

Attachment (1)

July 7, 2016

An Ordinance to Amend the Code of the Town of Westbrook
Blight

1. Purpose.

This Chapter is enacted pursuant to the Municipal Powers Act (C.G.S. § 7-148, et seq) of the State of Connecticut General Statutes. It is hereby found and declared that there may exist within the Town of Westbrook a number of real properties, which are vacant and/or in a blighted condition, whose continued existence may contribute to the decline of properties and neighborhoods. It is further found that the existence of such properties adversely affects the economic well-being of the Town and is inimical to the health, safety, and welfare of its residents. This Chapter is sensitive to the private property rights of the citizens of Westbrook and to extenuating circumstances due to age, disability, and citizens' economic situations.

2. Scope of Provisions.

No owner of real property located in the Town of Westbrook shall allow, create, maintain, or cause to be created or maintained, Blighted Premises. This Chapter shall apply to the maintenance of all premises now in existence or hereafter constructed, maintained or modified but shall exclude: agricultural lands and entire farm properties as defined in Section 22-3(b) and Section 1-1(q) of the Connecticut General Statutes, land preserved in its natural wooded state, meadow or field, open space, land trust property, conservation easements, areas designated as inland wetlands and watercourses, tidal wetlands or commercial properties whose activities include storage or processing of materials and equipment related to their business.

3. Definitions.

For the purpose of this Chapter, the following words, terms and phrases shall have the following meanings, unless the context clearly indicates otherwise:

ABANDONED – Any property that is unoccupied for 6 months and displays the attributes described in Section 3A through 3E: Definitions; Blighted Premises.

BLIGHT ENFORCEMENT OFFICER – A person appointed by the Board of Selectmen who receives complaints, either verbal or written by residents or who identifies Blighted Premises and is accountable by tracking complaints, following them to completion and reporting their status.

BLIGHT ENFORCEMENT COMMITTEE – Shall be a four (4) Member Committee designated to enforce the provisions of this Ordinance to be composed of the Town Building Official, Director of Health, the Zoning Enforcement Officer and Fire Marshal.

BLIGHT APPEALS COMMITTEE – Shall be a five (5) Member Committee comprised of electors of the Town of Westbrook appointed by the Board of Selectmen and charged with hearing appeals from actions or decisions of the Blight Enforcement Committee.

BLIGHTED PREMISES – The condition of any structure or parcel of land upon which at least one of the following conditions exist:

A. It is in a condition which poses a serious threat to the safety, health, and general welfare of

the community or is deemed unsafe by the Director of Health, Zoning Enforcement Officer, Fire Marshal, Building Inspector or Blight Enforcement Officer.

B. It is attracting illegal activity as identified by the Police Department.

C. It is not being maintained as evidenced by the existence of the following conditions: it is open to the elements, or has collapsing or substantially missing walls, siding, roofs, windows, doors or is unable to provide shelter, or serve the purpose for which it was constructed due to damage, dilapidation, decay, or severe animal infestation; the property in the public view is chronically blighted, abandoned or reduces values of neighboring properties.

D1. It has material which is incapable of performing the function for which it is designed, including, but not limited to: abandoned, discarded, or unused objects, equipment such as automobiles, boats, and recreation vehicles which have missing parts, not complete in appearance and in an obvious state of disrepair; parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers and garbage that are in the public view.

D2. Blighted Premises shall not include such temporary conditions, not to exceed six (6) months in duration, as may be reasonably related to the repair or restoration of a single boat or motor vehicle owned by the property owner or his tenant. This restriction shall not apply to off season storage or recreational vehicles or boats permitted by Zoning Regulations.

E. It has chronically overgrown grass, weeds, or similar vegetation that is allowed to reach and remain at a height of 12" or greater. Exempt from the height limit is vegetation planted as a crop or for ornamental purposes. Any tree or shrub or part thereof growing on public or private land which is interfering with public areas, infected with infectious disease or endangering the life, health or safety of persons or property is declared a blighted condition.

CAPABLE INDIVIDUAL – A person that can be reasonably expected to perform maintenance and yard work around a property or premises.

DILAPIDATION – Partial ruin, decay or disrepair of Blighted Premises such that it would not qualify for a certificate of use and occupancy which is deemed unsafe or which is designated as unfit for habitation as defined in the State Basic Building Code.

DISABLED INDIVIDUAL – In the case of an owner occupied residence, an individual who has a disability meeting the definitions for the mental or physical disability as defined under the Americans with Disabilities Act of 1990 and does not have a capable individual to provide necessary maintenance.

