

## **TOWN OF NEWTOWN**

### **Anti Blight Ordinance**

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**Sec. 1. Purpose:** The Purpose of this Ordinance, adopted pursuant to Connecticut General Statutes Section 7-148(c), is to define and provide for the abatement of blight and nuisances and protect, preserve and promote public health, safety and welfare, property values and quality of life in the Town of Newtown.

**Sec. 2. Scope:** This Ordinance shall apply to the maintenance of all business, industrial and residentially zoned properties and their premises now in existence or hereafter constructed, maintained, or modified but this Ordinance shall not apply to: agricultural lands as defined in Section 22-3(b) of the Connecticut General Statutes; land dedicated as public or semi-public open space or preserved in its natural state through conservation easements; areas designated as inland wetlands and watercourses; or any premises owned by the Town of Newtown.

**Sec. 3. Definitions:** The following definitions apply in the interpretation and enforcement of this Ordinance:

**A. Anti-Blight Enforcement Officer:**

- 1) Any person or persons designated by the First Selectman, with approval of the Board of Selectmen, to enforce the provisions of this Ordinance; and
- 2) A duly authorized agent of the Anti-Blight Enforcement Officer designated pursuant to sub-section 3(A)(1) of this Ordinance.

**B. Blight: Any one of the following sub-sections (1)-(3) unless excluded by sub-section (4):**

- 1) Any Premises in or upon which at least one (1) of the following circumstances exist:
  - a. Conditions that pose a serious threat to the safety, health and general welfare of the community, as determined by the Anti-Blight Enforcement Officer;
  - b. Conditions that attract, harbor or conceal illegal activity as documented by the Police Department;
- 2) Any Premises not being adequately maintained, as evidenced by the existence of one or more following conditions:
  - a. Contains any building or structure that is open to the elements, has collapsed or is missing walls, roofs, windows, doors;
  - b. Contains any building or structure that is unable to provide shelter, or serve the purpose for which it was constructed due to significant damage, Dilapidation, decay, or severe animal, rodent, vermin or insect infestation, or;

- c. The Premises is in the Public View and, as determined by the Anti-Blight Enforcement Officer, is neglected or abandoned.
  - 3) Any Premises that is, or contains material or equipment which is incapable of performing the function for which it is designed including, but not limited to:
    - a. Discarded or unused materials or equipment such as unregistered motor vehicles, boats, sporting and recreation vehicles which may be missing parts, not complete in appearance or in an obvious state of disrepair or decay;
    - b. Parts of the aforementioned motor vehicles, boats, sporting and recreation vehicles and items to include, but not be limited to, household or commercial furniture, appliances, drums, cans, boxes, scrap metal, tires, batteries, containers and garbage in the Public View.
  - 4) Exclusions:
    - a. Notwithstanding the foregoing, the following shall not constitute Blight within the definition of this Ordinance: such temporary conditions not to exceed six (6) months in duration, as may be reasonably related to repair or restoration of building(s) and/or motor vehicles, boats or recreational vehicles registered to the subject Premises' owner(s) or tenants(s), as determined by the Anti-Blight Enforcement Officer, provided that there are no delinquent taxes or other amounts owed to the Town of Newtown or any agency or department of the Town of Newtown.
- C. **Capable Individual:** Shall mean a person that can be reasonably expected to perform maintenance and yard work around a property or premises. This shall include any individual above eighteen (18) years of age who is not a Disabled Individual.
- D. **Citation Hearing Officer:** Citation hearing officer as defined in "Code of the Town of Newtown" Section 132-9, Citation hearing officer.
- E. **Dilapidation:** Shall mean significant partial ruin, decay or disrepair of property such that it would not qualify for a certificate of use and occupancy, or which is deemed unsafe or which is designated by Health, Zoning Enforcement, Fire or Building Inspectors or Officers as unfit for use or habitation.
- F. **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 who meets the definition of a Capable Individual.

