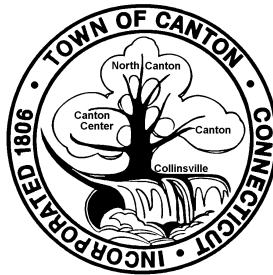


STANDARD
ZONING ENFORCEMENT
PROCEDURES



TOWN OF CANTON

LAND USE OFFICE

4 MARKET STREET

CANTON, CONNECTICUT 06019

ADOPTED BY THE ZONING COMMISSION ON NOVEMBER 18, 2009

SECTION 1 – INTRODUCTION

1.1 OBJECTIVE

The Connecticut General Statutes authorize the Zoning Commission (Commission) of the Town of Canton (Town) to enforce its Zoning Regulations (Regulations). On November 18, 2009, the Commission established these Procedures to ensure that zoning complaints are dealt with in a timely, fair and equitable manner. The Procedures provide a framework for the zoning enforcement process.

1.2 GOALS

The Commission sets forth the following goals to guide the zoning enforcement process:

- 1.2.1 Action regarding initial violations shall be focused on compliance rather than penalty. It is not the Commission's intent to collect fines or stop owners from enjoying otherwise permitted activity on their property while actively resolving an enforcement issue. Progressive action towards compliance is a necessity.
- 1.2.2 The Zoning Enforcement Officer shall be responsible to create and maintain a record of all activity regarding each complaint, including the complaint itself, whether initiated by the public or a Town employee. Such records shall be considered public and, therefore, will be available in the Land Use Office for public inspection during normal office hours.
- 1.2.3 The Zoning Enforcement Officer shall report to the Commission at each regularly scheduled meeting, or more often if the Commission or Zoning Enforcement Officer deems it necessary, regarding the status of zoning violations.
- 1.2.4 The Zoning Enforcement Officer shall make every effort to be consistent when processing complaints and conducting enforcement activity. These Procedures shall provide the framework to achieve such consistency. It is understood that adherence to the Procedures in all instances may not be practical. The Zoning Enforcement Officer shall justify and document any proposed deviation from established procedure, and the Zoning Commission shall have the authority to approve any such deviation if warranted.
- 1.2.5 The Zoning Enforcement Officer shall consult with Town Counsel as needed to ensure that the interests of the Town are protected. Town Counsel may only be used in accordance with procedures established by the Chief Administrative Officer and/or Board of Selectmen.

It is not the intent of these Procedures to undermine the ability of Town staff to make sound, reasonable judgments; rather, it is intended to serve as a framework within which those judgments will be made.

1.3 ENFORCEMENT TEAM

- 1.3.1 The Assistant Town Planner has been appointed as Zoning Enforcement Officer (ZEO) and the Director of Planning and Community Development has been appointed Deputy Zoning Enforcement Officer (Deputy ZEO) by motion of the Commission on November 19, 2008 and ____ respectively. The ZEO shall bear the primary responsibility for zoning enforcement. The Deputy ZEO shall primarily act only in the absence of the ZEO. The ZEO and Deputy ZEO shall be referred to collectively in these Procedures as the Zoning Enforcement Officer or ZEO.
- 1.3.2 The Commission places emphasis on inter-departmental cooperation wherever possible. Many times, zoning violations also involve building, health and public safety issues. When appropriate, the ZEO shall contact and meet with appropriate agencies or officials as necessary to carry out joint enforcement efforts.

SECTION 2 – STANDARD ZONING ENFORCEMENT PROCEDURE

2.1 COMPLAINT FILED

A complaint regarding one or more zoning violations may be filed by any person with the Land Use Office. A Zoning Complaint Form is included as Appendix A.

The Zoning Enforcement Official shall determine the priority of all zoning enforcement actions and deal with them accordingly as follows:

1. Violations that pose immediate danger to the public health, safety, and 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 Zoning Enforcement Official.
4. Reactive or complaint based enforcement programs.
5. Those associated with neighbor and/or civil disputes shall receive the lowest priority.