LOW INCOME INDIVIDUAL – In the case of owner occupied premises, an individual or where more than one person resides in the premises, a family unit, which has an income below the highest level of "qualifying income" established by C.G.S. §12-170d(a)(3).

OWNER – All individuals, firms, partnerships, corporations, limited liability corporations or other entities or authorities which own, lease, rent, possess or are responsible for property within the Town.

NEW OWNER - Any person who has taken title or occupancy of a property within thirty (30) days of a notice of violation.

PREMISES – Any buildings, dwellings, parcels of land or structures contained within the scope of this Chapter.

PUBLIC VIEW – Visible from any public right-of-way and/or from an adjoining or neighboring property.

4. Special Consideration.

Special consideration must be given to individuals that are disabled, elderly, or low income in the Town's effort to correct Blight. If an individual cannot maintain a reasonable level of upkeep of his owner-occupied premises because he/she is a Disabled Individual, Elderly Individual or Low Income Individual and no Capable Individual is available, the Town may give the person a reasonable amount of time to correct the problem, the duration of which shall be in the discretion of the Blight Enforcement Officer. If needed, assistance in finding solutions will be offered by the Town.

5. Notice of Violation; opportunity to remediate.

A. Upon determination of a violation of this Ordinance, the Blight Enforcement Officer shall verbally notify the Owner of the violation and the time period to remediate the condition. If not remediated, the Blight Enforcement Officer shall issue a written notice of violation to the Owner of the property. Written notice shall be delivered by certified mail, return receipt requested and/or personal service by a State Marshal or as otherwise permitted by law.

B. The notice shall state:

- (1) The address of the affected property.
- (2) The description of the violation and the expected remediation.
- (3) A reasonable time period for the Owner to remediate the violation pursuant to Section 5.C of this Chapter.
- (4) The civil penalty which will be levied by issuance of a citation if the violation is not corrected within the remediation period pursuant to Section 6 of this Chapter.
- (5) The additional fine which may be imposed by the State for a willful violation pursuant to Section 7 of this Chapter.
- (6) The Owner may contest the notice of violation by delivering in person or by mail within ten (10) days of notice of violation to the Blight Appeals Committee, a demand for a hearing pursuant to C.G.S. § 7-152(c).

C. As provided in C.G.S. §7-148(c)(7)(H)(xv), an owner shall have a reasonable opportunity to remediate a blighted condition prior to any enforcement action being taken. Further, as provided in C.G.S. § 7-148o(b), a New Owner shall, upon request, be granted a thirty (30) day extension of the notice and opportunity to remediate.

6. Citations; Additional notice; civil penalties.

A. The Blight Enforcement Committee shall issue a citation when a violation of this Ordinance continues beyond the time period established for abatement of the violation.

The Citation shall state:

- (1) A description of the violation.
- (2) The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such other fines, costs and/or fees due.
- (3) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within thirty (30) days of the date of citation.

(4) That the Owner may contest his liability before a Blight Appeals Committee by delivering in person or by mail within thirty (30) days of the date of the citation a written demand for a hearing pursuant to C.G.S. §7-152(c).

(5) That if the Owner does not demand a hearing, an assessment and judgment shall be entered against him/her by the Blight Enforcement Committee and that such judgment may issue without further notice.

(6) That the Town shall file a lien against the real estate in accordance with C.G.S. §7-148 for the amount of any unpaid civil penalties or other fines imposed by the Town in accordance with this Ordinance.

Delivery of the citation shall be by the manner provided in Section 5A hereof.

B. If the Owner fails to pay such civil penalty to the Town or request an appeals hearing by the Blight Appeals Committee within the thirty (30) day period from the date of the citation, then the Blight Enforcement Officer shall issue an additional notice to the owner in the manner prescribed in Section 5A. Such additional notice shall be sent within ten (10) business days after the aforesaid thirty (30) day period to pay the civil penalty has expired. The additional notice shall state:

(1) The description of the violation.

(2) The amount of the daily civil penalties levied and that such civil penalties may continue to be levied from the date of the citation.

(3) That the Owner may contest his/her liability before the Blight Appeals Committee by delivering in person or by mail within ten (10) business days of the date of this additional notice a written demand for a hearing.

(4) That if the Owner does not demand a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.

(5) That the property of the owner may be subject to a real estate lien in accordance with Section 9 of this Chapter.