- G. **Elderly Individual:** Shall mean an individual over the age of sixty-five (65), who does not have a household member who meets the definition of a Capable Individual.
- H. **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. General Statutes Section 12-170d(a)(3).
- I. **Historic Structures:** Shall mean those listed in the “Newtown Historical Inventory” (The Inventory), as compiled and maintained by the Town Historian and the Land Use Director, published on March 25, 2009, as the same may be amended.
- J. **Infestation:** Shall mean the presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.
- K. **Neighborhood:** Shall mean an area of the Town of Newtown comprising Premises or parcels of land any part of which is contiguous with any other parcel within the Town of Newtown.
- L. **Nuisance:** Shall be taken to include:
- 1) Any **public nuisance**, as defined by statute or ordinance;
  - 2) Any **attractive nuisance**, defined as the presence of any condition on any Premises that is detrimental to the health or safety of individuals coming into contact with the subject Premises. This shall include, but is not limited to, the presence of abandoned wells, shafts, basements, excavations, secured and unsecured equipment, appliances, vehicles, lumber, garbage, waste and structurally unsound fences or other structures, as determined by the Anti-Blight Enforcement Officer.
  - 3) Physical conditions **dangerous to human life** or detrimental to the health of persons on or near any Premises where the conditions exist, as determined the Anti-Blight Enforcement Officer.
  - 4) **That which renders air, food or drink unwholesome** or detrimental to the health of human beings;
  - 5) **Fire hazards** and any condition or situation, process, material or blocked/obstructed egress that may cause a fire, an explosion or provide a ready fuel supply to augment the spread or intensity of a fire or explosion, thereby posing or intensifying a threat to life or property, as determined by the Anti-Blight Enforcement Officer.
  - 6) **Illegal Activity**, as determined by the Anti-Blight Enforcement Officer.

- M. **Owner/Occupant:** Shall mean any person, institution, foundation, entity or authority which owns, leases, rents, possesses, controls, is responsible for or occupies any property or Premises within the Town of Newtown.
- N. **Person:** Shall mean any individual, corporation, partnership, limited liability company, trust, estate, association, joint venture, or any other legal or commercial entity.
- O. **Premises:** Shall be deemed to include any property, buildings, dwellings, parcels of land, unoccupied lots or Structures within the Town of Newtown.
- P. **Public View:** Shall mean visible from any public right-of-way or Neighborhood.
- Q. **Structure:** Shall mean any building, walls, dwelling, fence, swimming pool, or similarly constructed object, located above or below ground on any Premises, or structures as defined in the Newtown Zoning Regulations, Connecticut Building Codes or Connecticut Fire Safety Codes.

**Sec. 4. Creating or Maintaining Blight Prohibited; Responsibility**

- A. No person shall cause any Blight to be created or maintained within the Town of Newtown. Any such person, including the agents thereof, shall be jointly and severally obligated to comply with the provisions of this Ordinance and subject to the penalties for violation hereof.

**Sec. 5. Special Considerations:**

- A. Special consideration may be given to Disabled Individuals, Elderly Individuals, and Low Income Individuals as part of the Town of Newtown's effort to correct any Blight in the Town of Newtown.
- B. If an individual cannot maintain a reasonable level of upkeep of his or her owner-occupied residence because the individual is a Disabled Individual, Elderly Individual or Low Income Individual and no Capable Person can be identified to provide such upkeep, the Town of Newtown may provide the Disabled Individual, Elderly Individual or Low Income Individual with a reasonable amount of time to correct the problem, the duration of which shall be at the discretion of the Anti-Blight Enforcement Officer.
- C. Additionally, assistance in finding reasonable solutions to the Blight may be offered by the Town of Newtown, should circumstances indicate such special consideration is necessary and will remediate the Blight.
- D. Historic Structures shall not be exempted from this Ordinance but, by their virtue of being a Historic Structure may be considered for a 90-day demolition hold and/or subject to an archeological survey if determined to be historically significant by the Anti-Blight Enforcement Officer and the Town Historian.
- E. Historic Structures determined to be a Nuisance or Blight by definition of this Ordinance and deemed irreparable or, by declaration of the Anti-

Blight Enforcement Officer, as advised by the Town Historian, to have lost their historical value, shall not qualify for the special consideration described in sub-section (D) of this Section 5.

#### **Sec. 6. Complaints, Warning Notice**

- A. Any individual, civic organization or agency or department of the Town of Newtown may file a complaint of a violation of this Ordinance with the Anti-Blight Enforcement Officer.
- B. If the Anti-Blight Enforcement Officer has reason to believe that any person or persons has violated the provisions of this Ordinance, the Anti-Blight Enforcement Officer shall serve a notice of such violation on the Owner/Occupants of the subject property (the "Warning Notice").
- C. The Warning Notice shall include the following:
  - 1) A description of the subject property sufficient for identification;
  - 2) A description of the violation alleged to exist and requested remedial action as determined by the Anti-Blight Enforcement Officer;
  - 3) An order requiring the remedial action to be taken within a period of not more than 60 days of the notice, unless otherwise cited in the Warning Notice or decided by the Anti-Blight Enforcement Officer.
  - 4) A statement that the amount of fines, penalties, costs and fees to be imposed for non-compliance shall apply for each infraction per day after the deadline in the Warning Notice in the amount of \$100.00, and that the Owner/Occupants will be responsible for administration costs, including but not limited to attorney's fees as permitted by law.
- D. A copy of the Warning Notice shall be recorded in the land records of the Town of Newtown, and any subsequent purchaser of the property shall be subject to such Warning Notice.
- E. The Warning Notice shall be sufficient if delivered personally upon the Owner/Occupants, sent by both regular and certified mail return receipt requested to the last known address of the Owner/Occupants, or posted in a conspicuous place in or about the property affected by the Warning Notice.

