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ORDINANCE AMENDMENT OF THE NEW HAVEN BOARD OF ALDERS TO THE CITY OF NEW HAVEN'S CODE OF ORDINANCES REGARDING CHAPTER 32 - ENFORCEMENT BY CIVIL OFFICERS, CREATING A UNIFORM PROCESS FOR CIVIL CITATION ENFORCEMENT

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WHEREAS, the code of ordinances of the City of New Haven contains many distinct processes for the issuance, appeal, and enforcement of citations for violations of city ordinances; and

WHEREAS, the multitude of citation enforcement procedures creates administrative burden, and increases the vulnerability for legal challenges to the city ordinances; and

WHEREAS, the code of ordinances of the City of New Haven contains many ordinances which are lacking any enforcement procedure whatsoever, making it difficult or impossible to enforce violations of such ordinances; and

WHEREAS, Connecticut General Statutes 7-152c provides a single uniform process that municipalities may adopt for issuing, appealing, and enforcing citations for violation of city ordinances; and

WHEREAS, the Corporation Counsel of the City of New Haven desires to amend various portions of Chapter 32 of the New Haven code of ordinances to create a uniform process aligned with the process provided for in state statute to ensure uniformity and effectiveness of the process for issuing, appealing, and enforcing citations for violation of city ordinances; and

WHEREAS, the Corporation Counsel of the City of New Haven submits the proposed ordinance amendments herewith.

NOW, THEREFORE, BE IT ORDAINED by the Board of Alders of the City of New Haven that Chapter 32 of the code of ordinances of the City of New Haven be amended as follows:

## Chapter 32 ENFORCEMENT BY CIVIL OFFICERS<sup>1</sup>

### Sec. 32-1. Authorized; citations.

- (a) Pursuant to Connecticut General Statutes section 7-148 and 7-152c as amended from time to time the City of New Haven may enforce the violation of any ordinance in this Code of Ordinances of the City of New Haven (this "Code") by the issuance of a citation. Each citation shall be issued by a designated municipal officer or employee, provided that if the ordinance that was violated requires a written warning before the issuing of a citation, such warning must be provided. Such citation may be appealed through the citation hearing procedure established in section 32-3.
- (b) Each municipal officer or employee who is designated to issue a citation under this chapter shall be so designated by the director of the department responsible for enforcing the applicable ordinance.

### Sec. 32-2. Penalty, Non-Exclusive Remedies, and Severability

- (a) Unless otherwise stated, any person violating any provision of this Code shall be punished by a fine up to the maximum amount authorized by state statutes or this Code, whichever is greater, per day in which the violation occurs.
- (b) In the event that a firm or corporation is found liable under this chapter, the officer(s) or person(s) responsible for the violation shall be subject to the penalty herein provided.
- (c) Nothing in this Code shall prevent the City from seeking any other means available at law or in equity to enforce this Code, including any applicable provisions of any other laws of the city, state, federal, or other appropriate jurisdiction.
- (d) If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Code.

### Sec. 32-3. Citation hearing procedures.

The following citation hearing procedures are adopted for all enforcement of all violations of City of New Haven ordinances.

- (a) *Appointment of citation hearing officers.* The mayor of the City of New Haven shall appoint one or more citation hearing officers, who shall not be city employees, to conduct the hearings authorized by this section. Such hearing officer(s) shall serve without pay. The mayor may remove any such hearing officer at any time for whatever reason the mayor deems sufficient. No person shall be appointed to the position of hearing officer unless such person is:
  - (1) At least eighteen (18) years of age; and
  - (2) In the opinion of the mayor, a person capable of fairly administering the applicable provisions of law based on such person's background and experience, including but not limited to education, special skills and training.

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<sup>1</sup>Editor's note(s)—Ch. 32 was not affected by the selected chapter review and re-enactment project begun in 2006 and derives unchanged from the Code of 1962, reprinted in 1985, as amended.

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Any hearing officer whose personal interests do or may give the appearance of conflict with the hearing officer's official responsibilities herein enumerated shall remove themselves from presiding over any such hearing, and in such case the mayor, or their designee, shall appoint a substitute hearing officer for the hearing.

