

public view
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BLIGHT ORDINANCE

(NOTE: THIS Document
WAS PROVIDED AS IS TO
THE ASSOCIATION BY MARK
NICKERSON, 1ST Selectman
on July 16, 2016.)

Section 1. Purpose

(a) This Ordinance is enacted pursuant to authority granted by the Connecticut General Statutes, including without limitation by C.G.S. § 7-148(c)(7)(H)(xv), as amended by P.A. 12-146, §§ 2 and 4; C.G.S. § 148-o(b) and C.G.S. § 7-152c.

(b) This Ordinance prohibits any owner, occupant, agent, tenant and/or person in control of real property located in the Town of East Lyme, from allowing, creating, maintaining or causing to be created or maintained Blighted Premises.

(c) This ordinance shall apply to public and private property, regardless of principal or accessory uses, and is intended to protect, preserve, and promote public health, safety and welfare, including the preservation of property values.

Section 2. Definitions

The following words, terms, and phrases shall have the following meaning ascribed to them in this section.

(a) Blighted Premises means any building, structure or parcel of land where at least one of the following conditions exists:

(1) A condition exists that poses a serious or immediate threat to the health, safety or general welfare of the community.

(2) A building or structure is a fire hazard.

(3) The property is in a state of disrepair or is becoming dilapidated. "State of disrepair" or "becoming dilapidated" shall mean in a physically deteriorating condition causing unsafe or unsanitary conditions or a nuisance to the general public and be evidenced by one or more of the following conditions:

a. Missing, broken or boarded up windows and doors longer than 6 months.

b. Collapsing or missing exterior walls or roof, or other exterior features including but not necessarily limited to stairs, porches, railings, hatchways, chimneys or floors.

c. Seriously damaged or missing siding or roofing.

d. Unrepaired fire or water damage longer than 6 months.

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e. Rodent harborage and/or infestation.

f. Persistent household garbage or trash on the property.

g. Abandoned or unused objects such as automobiles, boats and recreation vehicles which are inoperable or unregistered or in an obvious state of disrepair.

h. Parking lots in excess of 10 parking spaces in a state of disrepair or abandonment evidenced, for example, by cracks, potholes, overgrowth of vegetation within the surface, pavement or macadam, or within medians and buffers.

i. Shrubs, hedges, grass, plants, weeds or any other vegetation that have been left to grow in an unkempt manner that are covering or blocking means of egress or access to any building or that are blocking, interfering with, or otherwise obstructing any sightline, road sign, or emergency access to or at the property, when viewed from any property line. Maintained gardens, flower beds and xeriscape landscaping as part of a landscape design are excluded from enforcement under this subsection.

j. The overall condition of the property structure and/or grounds causes an unreasonable impact on the value of neighboring properties.

k. Vacant buildings or structure left unsecured or unguarded against unauthorized entry.

(b) Blight Enforcement Officer means a Town official and/or employee designated by the Board of Selectmen to enforce this Ordinance and to issue citations and/or take other actions he/she deems necessary to compel compliance with it.

(c) Blight Hearing Citation Officer means an official appointed by the Board of Selectmen who is not a town employee who will preside over Blight Citation Hearings, issue decisions and if necessary, convert assessments into judgments in the Connecticut Superior Court.

Section 3. Exemptions

The following properties shall be exempt from this Ordinance:

(1) Farms as defined in the Town of East Lyme Zoning Regulations: A tract of land used for necessary farm buildings in connection with the raising and/or caring for agricultural, livestock, poultry or dairy products, but excluding the raising of fur bearing animals and the maintaining of dog kennels.

(2) Historic Properties as defined in the Town of East Lyme Ordinance entitled "Ordinance Designating Historic Properties and Establishing a Historic Properties Commission."

Section 4. Prohibition

No owner, agent, occupant and/or a tenant required by a lease to maintain a property, and/or any person in control of real property located in the Town of East Lyme shall allow, maintain or cause to be maintained a Blighted Premises.