C. The civil penalty for violation of this Chapter may be equal to less than \$10 or more than \$100 or the maximum amount allowed by C.G.S. §7-148(c)(7)(H)(xv), as the same may be amended from time to time, for each day a violation exists and continues beyond the date required for remediation set forth in the citation.

7. Willful violations; infraction.

In addition to the foregoing, any person who, after receiving a notice of violation pursuant to Section 5 of this Chapter, and after reasonable opportunity to remediate the blighted condition, willfully violates the provisions of this Chapter with respect to the blighted condition, such person shall be fined by the State of Connecticut not more than \$250, or the maximum allowed by C.G.S. §7-148o; as the same may be amended from time to time, for each day for which it can be shown, based on actual inspection of the property on each such date that the violation continues to exist after written notice to the owner and the expiration of a reasonable opportunity to remediate.

8. Initiation of legal proceedings.

In addition to the citation process described herein, the Blight Enforcement Committee is authorized to initiate legal proceedings in the Superior Court for the immediate correction of the violation(s), collection of any penalties, and the recovery of all costs including cost of remedial action(s) authorized by the court and reasonable attorney's fees incurred by the Town of Westbrook to enforce this Chapter.

9. Lien on real estate.

Any unpaid civil penalty imposed by this Ordinance shall constitute a lien upon the real estate in accordance with C.G.S. §7-148aa. Each such lien shall be continued, recorded and released as provided in C.G.S. §7-148aa.

10. Hearing procedure for notice of violations or citations.

- A. The Town hereby specifically adopts the provisions of C.G.S. §7-152c for the establishment of a hearing process for alleged violations of this Chapter.
- B. There shall be a Blight Appeals Committee consisting of five (5) residents of the Town of Westbrook appointed by the First Selectman and approved by the Board of Selectmen, who shall act by majority vote of those present in all hearings for alleged violations of this Chapter.
- C. The Owner may contest his/her liability before the Blight Appeals Committee by delivering in person or by mail to the Blight Appeals Committee within thirty (30) days of the receipt of the additional notice set forth in Section 6.B. written demand for a hearing.
- D. If the Owner wishes to admit liability for any alleged violation, he/she may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to the Town Clerk and remediate the Blighted Condition. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.
- E. Any Owner who does not deliver or mail written demand for a hearing within the aforementioned thirty (30) day period shall be deemed to have admitted liability, and the Blight Enforcement Officer shall certify such person's failure to respond to the Blight Appeals Committee. The Blight Enforcement Committee shall thereupon enter and assess the fines, penalties, costs or fees provided by the applicable ordinances and shall follow the procedures set forth in C.G.S. §7-152c(f).
- F. Any Owner 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 fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided the Blight Appeals Committee shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The procedures and conduct of such hearing, the assessment of fines, penalties, costs or fees and the entry of judgment in Superior Court upon such assessment shall be as provided in C.G.S. §7-152c.

11. Town Remediation:

If there is no remediation by the Owner, the Town has the right of entry to remediate a blighted condition on a property as noted in C.G.S. §7-148(c)(7)(H)(xv). The violator will be given thirty (30) days written notice before the property is entered and remediated. The Town may recover the remediation cost from the Owner. If the cost is not recovered, the Town may put a lien against the property for the same amount pursuant to C.G.S. §Section 7-148aa.

12. Minimum standards.

Nothing in this Chapter shall limit the power and authority of the Town Building Official, the Zoning Enforcement Officer, the Zoning Commission, the Fire Marshal or the Director of Health to enforce their respective regulations.

- A. In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other code of the Town or State, if such provision of this Chapter establishes a higher standard for the promotion and protection of the health and safety

and property values of the people such provision shall be enforceable pursuant to the procedures established herein.

B. This Chapter shall not be intended to affect violations of any other ordinances, codes or regulations whether existing prior to or subsequent to the effective date of this Chapter. Such violations shall be governed by and shall continue to be subject to enforcement under the provisions of such ordinances, codes or regulations in effect at the time the violation occurred, and/or by enforcement of this ordinance, as may be appropriate.

Attachment (2)

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AD HOC BLIGHT ORDINANCE COMMITTEE
TOWN OF WESTBROOK
866 BOSTON POST ROAD
WESTBROOK, CT 06498

Blight Ordinance Committee Members Present: Chairman Dennis Hallahan, Ann Mazur, Lionel Santos, Marvin Brown, Herb Peterson and Bonnie Hall.