2.2 PROPERTY RESEARCH

When a landowner is conducting a use that is presently not permitted under the zoning regulations, or authorized by the Commission, the ZEO shall perform a limited initial research to confirm the permit history, zoning district and if any variances have been granted. If the initial research is not conclusive, the ZEO shall ask the landowner to provide evidence that he or she is entitled to conduct such use. The inquiry shall be made in a cordial, nonthreatening manner to the landowner.

2.3 SITE INSPECTION

The ZEO shall conduct a site inspection to determine the validity of the complaint. The property owner may or may not be present during this inspection. The ZEO shall investigate to determine if there are any relevant facts or issues that have not been included in the complaint.

2.4 NOTICE OF VIOLATION (NOV) AND REQUEST FOR VOLUNTARY COMPLIANCE

- 2.4.1 After inspecting the site and confirming that a zoning violation exists, the ZEO shall initiate a dialogue with an alleged violator by placing a telephone call, making a site visit, or sending a Notice of Violation letter to the alleged violator. In all cases, voluntary compliance shall be requested. In the case of a phone call or site visit, a Notice of Violation shall be sent and shall summarize the conversation and understanding between parties in order to document the activity. If the alleged violator is not the owner of record, a Notice of Violation shall be sent to both the owner and the tenant/renter/lessee. A sample Notice of Violation can be found in Appendix B.
- 2.4.2 If the violation involves the grading of land, removal of earth or soil erosion and sediment control, or is determined to be an emergency or egregious in nature, an Enforcement Order (§2.6) may be issued (to be effective immediately) instead of a Notice of Violation.

2.5 FOLLOW UP INSPECTION

- 2.5.1 The Notice of Violation shall specify a grace period to allow for voluntary compliance. That grace period shall not be greater than 30 days, depending on the severity of this violation. Public health, safety and welfare shall guide the ZEO's decision regarding the length of the grace period.

2.5.2 Upon expiration of the grace period, the ZEO shall conduct a follow up inspection to determine if compliance has been achieved. If substantial progress has been made toward the correction of the violation, the ZEO may extend the grace period for no more than 30 additional days, unless a Consent and Abatement Order (§2.8) is entered into by the Commission and the violator.

2.6 ENFORCEMENT ORDER

2.6.1 If the first or second follow up inspection reveals that the property is still in violation, or if the violation and violator comprise a repeat offense and repeat offender, the ZEO may issue an Enforcement Order.

2.6.2 If the violation involves the grading of land, removal of earth or soil erosion and sediment control, or is determined to be an emergency or egregious in nature, the Enforcement Order shall require the violation to be corrected immediately. For all other violations, the Enforcement Order shall provide the violator with no great than 30 days to correct the violation. This is an order to correct the zoning violation. A sample Enforcement Order can be found in Appendix C.

2.7 APPEAL OF ENFORCEMENT ORDER

After the receipt of an Enforcement Order, the violator may appeal the enforcement action to the Zoning Board of Appeals (ZBA) in accordance with Section 8-7 of the Connecticut General Statutes and with any rules adopted by the ZBA. The appeal shall be taken on a form prescribed by the ZBA and shall be filed with the ZBA and with the ZEO or the Commission not later than 30 days after the receipt of the Enforcement Order being appealed. The Zoning Board of Appeals application form is included as Appendix D.

2.8 CONSENT AND ABATEMENT ORDER

2.8.1 In some instances a violator that has been issued a Notice of Violation or Enforcement Order may wish to cooperate, but is not capable of remedying the violation immediately due to extenuating circumstances. In these instances, the ZEO may propose, and the Commission may agree to, an abeyance of the enforcement action with defined terms of compliance agreed upon by all parties.

2.8.2 A Consent and Abatement Order is the tool that should be utilized when a formal abeyance is proposed by the ZEO. This procedure may only be used in extenuating circumstances, and it shall not be used when a violation presents a threat of any kind to the public health, safety and welfare. A sample Consent and Abatement Order can be found in Appendix E.

