

## ARTICLE IV. - ANTI-BLIGHT PROVISIONS

### Sec. 14-61. - Purpose.

This article is enacted pursuant to the authority granted to the Town under C.G.S. §§ 7-148(c)(7), 7-148(c)(7)(H)(xv), 7-148aa and 7-152c.

This article is intended to protect, preserve and promote public health, safety and welfare; to maintain and preserve the beauty of neighborhoods; and to allow for control of blighted premises.

( Ord. of 9-27-2013 )

### Sec. 14-62. - Definitions.

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

*Blighted premises* means any building, structure or parcel of land, including without limitation, single-family or multi-family residential or commercial, whether occupied or vacant, except exempt property as defined below, in which at least one of the following conditions exists:

- (1) It is dilapidated or becoming dilapidated as documented by the Building Official.
- (2) It is dilapidated and attracting illegal activity as documented by the Police Department.
- (3) It is dilapidated and is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department.
- (4) It is determined by the Blight Enforcement Officer, the Building Official or by the Director of the Health District that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community.
- (5) It is not being adequately maintained. The following factors may be considered in determining whether it is not being adequately maintained:
  - Multiple missing, broken or boarded windows or doors;
  - Collapsing or missing walls, roof or floors;
  - Seriously damaged or missing siding;
  - A structurally faulty foundation;
  - Excessive amounts of garbage or trash;
  - Abandoned or unregistered motor vehicles, including cars, trucks, boats and motorcycles, or other inoperable machinery on the premises;
  - Rodent harborage and/or infestation;
  - Unrepaired fire or water damage;
  - Parking lots left in a state of disrepair or abandonment.

*Blight Enforcement Officer* means a Town employee designated by the First Selectman.

*Blight Prevention Board* shall be a board made up of five members who shall be appointed by the First Selectman.

*Dilapidated* means any building or structure or part thereof which is deemed an unsafe structure or which is designated as unfit for human habitation by the Building Official.

*Disabled individual* means, in the case of an owner occupied residence, an individual who has a disability as that term is defined under the Americans with Disabilities Act of 1990, as amended.

*Elderly individual* means, in the case of an owner occupied residence, an individual 65 years of age or older.

*Exempt property* means any building or structure undergoing remodeling, restoration, repair or renovation, provided that the blighted condition will be corrected thereby and that the period thereof will not exceed one year from the date of receipt by the Blight Enforcement Officer of a written complaint.

*Legal occupancy* means occupancy that is legal by virtue of compliance with the State Building Code, State Fire Safety Code, local zoning, local housing and all other pertinent codes, and which habitation shall be substantiated by a deed, bona fide lease agreement, rent receipt or utility statement.

*Low income individual* means, in the case of an owner occupied residence, an individual who meets the income guidelines for eligibility for assistance from the Westport Warm Up Fund.

*New owner/occupant* means any owner/occupant who has taken title to or legal occupancy of a property within 30 days of the notice provided in section 14-66.

*Owner/occupant* means 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.

( Ord. of 9-27-2013 )

Sec. 14-63. - Prohibition.

No owner/occupant shall allow, maintain or cause to be maintained any blighted premises.

( Ord. of 9-27-2013 )

Sec. 14-64. - Determination of violation.

- (a) Upon receiving a written complaint of a possible violation signed by a complainant, the Blight Enforcement Officer shall make an investigation.
- (b) If after investigation a probable violation is found to exist, the Blight Enforcement Officer shall serve written notice to the owner/occupant of the premises where the possible violation exists. The notice shall be sent in the manner prescribed by section 14-66 to the last known address of each owner/occupant. A copy of such notice shall also be sent to the Building Official, the Director of the Department of Human Services, the Director of the Health District, the Director of the Planning and Zoning Department, the Historic District Commission Staff, the Chief of Police, and the Chief of the Fire Department.
- (c) Such notice shall state the probable violation and the conditions evidencing such violation and require the persons to whom it is delivered to attend a hearing before the Blight Prevention Board to determine whether there has been a violation and, if so, to establish a plan for abatement of such violation, including the date by which such violation shall be fully abated. The notice shall also include the date, time and location of the hearing.
- (d) The Blight Prevention Board shall hold a hearing within 30 days of the date of the notice provided in subsection (b). At the hearing, all interested persons shall be given the opportunity to present evidence on the question of whether a violation of this article has occurred.
- (e) If the owner/occupant who received the notice fails to appear, the Blight Prevention Board may nevertheless determine whether a violation has occurred provided the Board has made a finding that notice was properly served in accordance with this section.
- (f) After the hearing, the Blight Prevention Board shall make a written determination whether a violation has, in fact, occurred. If the Board determines that a violation exists, it shall include in its written determination the actions to be taken to abate such violation and the date within a reasonable time by which such violation shall be fully abated.
- (g) If the Blight Prevention Board determines that no violation has occurred, no further action as to that complaint shall be

taken.