- (b) *Citation.* At any time within twelve (12) months from 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 City of New Haven for an alleged violation thereof, the City of New Haven shall send notice to the person alleged to have committed the violation. For purposes of this section, notice shall be presumed to have been properly sent if such notice was mailed to such person's last-known address on file with the tax collector of the City of New Haven. Such notice shall inform the owner and other person cited:
- (1) Of the allegations against them and the fines, penalties, costs or fees due;
  - (2) That they may contest their liability before a citation hearing officer by delivering in person or by mail written notice to the department responsible for enforcing the applicable ordinance within ten (10) days of the date of the citation;
  - (3) That if they do not demand such a hearing, an assessment and judgment shall be entered against them;
  - (4) That such judgment may issue without further notice; and if applicable
  - (5) If the city has seized such person's property under sections 18-82 or 29-134, then their property may be forfeited and disposed of in accordance with the applicable city ordinances.
- (c) *Waiver of hearing; failure to demand hearing.*
- (1) If the person who is sent notice pursuant to subsection (b) of this section wishes to admit liability for any alleged violation, the person may, without requesting a hearing, pay the full amount of fines, penalties, costs or fees admitted to, in person or by mail, to an official designated by the City of New Haven. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person charged with violating the ordinance.
  - (2) Any person who does not deliver or mail written demand for a hearing within ten (10) days of the date of the first notice provided for in subsection (b) of this section 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 the applicable ordinances and shall follow the procedures set forth in subsection (e) of this section. If the city has seized such person's property under sections 18-82 or 29-134, then their property may be forfeited and disposed of in accordance with the applicable city ordinances.
- (d) *Hearing procedure.* Any person who timely submits a written demand for a hearing shall be given written notice of the date, time and place for the hearing. If a hearing is requested, such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained by the city, and shall be deemed to be a business record within the scope of Connecticut General Statutes section 52-180 and evidence of the facts contained therein. The presence of the issuing official or police officer shall be required at the hearing if such person so requests. A person wishing to contest their liability shall appear at the hearing and may present evidence on their behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the city. If such person fails to appear, the hearing officer may enter an assessment by default against them upon finding of proper notice and liability under the applicable statutes or ordinances. The hearing officer may accept from such person

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copies of police reports, investigatory and citation reports, and 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 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 their decisions at the end of the hearing. If the hearing officer determines that the person is not liable, the hearing officer shall dismiss the matter and enter their determination in writing accordingly. If the hearing officer determines that the person is liable for the violation, the hearing officer shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the city.

- (e) If such assessment is not paid on the date of its entry and the city seeks to enforce the assessment by means of a civil money judgement, 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 thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court for New Haven together with an entry fee. 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 shall enter judgment in the amount of such record against such person in favor of the city. 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.
- (f) A 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 thirty (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 Connecticut General Statutes section 52-259, in the superior court for the geographical area in which New Haven is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the superior court.
- (g) The City shall take such action as it deems necessary to collect any penalty due under this chapter including, but not limited to, conveying such penalty to a collection agency for collection.
- (h) In the event the city files an action in court to recover such penalties, the city may be entitled to recovery of its costs and attorney's fees in addition to the penalties due and owing.

#### **Sec. 32-4. Certain acts deemed nuisances; abatement.**

The acts, conditions or harms prohibited by the following ordinances [Code sections] are deemed nuisances.

Section 9-1.

Section 9-2(a).

Sections 16-13 [Section 30%-4] through 16-15.

Sections 16-17 through 16-17.3 [Section 30%-12 through Section 30%-14.

Section 16-19 [Section 30%-16].

Section 16-20 [Section 30%-5].

Section 16-26 [Section 30%-1].

Section 18-1.

Section 18-10.

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Section 18-20.

Section 18-25 and 18-26.

Section 18-40.

Sections 27-8 and 27-9 [Sections 27-31, 27-32].

Sections 27-11 and 27-12 [Sections 27-33, 27-32].

Section 27-14.1 [Sections 27-35 through 27-42].

Sections 27-18 [Section 27-44] and 27-19.

Section 27-29.

The acts, conditions or harms prohibited by such ordinances [Code sections] shall be specifically deemed nuisances for the purpose of section 18-21 of the Code of Ordinances. The director of public works or their designee(s) may do all things necessary and proper to abate such nuisances, which abatement shall be at the expense of the owner or owners of the premises on which such nuisance exists.