2.9 COURT RELIEF

If the violator fails to comply with the Enforcement Order, the ZEO is authorized to institute an enforcement action in court pursuant to Section 8-12 of the Connecticut General Statutes. The ZEO shall consult with Town Counsel to discuss instituting such an enforcement action. Town Counsel and the ZEO shall report to the Commission concerning instituting an enforcement action, and Town Counsel's report shall include his advice and recommendations.

2.10 ENFORCEMENT OF THE COURT ORDER

The ZEO shall seek the advice of Town Counsel in the implementation of court orders that result from enforcement actions instituted pursuant to Section 2.9 of these Procedures.

2.11 CLOSURE

Once the violation has ceased and the violator is in compliance and any related administrative and judicial appeals have been finally resolved, the ZEO can close the case.

SECTION 3 – STANDARD PROCEDURES FOR PROCESSING CERTIFICATES OF ZONING COMPLIANCE

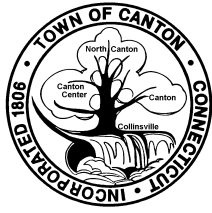
3.0 CERTIFICATES OF ZONING COMPLIANCE

The ZEO shall review and issue Certificates of Zoning Compliance in accordance with the Town of Canton Zoning Regulations, Section 72 – Administration.

APPENDIX

- A. COMPLAINT FORM**
- B. NOTICE OF VIOLATION (NOV) FORMS**
- C. ENFORCEMENT ORDER FORM**
- D. APPEAL FORM**
- E. CONSENT AND ABATEMENT ORDER FORM**

Appendix "A"



TOWN OF CANTON LAND USE OFFICE

4 Market Street, Canton, Connecticut 06019

ZONING/WETLANDS COMPLAINT FORM

Date Complaint Is Filed: _____ Time Complaint Is Filed: _____

Location Of Complaint: _____

Is The Complaint Anonymous? _____ (If The Complaint Is Anonymous, No Follow-Up Communication Will Ensnue.)

Person or Entity Filing The Complaint (Unless Anonymous): _____

Phone: _____ E-Mail: _____

Person Filling Out Form: _____

Phone: _____ E-Mail: _____

Date Activity Occurred: _____ Time Activity Occurred: _____

Nature of Complaint. Please Describe The Condition In Detail. Attach Photographs And Maps If Possible But Do Not Trespass On The Property: _____

Name Of Alleged Violator: _____

Owner: _____ Tenant: _____ Phone: _____

Mailing Address: _____

(To Be Filled Out By Staff Below this Line)

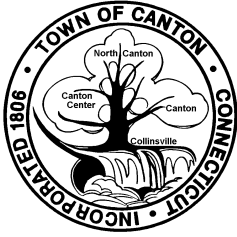
Date Of Initial Inspection: _____

Date of Follow-Up Inspection(S): _____

Possible Violation of Section(S): _____

Resolution: _____

COMPLAINT ID #20____ - ____



Appendix "B"

LAND USE OFFICE

Canton, Connecticut INC. 1806

4 Market Street, Canton, Connecticut 06019

DATE

PROPERTY OWNER NAME

MAILING ADDRESS

TOWN, STATE, ZIP

**RE: NOTICE OF VIOLATION AND
REQUEST FOR VOLUNTARY COMPLAINE
STREET ADDRESS, CANTON, CT
COMPLAINT ID #2009-00?**

Dear PROPERTY OWNER SALUTATION:

On **DATE**, I observed the following violation(s) of the Canton Zoning Regulations at the above referenced address:

- **SECTION # AND DETAILS**
- **SECTION # AND DETAILS**

I am charged with the responsibility of informing you that **this/these** violation(s) exist(s), and that **it/they** must be corrected. This letter is a notification and request that you bring your property into compliance with the Canton Zoning Regulations.