Section 5. Special Consideration

Special consideration may be given to individuals that are disabled, elderly, or low income in the Town's effort to correct housing blight. If an individual cannot maintain a reasonable level of upkeep of his owner-occupied residence because the individual is disabled, elderly or low income, and no Capable Individual resides in the residence, the Town may give said individual 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.

- 1) **Capable Individual** shall mean a person who can be reasonably expected to perform maintenance and yard work around a property or premises. This shall include children above sixteen (16) years of age, without a physical or mental disability as defined herein.
- 2) **Disabled Individual** shall mean, 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 household member capable of providing the necessary maintenance.
- 3) **Elderly Individual** shall mean an individual over the age of sixty-five (65), who does not have a household member capable of providing the necessary maintenance.
- 4) **Low Income Individual** shall mean, in the case of an owner occupied residence, an individual, or where more than one person resides in the premises, a family unit, that has an income below the highest level of "qualifying income" established by Conn. Gen. Statute Section 12-170d(a)(3).

Section 6. Notice of Blight Violation

(a) The Blight Enforcement Officer shall give written notice of a violation of this Ordinance to the owner and occupant of the premises and may give written notice to their agent(s), and/or any other person responsible for the Blighted Premises. The notice should be mailed by both certified mail, return receipt requested, and regular mail

to the last known address of the person to whom it is directed, to the owner of the property at the last known address on file in the tax collector's records and a copy by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(b) Such notice shall state the violation and demand its abatement within 60 days. If the violation is not corrected at the end of the 60 day period, the Blight Enforcement Officer may issue an enforcement citation and/or take other enforcement action as specified in Section 8 herein.

(c) Any person who is a new owner or new occupant of Blighted Premises shall, upon request in writing to the Blight Enforcement Officer, be granted a thirty-day extension of the notice and opportunity to remediate. For purposes of this Ordinance, "new owner" shall mean any person or entity who has taken title to a property within thirty days of the Notice of Blight Violation, and "new occupant" shall mean any person who has taken occupancy of a property within thirty days of said notice.

Section 7. Penalty for Violation

Violations of this Ordinance shall be punishable by a civil penalty of \$10.00 per day for the first ninety (90) days of a violation. If, after ninety (90) days the violation continues, the fine thereafter shall be \$50.00 per day for each day a violation continues. Each day after due notice of the violation has been served shall constitute a separate offense.

Section 8. Enforcement Citation

(a) A citation hearing procedure per C.G.S. § 7-152c is hereby established for purposes of this Ordinance. The Board of Selectmen shall appoint one or more Citation Hearing Officers for the Town. The Citation Hearing Officer may not be a police officer, a Blight Enforcement Officer or an employee of the Town of East Lyme.

(b) If a violation remains unabated after 60 days as set forth in the Notice of Violation issued per Section 6 herein, the Blight Enforcement Officer may issue a citation to the owner and occupant, and may issue a citation to any other person responsible for the violation in accordance with this Ordinance. The citation shall state the penalty amount in accordance with Section 7, and date (15 days plus 3 business days) by which the uncontested payment of fines, penalties, costs or fees shall be made. The Blight Citation shall be mailed by both certified mail, return receipt requested, and regular mail to the owner of the property at the last known address on file in the tax collector's records and to any other person responsible at their last known address. In addition, the Blight Enforcement Officer shall make reasonable efforts to send a copy by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(c) Any person/entity issued a citation pursuant to this Ordinance shall be entitled to a hearing to contest the citation pursuant to the provisions of C. G.S. § 7-152c.

(d) At any time within twelve months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees set by a citation issued pursuant to this Ordinance, the Town shall send notice to the person or persons or entity cited to inform the person or persons : (1) of the allegations against him/her/it and the amount of the fines, penalties, costs or fees due; (2) that he/she/it may contest liability before a Citation Hearing Officer by delivering in person or by mail written notice to the office of the First Selectman, 108 Pennsylvania Avenue, Niantic, Connecticut 06357, within ten days of the date thereof; (3) that if he/she/it does not demand such a hearing, an assessment and judgment shall be entered against him/her/it; and (4) that such judgment may issue without further notice.

