

TOWN OF ANDOVER, CT
Zoning Violation Ordinance

Section 1: Title

This ordinance shall be known and may be cited as the **Town of Andover Zoning Violation Ordinance**.

Section 2: Legislative Authority

This ordinance is enacted pursuant to Sections 8-2, 8-12a and 7-152c of the Connecticut General Statutes.

Section 3: Intent

The purpose of this ordinance is to better ensure compliance with the Zoning Regulations of the Town of Andover. In furtherance of this purpose, this ordinance is designed to establish fines for violations of the Zoning Regulations of the Town of Andover authorized by sections 8-2 and 8-12a of the Connecticut General Statutes and a hearing procedure pursuant to General Statutes section 7-152c for the appeal and enforcement of such fines.

Section 4: Appointment of Hearing Officers

The town administrator may appoint one or more persons who are electors of the Town of Andover to serve as a zoning violation hearing officer to conduct hearings regarding alleged violation of the zoning regulations. No zoning agent or zoning enforcement officer, building inspector or employee of the municipal body exercising zoning authority may be appointed to be a zoning violation hearing officer.

Section 5: Notice of Violation

The zoning agent is authorized to issue citations for any violation of the Zoning Regulations of the Town of Andover as follows:

A: Notification

Upon determination of a violation, the zoning agent shall provide notice by first class mail with certification of mailing as a minimum, to any person occupying, owning or otherwise in control of the subject property on which the violation exists, or in the case of a business use, the owner or operator or manager of the business. Such notice of violation shall state the violation, the date by which the violation must be remedied, and the fact that a fine of thirty dollars (\$30.00) will be imposed for each day of violation subsequent to the date by which the violation must be remedied. Such date shall not be less than ten (10) days after the date of verifiably completed service of the notice or twenty (20) days after it is sent, whichever is the latest. Upon failure to

remedy the violation within the stated time, the zoning agent may issue a citation provided for in subsection B, below. If the person in control of the property is not the owner of record, the zoning agent may also provide notice to such owner in the same manner.

B. Citation

If such violation persists notwithstanding any such notice of violation, the zoning agent may thereupon issue a citation. Such citation shall be served by first class mail with certification of mailing as a minimum upon every person named therein and shall cite this ordinance, specify the violation(s) and the fine(s) therefore and require payment of the fine(s) within thirty (30) days of the verifiably completed service after it is sent, whichever is the latest. The zoning agent shall retain a copy of each citation, certified to be a true copy of the original thereof by the clerk of the Town of Andover.

Section 6: Fine for Violation

The fine that may be imposed for any such violation of the Zoning Regulations shall be thirty (\$30.00) dollars per day for each day a violation continues, payable to the treasurer of the Town of Andover.

Section 7: Failure to Respond; Judgment

At any time within twelve months from the expiration of the final period for the uncontested payment of fines set forth in section 5B, above, the zoning agent may send notice by first class mail with certification of mailing as a minimum, to any such person cited, informing such person(s):

- A. of the allegations against the cited person(s) and the amount of the fine(s) due;
- B. that any cited person may contest liability before a hearing officer appointed by the town administrator by delivering in person or by mail written notice of demand for a hearing to the office of the town administrator at the Andover Town Hall within fifteen (15) days of the date thereof;
- C. that if a hearing is not so demanded, an assessment and judgment shall be entered against the cited person; and
- D. that such judgment may issue without further notice.

Section 8: Admission of Liability

If a person who is sent notice pursuant to section 7 wishes to admit liability for an alleged violation, the cited person may, without requesting a hearing, pay the full amount of the fine(s) in person or by mail to the town treasurer at the address specified in the notice. Any cited person who does not deliver or mail written notice of demand for a hearing within fifteen (15) days of the first notice provided for in section 7, above, shall be deemed to have admitted responsibility and the office of the town administrator shall certify such person's failure to

respond to the hearing officer. The hearing officer shall thereupon enter and assess the fine(s) and shall follow the procedures set forth in section 9B, below.

Section 9: Hearing Procedure

- A. Any cited person who requests a hearing shall be given written notice of the date, time and place of the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of such notice, provided the hearing officer shall grant upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the zoning agent shall be filed and retained by the town, be deemed to be a business record within the scope of General Statutes section 52-180, and be evidence of the facts set forth therein. The zoning agent or the zoning agent's designee shall appear and present evidence on behalf of the Town of Andover. A person wishing to contest their liability or their designee shall appear at the hearing and present evidence in their own behalf.
- B. If the cited person or their designee fails to appear, the hearing officer may enter an assessment by default against the cited person upon a finding of proper notice and liability under the applicable zoning regulation(s). The hearing officer may accept from the cited person or their designee copies of written statements, police reports, investigatory and citation reports and other official documents by mail or hand delivery and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer 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 a decision at the end of the hearing. If the hearing officer determines that the cited person is not liable, the matter shall be dismissed and the decision of the hearing officer entered in writing accordingly. If the hearing officer determines that the cited person is liable for the violation, said officer shall forthwith enter and assess the fine(s) against such person as provided by this ordinance.

Section 10: Notice of Assessment and Judgment

If such assessment is not paid within three (3) business days of its entry, the hearing officer shall send by first class mail with certification of mailing as a minimum, a notice of assessment to any person found liable and shall file, not less than thirty (30) days or more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of the appropriate court, which is now the superior court for the Judicial District of Tolland, together with the appropriate entry fee, which is now eight (\$8.00) dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment in the amount of such record of assessment and

court costs against the cited person in favor of the town. Notwithstanding any other provisions of the Connecticut General Statutes, 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 or judgment lien on such judgment may issue without further notice to such person.

Section 11: Appeal

A cited person against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to open assessment, together with an entry fee in an equal amount to the entry fee for a small claims case pursuant to General Statutes section 52-259, at the appropriate court, which is now the superior court for the Judicial District of Tolland, which shall entitle such cited person to a hearing in accordance with the rules of the judges of the superior court.

Section 12: Other Remedies

No action taken pursuant to this ordinance shall preclude the Town of Andover from pursuing other enforcement remedies, either in addition to those specified in this ordinance or separately, in order to achieve lawful compliance with the Zoning Regulations of the Town of Andover. No action or inaction shall preclude any cited person whose case is being processed per this ordinance from pursuing any other legal remedy or defense in addition to those set forth in this ordinance; however, subject to provisions of Connecticut General Statutes section 8-7 allowing the possible stay or reversal of any order, requirement or decision of the zoning agent, no such pursuit by the cited person shall interfere with the processes set forth herein, absent the contrary ruling of a court of law. No fine may be assessed or enforced by the Town of Andover against any person in any instance in which the action of the zoning agent upon which such fine, assessment or enforcement action is based has been reversed by the zoning board of appeals per Connecticut General Statutes section 8-7.