This is not a Cease and Desist Order, but failure to remedy this situation within **<10, 15, 30>** days will lead to the issuance of such an order. If a Cease and Desist Order is issued, and you fail to comply, the Town may consider legal action in accordance with Section 8-12 of the Connecticut General Statutes. Section 8-12 authorizes the institution of a lawsuit to enforce the zoning regulations and provides for the assessment of fines, penalties, and costs. Fines may range from not less than ten nor more than one hundred dollars for each day such violation continues, and civil penalties may be awarded up to \$2,500.00.

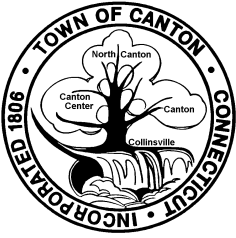
Your anticipated cooperation in this matter is appreciated. Should you wish to discuss this matter in detail, please call me at the above noted phone number.

Very truly yours,

INSERT STAFF NAME

INSERT STAFF TITLE

cc: Town Counsel



LAND USE OFFICE

Canton, Connecticut INC. 1806

4 Market Street, Canton, Connecticut 06019

Note to Commission: This is an alternate notice reworded to inform the owner of what “appears to be” a violation of the Regulations, to request information to determine if a violation exists, to open up a dialogue with the owner, and to obtain compliance voluntarily. This will avoid triggering a right of appeal to the ZBA and will enable the ZEO to put the burden on the owner to provide information about compliance and also provides a method of obtaining compliance short of a cease and desist order.

PROPERTY OWNER NAME

MAILING ADDRESS

TOWN, STATE, ZIP

RE: OBSERVATION AT ADDRESS (POTENTIAL ZONING VIOLATION)

Dear PROPERTY OWNER:

It has come to the attention of our office that the above referenced property appears to violate the Town’s Zoning Regulations. DESCRIBE NATURE OF VIOLATION. CITE APPROPRIATE REGULATION.

It is my duty to inform you of this possible violation. This letter is a request that you bring your property into compliance with the Zoning Regulations by DESCRIBE REMEDY.

You may also provide this office with any information that would allow for a determination to be made that such violation does or does not exist.

This is not a Cease and Desist Order, but failure to remedy this situation within # DAYS will lead to the issuance of such an order. If a Cease and Desist Order is issued and you fail to comply with it, the Town may consider legal action in accordance with Section 8-12 of the Connecticut General Statutes. In that event, you will be subject to potentially significant financial risk, including fines for each day that each violation continues, as well as the Town's attorneys fees and costs in bringing enforcement proceedings. We trust that you will take advantage of this opportunity to avoid such future actions and costs.

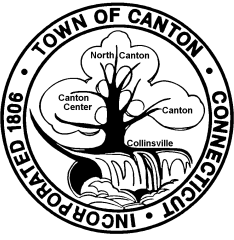
Your anticipated cooperation in this matter is greatly appreciated. Please call me at (860)693-7892 so that we may discuss the situation further.

Sincerely,

STAFF NAME

STAFF TITLE

Appendix "C"



LAND USE OFFICE

Canton, Connecticut INC. 1806

4 Market Street, Canton, Connecticut 06019

DATE

CERTIFIED LETTER

PROPERTY OWNER NAME

MAILING ADDRESS

TOWN, STATE, ZIP

**RE: ENFORCEMENT ORDER
STREET ADDRESS, CANTON, CT
COMPLAINT ID #2009-00?**

Dear INSERT PROPERTY OWNER SALUTATION:

PLEASE BE ADVISED that you are found to be in violation of the Canton Zoning Regulations as follows:

- SECTION # AND DETAILS
- SECTION # AND DETAILS

On DATE I mailed you a Notice of Violation and Request for Voluntary Compliance (copy enclosed) for the above referenced property a.k.a. Assessor's INSERT MAP #, Lot INSERT LOT # regarding the above listed violation(s). A subsequent inspection revealed that you have not brought the property into compliance with the Zoning Regulations within the timeframe specified in the Notice of Violation and Request for Voluntary Compliance.