(i) For purposes of this Section 8, 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. If the person to whom notice is issued is a registrant, the Town may deliver the notice in accordance with C.G.S. § 7-148ii, provided nothing in this section shall preclude the Town from providing notice in another manner permitted by applicable law. The Notice shall also be sent by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(e) If the person to whom notice is sent pursuant to this section wishes to admit liability, he/she/it may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by the Town.

(f) Any person to whom notice is sent who does not deliver or mail written demand for a hearing within 15 days plus 3 business days of the date of the first notice provided for by subsection 8(b) of this Ordinance 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 Citation Hearing Officer shall thereupon enter and assess the fine, penalties, costs or fees provided for by this Ordinance and shall follow the procedures for obtaining a judgment from the Superior Court set forth in C.G.S. § 152c(f).

(g) A person who makes a timely request for a hearing shall be given written notice of the date, time and place of the hearing. The hearing shall be held at a time and conducted in the manner provided by C.G.S. § 7-152c(e).

(i) The Citation Hearing Officer shall issue a written decision within 30 days of the hearing. If he determines that the 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 this Ordinance and issue a Notice of Assessment by first class mail to the person found liable and to any lienholders pursuant to C.G.S. §7-148gg. The property owner and the entity liable has 30 days from the Notice of Assessment to pay the fine.

(ii) If the person responsible fails to pay the fine, not less than thirty days nor more than twelve months after such mailing of the Notice of Assessment, the Citation Hearing Officer shall file a certified copy of the notice of assessment and an entry fee with the clerk of a Superior Court facility designated by the Chief Court Administrator.

(iii) The person against whom an assessment has been entered by the Citation Hearing Officer pursuant to this section is entitled to judicial review by way of appeal pursuant to the provisions and requirements of C.G.S. § 7-152c(g).

Section 9. Recording of Lien

Any unpaid fine imposed 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 for in C.G.S. §7-148aa and the General Statutes. Each lien shall be mailed to lienholders pursuant to C.G.S. §7-148gg.

Section 10. Municipal Performance to Correct; Costs

(a) In the event any owner, occupant, agent, tenant or person in control of real estate shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant, or person in control of real estate to appeal from the issuance of said citation, or by such appeal being sustained, the Town of East Lyme, acting through its Blight Enforcement Officer, may cause or take such action as is necessary to correct such violation. The cost to take such action shall be a civil claim by the Town against such owner, agent, tenant, or person responsible for such property and the Town may bring an action to recover all such costs and expenses incurred.

(b) The owner of a Blighted Premises may choose to cooperate with the Blight Enforcement Officer and permit the Town of East Lyme to cure the Blight, provided said owner shall secure the payment of the Town's expenses of remediation by way of a lien on the property, or such other document satisfactory to the Town Attorney.

Section 11. Exceptions and Pending Approvals

Any Blighted Premises for which any land use or building permit application for improvements to the Blighted Premises is pending, or which has been sold to a bona fide purchaser, shall be exempt from the provisions of this Ordinance for a period of 90 days from the date of submittal of a complete application to the Town or from the date of sale.

Section 12. Conflict and Separability

(a) The provisions of this Ordinance shall not be construed to prevent the enforcement of other statutes, codes, ordinances or regulations which prescribe standards other than are provided in this Ordinance.

(b) If a court of competent jurisdiction finds any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this ordinance shall continue to be separately and fully effective. If any other ordinance or parts of ordinances are in conflict herewith, the more restrictive provision shall apply.

Section 13. Effective Date

This Ordinance shall be effective ten days after its publication of notice of its adoption in accordance with the East Lyme Town Charter.

Approval of Minutes, Special Meeting of February 24, 2016

Mr. Nickerson called for any corrections, changes or a motion on the February 24, 2016 Special Meeting Minutes.

****MOTION (3)**

Ms. Cheeseman moved to approve the minutes of the Special Meeting of February 24, 2016 as submitted.

Mr. Salerno seconded the motion.

Vote: 4 – 0 – 1. Motion passed.