( Ord. of 9-27-2013 )

Sec. 14-65. - Special consideration.

Special consideration may be given to those who require it in order to correct a violation of this article. Specifically, the Blight Prevention Board may grant an owner/occupant additional time to correct a violation where the owner/occupant, or a person acting on their behalf, establishes good cause. As used in this section, "good cause" includes, but is not limited to, an elderly individual who is unable to personally correct a violation due to his age, a disabled individual who is unable to personally correct a violation due to his disability, or a low income individual who is unable to correct a violation due to cost. In determining whether good cause exists, the Blight Prevention Board shall consider whether other occupants of the premises are able to assist in correcting the violation in a timely fashion and whether the severity of the violation is such that additional time is not warranted.

( Ord. of 9-27-2013 )

Sec. 14-66. - Notice of violation.

Upon the determination by the Blight Prevention Board that a violation of this article exists, the Blight Enforcement Officer shall serve a written notice of violation to the owner/occupant. The notice of violation shall state (i) the violation; (ii) the date upon which the violation shall be remedied; (iii) that the failure of the owner/occupant to remedy the violation within the prescribed time shall result in the issuance of a citation in accordance with section 14-70 of this article; (iv) the amount of the daily civil penalties and any other fines or penalties imposed under section 14-69; (v) that if the owner/occupant fails to remove or remedy the violation, the Town may cause the remediation of the violation at the expense of the owner/occupant; and (vi) that the owner/occupant may be subject to such other fines as may be authorized or imposed by the state for a willfull violation of this article with respect to housing blight of not more than \$250.00 for each such day that the violation continues to exist under section 14-69.

Delivery of the notice of violation to the owner/occupant shall be by one or both of the following methods:

- (1) By personal delivery to the owner/occupant; or
- (2) By certified mail, return receipt requested and simultaneously by regular U.S. Postal Service mail, addressed to the owner/occupant at their last known address.

( Ord. of 9-27-2013 )

Sec. 14-67. - Extension.

Notwithstanding the provisions of section 14-66, the Blight Enforcement Officer:

- (1) Shall, upon request, grant a new owner/occupant a 30-day extension of the notice of violation and opportunity to remediate set forth therein.
- (2) May, in his or her discretion, grant to any owner/occupant one 30-day extension of the time to remediate the violation.

Any further extensions will require the written approval from the Blight Prevention Board.

( Ord. of 9-27-2013 )

Sec. 14-68. - Penalties.

Violations of the provisions of this article shall be punishable by a civil penalty equal to the greater of \$100.00 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 notice of violation issued under section 14-66 hereof.

Violators will also be responsible for all costs and expenses associated with enforcement and the collection of any civil penalties, which shall include, but shall not be limited to, attorney fees, court costs, mailing costs and filing fees.

( Ord. of 9-27-2013 )

Sec. 14-69. - Willful violations; penalties.

In addition to the foregoing, any person who, after receiving a notice of violation pursuant to section 14-66 and after a reasonable opportunity to remediate the blighted premises, willfully violates the provisions of this article with respect to housing blight, such person shall be fined by the State of Connecticut not more than \$250.00, 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 day, that the blighted premises continue to exist after written notice to the owner/occupant as provided herein and the expiration of the time to remediate.

( Ord. of 9-27-2013 )

Sec. 14-70. - Issuance of citations.

The Blight Enforcement Officer shall issue a citation when a violation of this article continues beyond the date by which the Blight Prevention Board required that the violation be remedied.

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, penalties, costs and/or fees due.
- (3) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within ten days of the date of the citation.
- (4) That the owner/occupant may contest his liability before a citation hearing officer by delivering in person or by mail within ten days of the date of the citation a written demand for a hearing.
- (5) That if the owner/occupant does not demand a hearing, an assessment and judgment shall be entered against him/her 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. § 7-148aa for the amount of any unpaid civil penalties or other fines imposed by the Town in accordance with this article.

