Regulations are to be enforced.

#### 2. GOALS

The Commission has established these guidelines for enforcement of the Zoning Regulations in order to ensure that:

- a. zoning enforcements have a specific process to follow,
- b. complaints are dealt with in a fair and equitable manner,
- c. alleged violations are investigated, and
- d. violations are brought into compliance.

#### 3. PRINCIPLES

The Commission has established the following principles to guide the enforcement program:

- a. **Responsiveness –**
  - i. The Zoning Enforcement Officer (hereinafter the “ZEO”) will investigate and document zoning complaints.
- b. **Compliance, Not Punishment –**
  - i. The overall goal of zoning enforcement is to bring property or land uses into compliance consistent with the Zoning Regulations.
  - ii. The Commission shall take action authorized by law if there is not progressive, diligent and obvious action toward compliance.
- c. **Transparency –**
  - i. The ZEO will document and make a record of any actions taken.
  - ii. The record of any actions taken will be made available to the public as State statutes require.
  - iii. The ZEO will make regular reports to the Commission on the progress of zoning enforcement issues.
- d. **Consistency –**
  - i. The ZEO will strive to be consistent when managing enforcement actions.
  - ii. These guidelines have been prepared to assist in that effort.
  - iii. These guidelines provide a process for the ZEO to exercise reasonable judgment. The Commission recognizes that absolute adherence to these guidelines may not be practical. Where deviation from these guidelines is appropriate, the ZEO shall document the basis for such deviation.

## B. IDENTIFICATION

### 1. SITUATION IDENTIFIED

**Complaint Filed** – An allegation of a zoning violation may be submitted by any concerned citizen. If the concerned citizen wishes to be informed of the progress or disposition of any complaint, it must be submitted in writing to the ZEO. Anonymous complaints are accepted, but are promptly investigated only when the ZEO determines that the alleged zoning violation may pose an imminent peril to the public health or safety of the community.

**Violation Noted** - An allegation of a zoning violation may also be investigated by the ZEO if it is:

- a. observed personally by the ZEO or
- b. brought to the ZEO's attention by a town official.

### 2. CONDUCT A SITE VISIT

A site visit by the ZEO may be part of a town-wide investigation of zoning compliance or it may be an inspection of a specific property by the ZEO to investigate an alleged zoning violation on that property. A site visit may involve:

- a. with the consent of the property owner, a physical inspection of the property; or
- b. a visual inspection from a public street; or
- c. a visual inspection from a neighboring property.

A visual inspection may be conducted without the knowledge, consent or participation of the property owner. Should the ZEO desire to enter the property to make a physical inspection, the ZEO shall obtain the previous consent, in writing, of the property owner. If the property owner fails to provide such consent, the ZEO or the Commission may seek an administrative warrant or court order authorizing a physical inspection.

### 3. RESEARCH RECORDS

Research shall be conducted to establish relevant background information such as the zoning district in which the property is located, if any variances have been granted, or if any permits have been issued to conduct the activity that is the source of the alleged zoning violation.

### 4. DETERMINATION

After inspecting the site and researching the records, the ZEO will determine whether a violation exists.

If a determination is made that a zoning violation exists, the ZEO will proceed to Section C.1, except the ZEO will proceed directly to Section D.1 for properties that have been the subject of previous Notices of Violation(s), as provided for in Section C.1, for the same type of violation.

If a zoning violation is found not to exist, the ZEO shall close the case. The ZEO will inform the original complainant of this finding, provided that a written complaint was filed.

## **C. VOLUNTARY COMPLIANCE**

### **1. SEND NOTICE OF VIOLATION REQUEST FOR VOLUNTARY COMPLIANCE**

If a zoning violation is found to exist, the ZEO will attempt to contact the property owner by telephone and, following such attempt, shall send him/her, by first class mail, a Notice of Violation/Request for Voluntary Compliance.

In communicating with the property owner, the ZEO shall:

- a. identify the zoning violation(s) and the date of inspection,
- b. identify the section(s) of the regulations that are violated,
- c. include information on how to remedy the situation,
- d. request voluntary compliance, and
- e. specify a grace period for voluntary compliance, which shall not be more than fourteen (14) days from the date of the Notice of Violation provided; however, that the ZEO may, at his/her discretion, specify a shorter period if he/she determines that there is an imminent peril to public health or safety. If after receiving a Notice of Violation/Request for Voluntary Compliance, the property owner makes diligent and substantial progress towards the correction of the violation(s), the ZEO may extend the grace period for no more than an additional thirty (30) days.

### **2. EMERGENCY ACTION**

Where the ZEO determines that there is an imminent peril to public health or safety involving earth excavation, soil erosion and sedimentation controls, storm water management, or other such activities, the ZEO may, without further notice, immediately issue an Enforcement/Cease and Desist Order, as provided for in Section D.1, and require immediate compliance.

### **3. FOLLOW UP SITE INSPECTION**

After the grace period has expired or the ZEO is advised in writing by the property owner that the violation has been remedied, the ZEO will conduct a site visit, consistent with Section B.2, to determine if zoning compliance has been achieved.

### **4. DETERMINATION OF VIOLATION**

After the follow-up site inspection, the ZEO will determine whether the zoning violation continues to exist or has been remedied.

If the zoning violation continues to exist, the ZEO will proceed to Section D.1.

If the zoning violation has been remedied, the ZEO shall prepare a written report of his/her findings and close the case. The ZEO will inform the original complainant of this result, provided that a written complaint was filed.