Abstained: Ms. Cheeseman

1e. Consent Calendar

****MOTION (4)**

Ms. Cheeseman moved to approve the Consent Calendar for the meeting of March 7, 2016 in the amount of \$9,721.12.

Mr. Salerno seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

2. NEW BUSINESS

2a. Discussion/Action – Blight Ordinance

Mr. Nickerson called for a motion for discussion on the blight ordinance.

****MOTION (5)**

Mr. Salerno moved that it be **RESOLVED**, to adopt a Blight Ordinance in the form presented at the Board of Selectmen meeting on February 17, 2016.

The effective date of the ordinance shall be ten (10) days after publication of the notice of its adoption.

Ms. Hardy seconded the motion.

Mr. Salerno said that he understands that people want to try to be neighborly however many of these properties do not have neighbors. Also, the other departments – Zoning, Health and Building that have some aspects to be able to enforce some of the issues do not go far enough. He said that they could not spell out every abatement process and that things can be appealed at the hearing process.

Ms. Hardy said that she was happy to see the number of people who came and showed interest. She has to consider both sides and said that she thinks it is better to do something rather than nothing. Also, this could be amended in the future if they find it necessary to do so.

Ms. Cheeseman said that she was impressed with the number of people who came out and that she shares the concern over those who do not like the regulation of their property. She said that they would try this but she would like them to review it in a year to see how this works. It is an experiment worth trying and re-visiting in a year to see how it does.

Mr. Cunningham said that there are always risks with new legislation. There was a great deal of interest and it appears that there is a gap in Town between what we have and this. He said that he agrees with doing a review of this in a year to see the practicality of it. For now, he is in support of it.

Mr. Nickerson agreed with the comments made and that a one year review is a good thing to do.

Vote: 5 – 0 – 0. Motion passed.

2b. Transfer from Parahus Account to the P & R Special Revolving Account

Mr. Nickerson said that this to put past donations into the Parks & Rec account that they belong in.

****MOTION (6)**

Ms. Cheeseman moved to transfer \$1,050 from the Parahus Fund 11 to Special Revenue Fund 18 to revenue account 18-08-800-802 (Donations) for donations designated for Parks and Recreation prior to the establishment of this fund.

Ms. Hardy seconded the motion.

2d. Appointment of Blight Officer

MOTION (9)

Mr. Seery moved to appoint the Zoning Officer for the Town of East Lyme as the Town's Blight Officer.

Seconded by Ms. Cheeseman.

Mr. Nickerson noted that he wanted it clear that they were appointing the position not a particular person.

Motion passed 6-0.

2e. Appointment of Blight Hearing Officer

MOTION (10)

Mr. Seery moved to appoint Ronald F. Stevens of 1 Cherry Street, Niantic, CT to serve as the Blight Hearing Officer for the Town of East Lyme through January 6, 2020.

Seconded by Mr. Salerno. Motion passed 6-0.

2g. Re-Appointment of Chief Building Official

MOTION (11)

Mr. Seery moved to re-appoint Joseph D. Smith of 73 Flanders Road, Niantic, CT to serve as the Chief Building Official for the Town of East Lyme through January 6, 2020.

Seconded by Mr. Salerno. Motion passed 6-0.

2h. Unaffiliated Compensation Plan

Mr. Nickerson stepped down since this item would personally affect him.

Mr. Seery reviewed the following:

The Board of Selectman sub-committee consisting of Rose Ann Hardy and Kevin Seery make the following recommendations to the Board of Selectman regarding changes to our benefits:

1. Pay increase as of July 1, 2016 of 2.5%
2. Reinstatement of Longevity pay based on years of service
3. Health Insurance Premium Share increase from 12% to 13%
4. Reduction in HSA contribution by 15% (Family instead of \$4,000 contribution will be \$3,400, Individual instead of \$2,000 will be \$1,700)
5. For any employees in the PPO program, the following :
 1. Office Visit from \$10 to \$25
 2. Specialist Visit from \$10 to \$25
 3. Outpatient Surgery from \$0 to \$200