#### **Sec. 7. Enforcement**

- A. At any time within twelve months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees pursuant to the Written Notice, if the remedial actions specified in the Warning Notice are not taken, the Anti-Blight Enforcement Officer shall issue a written citation to the Owner/Occupants of the subject property ("Citation").
- B. The Citation shall be in writing and include:
  - 1) A description of the property, as sufficient for identification, specifying the violation alleged to exist and the remediation required;
  - 2) Detailed information regarding the contents of the Warning Notice (which may be a copy of such Warning Notice) and the failure of the

Owner/Occupants to take the remedial actions specified therein within the time prescribed in the notice and order;

3) The amount of the fines, penalties, costs, or fees due for non-compliance; and

4) A statement that the Owner/Occupant may contest his or her liability and request a hearing before a Citation Hearing Officer by delivering in person or by mail written notice to the Anti-Blight Enforcement Officer within ten days of the date of the Citation; and

5) A statement that if the Owner/Occupant does not demand such a hearing, an assessment and judgment shall be entered against him and that such judgment may issue without further notice.

### **Sec. 8. Appeal Procedure**

If a person who is issued a Citation does not make an uncontested payment of the fines, penalties, costs, or fees due for non-compliance as specified by the Citation to the Town, they shall adhere to the procedure in the "Code of the Town of Newtown" Section 132-10, Appeals procedure, Sections B - E.

### **Sec. 9. Penalties for Offenses; Prejudgment Lien**

- A. If any person has been served with a Warning Notice pursuant to this section, and has failed to correct such deficiencies within the time period prescribed by the notice as determined upon subsequent inspection by the Anti-Blight Enforcement Officer, fines in the amount of \$100 per day shall accrue beginning on the day after the expiration of the time period prescribed by such notice.
- B. In accordance with the provisions of Connecticut General Statutes § 7-148aa, any unpaid fines imposed by this Ordinance and costs of remediation, shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens. 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 tax liens.
- C. In addition to all other remedies and any fines imposed herein, the provisions of this code may be enforced by injunctive proceedings in Superior Court. The Town of Newtown may recover from any Owner/Occupant or other responsible person any and all costs and fees, including reasonable attorneys' fees expended by the Town of Newtown in enforcing the provisions of this Ordinance.

### **Sec. 10. Authorization to Freeze Assessment of Rehabilitated Buildings**

- A. To better achieve the rehabilitation of Blight, the Town Assessor is authorized to freeze the assessment of any Premises that was the object

of enforcement action under this Ordinance and, subsequently, been rehabilitated.

- B. Upon recommendation by the Anti-Blight Enforcement Officer and approval by the Legislative Council, the Town of Newtown shall freeze the assessment of any Premises that has been substantially rehabilitated to reflect the value of the structure prior to rehabilitation and shall be applicable for a period of five (5) years.
- C. No property owner shall receive this benefit if it is determined the property owner caused the condition that contributed to such enforcement.
- D. If the Premises again becomes the object of enforcement action pursuant to this Ordinance during the five-year period, the adjusted assessment may be revoked at the discretion of the Anti-Blight Enforcement Officer or the Town Assessor.

**Sec. 11. Severability**

- A. In the event that any part or portion of this Ordinance is declared invalid for any reason, all the other provisions of this Ordinance shall remain in full force and effect.

**Sec. 12. Contextual Terms and Provisions**

- A. Where terms are specifically defined or the meaning of such terms is clearly indicated by their context, that meaning is to be used in the interpretation of this Ordinance.
- B. Where terms are not specifically defined in this ordinance but are defined by Town Charter, such terms shall have the same meaning for the interpretation and enforcement of this Ordinance.
- C. Where terms are not specifically defined in this ordinance, they shall have their ordinarily accepted meaning or such meaning as the context may imply.
- D. The provisions of this Ordinance shall not be construed to prevent enforcement of other Town codes, ordinances or regulations.
- E. In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other provision of the Charter, Town Code, or State of Connecticut law, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town of Newtown shall prevail.

This Ordinance shall become effective on the \_\_\_\_\_ day, of \_\_\_\_\_, 2012, upon action by the Legislative Council and notice of publication in a local newspaper.

SIGNED ON \_\_\_\_\_ day, this \_\_\_\_\_ month of 2012:

BY \_\_\_\_\_  
E. Patricia Llodra; First Selectman

BY \_\_\_\_\_  
Jeffery Capeci; Chairperson, Legislative Council

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