

ORDINANCE ESTABLISHING A CITATION HEARING PROCEDURE

1. Purpose.

The purpose of this chapter is to establish a citation hearing procedure in accordance with C.G.S. §§ 7-148(c)(10)(A), 7-152b and 7-152c to be followed in all instances when citations are issued by Town of Durham (the "Town") municipal officials.

2. Hearing Procedure.

- A. Regulations and ordinances of the Town may be enforced by citations issued by designated municipal officers or employees, provided that the regulation and ordinances have been designed specifically by the Town for enforcement by citation in the same manner in which they were adopted, and the designated municipal officer or employee issues a written warning providing notice of the specific violation before issuing the citation.
- B. The Board of Selectmen shall appoint one or more citation hearing officers, who shall be other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this section.
- C. After a citation has been issued and the fine or penalty has not been paid, the Town shall send notice to the alleged violator promptly (and no later than 12 months after the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance of the Town for an alleged violation). Such notice shall inform the violator and any other persons cited of the following:
 - (1) The allegations against the violator and other persons cited and the amount of the fines, penalties, costs or fees due.
 - (2) That the alleged violator or other person cited may contest his liability by delivering in person or by mail written notice within 10 days of the date of original notice to said violator that he desires to contest his liability before a citation hearing officer.
 - (3) That if the alleged violator does not demand such a hearing, an assessment and judgment shall be entered against him.
 - (4) That such judgment may issue without further notice.
- D. If the alleged violator or other person to whom notice has been sent pursuant to Subsection C above wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or

fees in person or by mail to the official designated by the Town. Any alleged violator or other person who does not deliver or mail a written demand for a hearing within 10 days of the date of the first notice provided in Subsection C above shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, penalties costs or fees provided for by law and shall follow the procedures set forth in Subsection E below.

- E. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of such notice, provided that 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 initial notice of violation issued by a police officer or other issuing officer shall be filed and retained by the Town, shall be deemed to be a business record within the scope of C.G.S. § 52-184 and evidence of the facts contained therein. The presence of the police officer or issuing officer shall be required at the hearing if such person so requests. The alleged violator or other person wishing to contest liability shall appear at the hearing and may present evidence in his behalf. A designated Town official, other than the hearing officer, may present evidence on behalf of the Town. If the alleged violator fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable ordinance. The hearing officer may accept such alleged violator copies of police reports, motor vehicle department documents; other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order form and with such methods of proof as he 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. If the offense consists of a motor vehicle parking violation, proof of the registration number of the motor vehicle involved shall be prima facie evidence in all proceedings that the owner of such vehicle was the operator thereof, provided that in the case of a leased or rented motor vehicle, such proof shall be prima facie evidence in any proceeding that the lessee was the operator thereof. The hearing officer shall announce his decision at the end of the hearing. If he determines that the alleged violator or other person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the ordinance.

If such assessment is not paid on the date of its entry, the hearing officer shall send by first-class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the superior court for the geographical area in which the Town is located, together with an entry fee of

§8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk of the court shall enter judgment in the amount of such record of assessment and court costs of \$8 against such person in favor of the Town. Notwithstanding any other provision of the 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 on such judgment may issue without further notice to such person.

- G. The person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, in the superior court for the geographical area in which the Town is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the superior court.

§3. Issuance of written warning.

In those instances where there is time to do so and where a continuing violation is not causing immediate or significant harm, a written warning providing notice of the specific violation shall be sent prior to issuing the citation.

§4. Amount of fine, penalty, cost or fee.

The fine, penalty, cost or fee imposed under this chapter for any single violation shall not exceed the amount of \$100, unless otherwise specifically provided by the General Statutes.

§5. Disposition of money received.

All monies received pursuant to the procedure set forth above shall be remitted to the office of the Town Treasurer.