You are hereby ordered to cease and desist the activity(ies) identified as zoning violations within 10 days of your receipt of this Order. Your attention is directed to Connecticut General Statute §8-12, which authorizes the institution of a lawsuit to enforce the zoning regulations and provides for the assessment of fines, penalties, and costs. Fines may range from not less than ten nor more than one hundred dollars for each day such violation continues, and civil penalties may be awarded up to \$2,500.00. In addition, if the court finds that the offense is willful, the court may assess a higher fine of not less than one hundred dollars nor more than two hundred and fifty dollars for each day that such violation continues.

You may appeal this Order to the Canton Zoning Board of Appeals in accordance with Section 8-7 of the Connecticut General Statutes and with any rules adopted by the ZBA. The appeal shall be taken on a form prescribed by the ZBA and shall be filed with the ZBA and with the ZEO or the Commission in the Land Use Office at Town Hall, Monday through Friday, 9:00 A.M. to 5:00 P.M. The appeal shall be filed not later than 30 days after your receipt of this Order. You may obtain an appeal form at the Land Use Office. Failure to appeal this Order or correct the violation within the timeframe prescribed herein will result in the referral of this matter to Town Counsel with a recommendation to initiate immediate legal action.

Should you wish to discuss this matter in detail, please contact me at the above noted phone number.

Very truly yours,

INSERT STAFF NAME
INSERT STAFF TITLE

cc: TOWN COUNSEL

Enclosure

Appendix "D"
APPLICATION
ZONING BOARD OF APPEALS
CANTON, CONNECTICUT

<input type="checkbox"/> Variance <input type="checkbox"/> Erect <input type="checkbox"/> Alter <input type="checkbox"/> Occupy <input type="checkbox"/> Modify Lot	For use as: <input type="checkbox"/> _____ <input type="checkbox"/> Family Residence <input type="checkbox"/> Accessory building <input type="checkbox"/> Business <input type="checkbox"/> Industry	<input type="checkbox"/> Appeal from decision of Zoning Enforcement Officer	<input type="checkbox"/> Approval of Motor Vehicle Dept. License <input type="checkbox"/> New Car Dealer <input type="checkbox"/> Used Car Dealer <input type="checkbox"/> Repairer <input type="checkbox"/> Limited Repairer
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Property Address: _____ Assessor's Map: _____ Parcel: _____ Zone: _____
 Owner: _____ Address: _____
 Applicant/Agent: _____ Address: _____

The decision of the Zoning Enforcement Officer dated _____ is APPEALED because: _____

VARIANCE of the following section(s) of the Zoning Regulations is requested: _____

The variance relates to: _____ yard dimension; _____ height; _____ number of family units; _____ street frontage; _____ area;
 _____ other: _____

Describe briefly: _____

(a) Strict application of the regulations would produce undue hardship because: _____

(b) The hardship created is unique and not shared by all properties alike in the neighborhood because: _____

(c) The variance would not change the character of the neighborhood because: _____

All owners whose property bounds upon any portion of the subject property including that property directly across the street
 and bounding it: (Give mailing address)

Name _____ Address _____
 Name _____ Address _____
 Name _____ Address _____
 Name _____ Address _____

Previous applications have been filed with respect to these premises as follows: _____

 Signature Date

ZONING BOARD OF APPEALS

PLEASE NOTE:

Application will not be accepted unless:

- A. It is signed by the applicant or agent.
- B. It is accompanied by the proper filing fee - \$160.00 (\$100 + \$60.00 State of Connecticut surcharge).
- C. It is accompanied by three copies of certified plot plan if required.
- D. It is accompanied by Motor Vehicle Department forms if applicable.