Delivery of the citation shall be by the manner provided in section 14-66 hereof.

( Ord. of 9-27-2013 )

Sec. 14-71. - Uncontested payment; time period.

Any owner/occupant receiving a citation shall be allowed a period of ten days from the date of the citation to make an uncontested payment of the civil penalties, fines, costs and/or fees specified in the citation. All amounts shall be made payable to the Town.

( Ord. of 9-27-2013 )

Sec. 14-72. - Payment of civil penalties.

If the owner/occupant who has been issued a citation pursuant to this article wishes to admit liability for any alleged violation, the owner/occupant may, without requesting a hearing, pay the full amount of the civil penalties, fines, costs and/or fees to the Blight Enforcement Officer. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such owner/occupant or other person making the payment.

Any owner/occupant who does not deliver or mail written demand for a hearing within ten days of the date of the citation, shall be deemed to have admitted liability, and the Blight Enforcement Officer shall certify to the hearing officer that such owner/occupant has failed to respond. The hearing officer shall thereupon enter and assess the civil penalties, fines, costs and/or fees provided for by this article and shall follow the procedures set forth in section 14-73.

( Ord. of 9-27-2013 )

Sec. 14-73. - Hearing procedure for citations.

- (a) The First Selectman shall appoint one or more citation hearing officers. The First Selectman shall not appoint the Blight Enforcement Officer, a member of Blight Prevention Board or any employee of the Police Department as the hearing officer.
- (b) An owner/occupant who chooses to appeal a citation and requests a hearing to this effect 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 mailing of the notice, provided 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 citation issued by the Blight Enforcement Officer shall be filed with and retained by the Town and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of the Blight Enforcement Officer who issued the citation shall be required at the hearing. A designated Town official other than the hearing officer may present evidence on behalf of the Town. An owner/occupant wishing to contest liability shall appear at the hearing and may present evidence on his behalf. If the owner/occupant who received the citation 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 statutes and this article. The hearing officer may accept from such owner/occupant copies of any relevant investigatory and citation reports, and/or any other official documents by mail and may determine thereby that the appearance of such person is unnecessary.
- (c) The hearing officer shall conduct the hearing in the order and 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. The hearing officer shall announce his decision at the end of the hearing. If the hearing officer determines that the owner/occupant is not liable, the hearing officer shall dismiss the matter and enter that determination in writing accordingly. If the hearing officer determines that the owner/occupant is liable for the violation, the hearing officer shall forthwith enter and assess the civil penalties, fines, costs and/or fees against the person as provided by this article.
- (d) If the hearing officer's assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of assessment to the owner/occupant 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 facility designated by the Chief Court Administrator together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such 12-month period, assessment against the same owner/occupant may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of the hearing officer's record of assessment as well as court costs, against such person(s) in favor of the Town. 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 of such judgment may issue without further notice to the owner/occupant.
- (e) A person against whom an assessment has been entered pursuant to this article is entitled to judicial review by way of appeal in accordance with C.G.S. § 7-152c(g).

( Ord. of 9-27-2013 )

Sec. 14-74. - Recording of lien.

Any unpaid civil penalty or other fine imposed pursuant to the provisions of this article, and any and all costs and expenses incurred by the Town for the enforcement of this article, shall constitute a lien upon the real estate against which the civil penalty or other fine was imposed from the date of such civil penalty or fine. Each such lien may be continued, recorded and released in the manner provided for

in C.G.S. § 7-148aa. Each such lien shall take precedence over all other liens filed after July 1, 1997 and encumbrances, except taxes, and may be enforced in the same manner as property taxes.

( Ord. of 9-27-2013 )

Sec. 14-75. - Removal or remediation by town.

If the hearing officer determines the owner/occupant is liable for the violation, the Town may cause or take such action as is necessary to correct the violation. All costs and expenses of such corrective action shall be a lien upon the real estate. The Blight Enforcement Officer shall cause a certificate of lien to be recorded in the Town Clerk's office within 60 days after completion of such corrective action if all costs and expenses thereof are not reimbursed in full.

( Ord. of 9-27-2013 )

Sec. 14-76. - Other remedies.

The provisions of this article are in addition to, and not in lieu of, any other remedies available to the Town under the Connecticut General Statutes, Connecticut State Building Code, Fire Code, Public Health Code, Zoning Regulations, or other sections of the Town Code.

( Ord. of 9-27-2013 )