Members from the public: Approximately 30 people.

NOTES FROM THE 6/2/16 BLIGHT ORDINANCE PUBLIC HEARING

- Section 1: None
- Section 2:
- Why exclude commercial properties
 - Shouldn't include unused equipment for businesses
 - Physical and mental disabilities needs to be specified
- Section 3:
- Cost of new position a concern
 - Blight Enforcement Officer should be a volunteer
 - Too costly to residents of the Town
 - 3A – recommended to remove this section because already being done (Police will bring to peoples attention)
 - 3A and 3B are too broad – need to be more defined
- Section 4: None
- Section 5: A
- Doesn't feel that this needs to be in the Ordinance
 - Town should fix up property prior to all the fines and such
- Section 6: B
- Need to clarify who the owner should get appeal request to (needs to be consistent through the entire document)
- C
- Add State Statute symbol
 - Change "shall" to "may" this way it "recommends"
 - Add "up to \$_____ (this would give more discretion)
- Section 7:
- States "will be fined by the State of Connecticut" (How can this happen from a Town Ordinance)
 - Check wording
- Section 8: None
- Section 9:
- This should be a last resort – should be sooner in the process (can't because of legal issues)
 - Try to work with resident as much as possible before it gets to this point

Blight Ordinance Public Hearing notes

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Section 10: C - Specify who the contact would be

- Suggested 30 days instead of 10 days
- Clarify language of "Blight Appeals Committee"
- E - Change to 30 days instead of 10
- Did anyone review any violations from Guilford?
- Need to know financial impact

Section 11: - 30 days instead of 10 days
- Specify that if owner doesn't comply with remediation – refer to court order

Section 12: None

- Overall:
- Ordinance really is about "chronic" blight
 - Doesn't feel it's right for our community
 - Possibly could go so far as foreclosing on someone's home
 - Feels conflicts with State Statutes
 - "Noise" should be part of the ordinance
 - Switch roles of Enforcement Committee and Appeals Committee
 - Must be justified to go against the rights of the property owner
 - We already have Police, Zoning, Health, Building and Fire Marshal – don't need blight enforcement

Respectfully submitted:

Kathleen H. Kelemen, Secretary

Attachment (3)

AD HOC BLIGHT ORDINANCE COMMITTEE
TOWN OF WESTBROOK
866 BOSTON POST ROAD
WESTBROOK, CT 06498

Committee response to the notes from the 6/2/16 Blight Ordinance Public Hearing

Note: Section numbers refer to same in the Public Hearing notes)

- Section 1: None
- Section 2: - Commercial properties excluded to allow continuance of business.
- Commercial equipment is often used intermittently.
- Physical and mental disabilities are described in Section 3E of the Ordinance.
- Section 3: - Estimated cost of the Blight Enforcement Officer is \$10,400/year maximum and based upon other communities. This will decline after 6 months to 1 year.
- A volunteer is not a good idea because he/she would not be a town employee.
- This allows the Blight Enforcement Officer or a citizen to bring a situation to the Police's attention (i.e. – If you see something, say something).
- 3A and 3B are further defined in Section 3D1, 3D2 and 3E.
- Section 4: None
- Section 5: A - Owner is responsible to remediate.
- The Town remediates as a last effort.
- Section 6: B - Appeal request to the Blight Enforcement Officer or Appeals Committee.
C - Added C.G.S. symbol to all references to the Connecticut General Statutes.
- Changed "shall" to "may".
- Addition of "may" allows "less than"
- Section 7: - C.G.S. § 148o states that the State levies the fine if the property owner refuses to remediate.
- Section 8: None
- Section 9: - Agreed – It should be a last resort and the Town should work with the property owner.
- Section 10: C - Owner should contact the Blight Enforcement Officer or Appeals Committee (See Section 6B)
- Change "10" to "30" days.
- Language is clear as is.
E - Will check Guilford.
- See Section 3 of this document.

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- Section 11:
- Changed "10" to "30".
 - C.G.S. § 7-148aa allows Town to place a lien on the property.

Section 12: None

- Overall:
- Correct - Ordinance is about "chronic" blight
 - Other communities of our size have Blight Ordinances.
 - C.G.S. does not address foreclosures.
 - Ordinance complies with applicable Statutes.
 - No such thing as "Noise Blight".
 - Roles are similar to existing Zoning Regulations.
 - Agree, but C.G.S. allows it.
 - The Police, Zoning, Health, Building and Fire Marshal do not report blight.