All papers filed with this application or at the hearing will become part of the public record and cannot be returned

Appendix “E”

CONSENT AND ABATEMENT ORDER

WHEREAS, INSERT VIOLATOR NAME (hereinafter VIOLATOR LAST NAME), is an OWNER, RENTER, LESSEE of real property known as PROPERTY LOCATION, Canton, Connecticut, which property is also shown on the Town of Canton’s Assessors Map as Map #, Lot # (hereinafter “subject property”); and [The owner should be named in, and sign, the Order even if he is not the violator]

WHEREAS, the Zoning Commission of the Town of Canton (hereinafter “Commission”) is authorized by the Connecticut General Statutes to establish zoning districts and regulations and to enforce said regulations; and

WHEREAS, the Commission has appointed the Assistant Town Planner as Zoning Enforcement Officer (ZEO) and the Director of Planning and Community Development as Deputy Zoning Enforcement Officer (Deputy ZEO); and

WHEREAS, In accordance with Canton Zoning Regulations Section 2.1, “*No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or be designed for any use, other than as permitted by these regulations in the district in which such building, structure or land is located*”; and

WHEREAS, on or about INSERT DATE, the ZEO/Deputy ZEO, issued a Notice of Violation and/or Cease and Desist Order to VIOLATOR LAST NAME for INSERT VIOLATION(S) AND CORRESPONDING SECTION(S) in the _____ Zone; and

WHEREAS, the violation has not been cured in the timeframe specified in the Notice of Violation and/or Cease and Desist Order; and

WHEREAS, the enforcement matter has been referred to Town Counsel for legal action in accordance with Connecticut General Statutes §8-12; and

WHEREAS, General Statutes §8-12 provides that a fine of not less than \$100.00 per day for each day the violation continues unabated may enter against VIOLATOR LAST NAME for failure to comply with issued Notices of Violation(s) and or Cease and Desist Orders; and

WHEREAS, it is the intention of the VIOLATOR LAST NAME to comply with said Notice of Violation (s) and/or Cease and Desist Order, however, VIOLATOR LAST NAME requires reasonable time to correct the subject violation at the subject property; and

WHEREAS, the Commission and the ZEO/Deputy ZEO agrees to allow VIOLATOR LAST NAME reasonable time to correct the subject violation at the subject property.

NOW, THEREFORE, in order to comply with the Notice of Violation and/or Cease and Desist Order issued by the ZEO/Deputy ZEO, the parties hereby stipulate and agree to the following Consent and Abatement Order:

1. **VIOLATOR LAST NAME** shall remedy the subject violation(s) no later than **AGREED UPON DEADLINE** by **DESCRIBE ACTIONS REQUIRED (repeat as necessary for multiple violations)**.
2. If **VIOLATOR LAST NAME** shall violate any terms of this Consent and Abatement Order, then the ZEO/Deputy ZEO shall initiate legal action in accordance with § 8-12 of the Connecticut General Statutes.
3. The ZEO/Deputy ZEO shall have, in its sole discretion, the authority, but not the obligation, to extend any of the dates in paragraph 1 of this Consent and Abatement Order due to any exceptional circumstances beyond **VIOLATOR'S LAST NAME** control.
4. If the ZEO/Deputy ZEO initiates an enforcement action pursuant to § 8-12 of the Connecticut General Statutes to enforce the terms and conditions of this Consent and Abatement Order, an award of costs and reasonable attorneys' fees may be made in addition to any other award of fines and civil penalties, for bringing said court action.
5. The Town may file a copy of this Consent and Abatement Order on the Town of Canton Land Records in order to give proper notice to any interested parties, provided, however, that upon **VIOLATOR LAST NAME** compliance with this Consent and Abatement Order, the Town shall file a notice of said compliance on the land records.
6. The parties hereby consent and agree to the tolling of any time periods established pursuant to Connecticut General Statutes §8-12 regarding the enforcement and proceedings of any zoning violation(s) that is/are the subject of any previous Notice of Violation(s) and/or Cease and Desist Order and this Consent and Abatement Order.

Dated this _____ day of _____, 200

INSERT VIOLATOR NAME

CANTON [DEPUTY] ZONING ENFORCEMENT
OFFICER

By: _____

CANTON ZONING COMMISSION

By: _____
Its Chair, Duly Authorized