## **D. OFFICIAL ACTION**

### **1. SEND ENFORCEMENT/CEASE AND DESIST ORDER**

If the zoning violation has not been remedied through voluntary compliance, the ZEO will send the property owner, by certified mail, return receipt requested, and by first class mail, an Enforcement/Cease and Desist Order. The date of service of such order shall be deemed to be four (4) calendar days after the mailing of the Enforcement/Cease and Desist Order. This communication shall:

- a. identify the zoning violation(s),
- b. identify the section(s) of the regulations that are violated,
- c. include information on how to remedy the situation, and

inform the property owner of the option to appeal to the Zoning Board of Appeals (hereinafter the "Board").

### **2. APPEAL OF ENFORCEMENT/CEASE AND DESIST ORDER**

Consistent with CGS Section 8-7, an appeal may be taken to the Board by an aggrieved person where it is alleged there is an error in an order, requirement, or decision made by the ZEO. The appeal must be submitted to the Board on the appropriate application, together with payment of the application fee. Such appeal shall be taken within thirty (30) days of the date of service of the Enforcement/Cease and Desist Order and shall specify the grounds for such appeal.

An appeal shall not stay further enforcement and proceedings of any such order, requirement or decision which prohibits further construction or expansion of a use in violation of a zoning regulation except to the extent the Board grants a stay thereof. An appeal from any other order, requirement or decision shall stay all proceedings in the action appealed from unless the ZEO or the Commission certifies to the Board that, for the reasons set forth in such certification, a stay would cause an imminent peril to life or property, consistent with CGS Section 8-7.

### **3. FOLLOW UP SITE INSPECTION**

If no appeal to the Board is filed, the ZEO will conduct a follow up site visit, consistent with Section B.2, to determine if zoning compliance has been achieved.

After inspecting the site, the ZEO shall determine whether the alleged zoning violation continues to exist or if it has been remedied. If the zoning violation continues to exist, the ZEO will proceed to Section E.1.

### **4. BOARD DETERMINATION**

If an appeal to the Board is filed, following a public hearing, the Board shall affirm, affirm in part, reverse, or modify the decision of the ZEO provided that any vote to reverse or modify a decision of the ZEO shall require the concurring vote of four (4) members of the Board and specify the reasons therefor.

If the Board affirms, affirms in part or modifies the decision of the ZEO that a zoning violation exists, the ZEO will proceed to Section E.1. If the Board reverses the decision of the ZEO, the ZEO shall close the case.

The ZEO will inform the original complainant of the Board's decision, provided that a written complaint was filed.

## E. ENFORCEMENT ACTIONS

### 1. SELECT AN ENFORCEMENT ACTION

Except in cases of violations requiring immediate remediation as provided for in Sections C.1 and C.2, the ZEO may, in his/her discretion:

- a. Enter into a Consent and Abatement Order (Section E.2), or
- b. Issue a Citation (Section E.3), or
- c. Apply to the Connecticut Superior Court for appropriate relief (Section E.4).

### 2. CONSENT AND ABATEMENT ORDER

In those instances where an Enforcement/Cease and Desist Order has been issued and, although willing to remedy the violation(s), the property owner is not capable of doing so within the specified time period, provided that the property owner has commenced to remedy and is diligently proceeding to remedy the zoning violation, the ZEO may agree to an abeyance of the enforcement action subject to written and mutually agreed terms of compliance (a "Consent and Abatement Order"). The Consent and Abatement Order shall provide for further actions to be taken should the property owner fail to comply with such order, including without limitation the actions set forth in Sections E.3 and E.4.

Once the zoning violation has been remedied and the property owner is in compliance, the ZEO shall prepare a written report of his/her findings and close the case. The ZEO will inform the original complainant of this result, provided that a written complaint was filed.

### 3. CITATION

- a. **PURPOSE.** Pursuant to CGS Section 8-12a, the Town of Norfolk has adopted an Ordinance for the Enforcement for Land Use Violations (the "Ordinance") establishing municipal penalties for violations of zoning regulations. This Citation process is intended to result in local resolution of zoning violations, as opposed to involving the court system and possible civil or criminal penalties.
- b. **AUTHORITY.** The Commission authorizes the ZEO to issue citations for violations of the Zoning Regulations, consistent with the Ordinance, following the ZEO's compliance with the provisions set forth in Sections B, C, and D.

### 4. COURT RELIEF - CEASE AND DESIST ORDER (Superior Court)

- a. **PURPOSE.** A Cease and Desist Order is a legal proceeding involving the Connecticut court system which seeks compliance with the Zoning Regulations.

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- b. **SEEK CIVIL RELIEF (INJUNCTION).** If the property owner has not complied with the Enforcement/Cease and Desist Order, the matter may be then forwarded to the Town Attorney to seek injunctive and other relief through the Connecticut court system.
- c. **SEEK CRIMINAL RELIEF (OPTIONAL).** While rare, failure to comply with an Enforcement/Cease and Desist Order can be prosecuted through the Connecticut criminal court system, and the Commission has the authority to seek this relief.
- d. **ENFORCEMENT OF THE COURT ORDER.** If the court rules in the Commission's favor, the ZEO is responsible to monitor the property owner's compliance with the court order. If the property owner does not comply with the court order or timetable, the ZEO may bring the property owner to court on a contempt of court motion.

Once the zoning violation has ceased and the property owner is in compliance, the ZEO shall prepare a written report of his/her findings and close the case. The ZEO will inform the original complainant of this result, provided that a written complaint was filed.

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