

TOWN OF MONTVILLE
NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given that the Town Council of the Town of Montville, at a regular meeting held October 14, 2009 adopted the following Ordinance.

ORDINANCE NO. 2009-005

Blighted Premises

THE TOWN OF MONTVILLE HEREBY ORDAINS

§195-1. Purpose.

It is hereby found and declared that there exist within the Town of Montville a number of blighted taxable and tax-exempt real premises. It is further found that the existence of these blighted premises adversely affects property values within the Town and threatens the health, safety and general welfare of its residents.

§195-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BLIGHTED PREMISES – any building, structure, premises or any part of a structure that is a separate unit, in which any of the following or any combination of the following conditions exists:

- A. The Building Official determines that existing conditions pose a serious threat to the health and safety of persons in the Town.
- B. It is not being maintained and contributes to housing decay, as evidenced by one or more of the following existing conditions, or combination thereof:
 - (1) Any structure which is in a state of dilapidation or decay or is open to the elements or unable to provide shelter or serve the purpose for which it was constructed due to damage, dilapidation or decay;
 - (2) Premises containing accumulated debris; and
 - (3) Landscaping on any premises, including, but not limited to, trees, shrubs, hedges, grass and plants, which physically hinder or interfere with the lawful use of abutting premises or block or interfere with the use of any public sidewalk and/or private street or right-of-way or any road sign.
- C. It is attracting illegal activity as evidenced by the following:
 - (1) Multiple felony or misdemeanor arrests on the premises;

(2) Abandoned and/or vacant building or structure devoid of water, sewer, utility function or service, that has become an illegal residence.

D. Is a fire hazard as determined by the Fire Marshal or documented via fire department records.

E. The premises creates substantial and unreasonable interference with the use and enjoyment of surrounding premises as reported by neighborhood complaints, fire, public safety or health department reports.

BUILDING OFFICIAL – An individual who administers the state building code and enforces building ordinances for the Town.

DEBRIS – Material which is incapable of immediately performing the function for which it was designed, including, but not limited to, abandoned, discarded, or unused objects; junk comprised of equipment such as automobiles, parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, and garbage which are in public view. This definition shall not be applicable to premises that are a junkyard licensed by the state of Connecticut.

DECAY – A wasting or wearing away; a gradual decline in strength, soundness or quality; to become decomposed or rotten, except a contained compost pile.

DILAPIDATED – Decayed or rotten beyond repair.

HEARING OFFICER – An individual(s) appointed by the Mayor to conduct official hearings authorized by this chapter, who may not be a police officer or employee, or person who issues citations on behalf of the Town.

ILLEGAL ACTIVITIES – Illegal conduct at the premises or property as documented in police department records.

ILLEGAL RESIDENCES – Human habitation of a dwelling unit that does not comply with state building, state fire, local zoning or housing codes, or all other pertinent codes and Connecticut General Statutes.

LEGAL OCCUPANCY – Occupancy in accordance with state building, state fire, local zoning or housing codes, or all other pertinent codes and Connecticut General Statutes.

MAYOR – The Mayor of the Town of Montville or a person designated by the Mayor to act on his or her behalf.

NEIGHBORHOOD – An area of the Town comprised of all premises or parcels of land any part of which is within a radius of 1,000 feet of any part of another parcel or lot within the Town.

OWNER – Any person, firm, institution, partnership, corporation, foundation, entity or authority who or which holds title to real property or any mortgage or other secured or equitable interest in such property, as documented in the Town land records.

PUBLIC VIEW – Visible from any public right-of-way or neighboring property, at grade level.

VACANT – A continuous period of sixty (60) days or longer during which a building or structure or part thereof is not legally occupied by human beings.

§195-3. Prohibition against creating or maintaining blighted premises.

No owner of real property, taxable or tax-exempt, within the Town of Montville shall cause or allow blighted premises to be created, nor shall any owner allow the continued existence of blighted premises.

§195-4. Minimum standards.

- A. The provisions in this chapter shall not be construed to prevent the enforcement of other statutes, codes, ordinances or regulations which prescribe standards other than are provided in this chapter.
- B. 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, the provision which establishes the higher standard for the promotion and protection of the health and safety and property values of the people shall prevail.

§195-5. Certification of list of blighted premises.

- A. Immediately following enactment of this chapter, the Mayor shall request that all Town department heads report any premises within the Town that appear to be blighted. Such reports shall be submitted within thirty (30) days of the Mayor's request.
- B. The Mayor shall instruct the Building Official to use this information and any other available information to schedule inspections from public areas or public rights-of-way for the purpose of compiling a list of blighted premises within sixty (60) days. The Building Official shall update this list by addition of premises that become blighted and removal of premises where the blight violation is abated. The Town may levy fines against blighted premises as described in this chapter.
- C. Within sixty (60) days after completion, the Mayor shall present said blighted premises list to the Town Council.
- D. Any individual, civic organization or municipal agency affected by the action or inaction of an owner of premises subject to provisions of the chapter may file a written complaint

regarding the cited violation(s) of this chapter with the Building Official. Such complaint shall include the address of the premises and facts concerning to the conditions of such premises. Based on the provisions set forth in this chapter, the Building Official may add the subject premises to the blighted premises list.

§195-6. Enforcement and hearings with owners of blighted premises.

- A. Once said list of blighted premises, or any additions thereto, has been completed, the Building Official shall undertake regular inspections from public areas or public rights-of-way for the purpose of documenting continuous blight and shall issue a citation and impose a penalty of not more than one hundred dollars (\$100). Each day that the building, structure, premises or unit, or part thereof, is in violation of this chapter shall constitute a separate offense.

The Building Official may grant the owner of subject premises a grace period not to exceed sixty (60) days from the issuance of the citation for purposes of accommodating a clean-up effort.

- B. 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 for an alleged violation of this chapter, the Building Official shall send notice, via certified mail, to the owner(s) cited. Such notice shall inform said owner(s) of the allegations cited, amount of fines, penalties, costs or fees due; and that said owner(s) may contest their liability before the Hearing Officer, in person or mail, by written notice within ten (10) days of the date as it appears on the citation. If such a hearing is not requested, an assessment and judgment shall be entered and any unpaid fine shall constitute a lien upon the subject premises which the fine was imposed as set forth in subsection F of this section; and that such judgment shall attach without further notice.
- C. Any owner(s) in receipt of notice pursuant to subsection B of this section may choose to acknowledge liability for any alleged violation(s), without requesting a hearing, may submit payment in full of fines, penalties, costs or fees in person or by mail to an official designated by the Mayor. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such owner or other person making payment. Any owner who does not deliver in person or mail a written request 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 acknowledged liability, and the designated municipal officer shall certify such owner's failure to respond to the Hearing Officer. The Hearing Officer shall thereupon enter and assess the fines provided for within this chapter and shall follow the procedures set forth in subsection F of this section.
- D. Any owner who requests a hearing shall receive written notice, via certified mail regarding date, time, and place for the hearing. Such hearings shall be held not less than fifteen (15) days or more than thirty (30) days from the date of the mailing of notice of hearing. The Hearing Officer may grant for good cause, any reasonable request by interested parties for postponement or continuance. An original or certified copy of the

initial notice of violation shall be filed and retained by the Town, and shall be deemed a business record within the scope of Section §52-180 of the Connecticut General Statutes and evidence of the facts contained therein. The presence of the Building Official shall be required to attend the hearing, upon request of said owner(s). Owner(s) wishing to contest liability shall appear at the hearing and may present evidence on their behalf. A designated Town official other than the Hearing Officer may present supporting evidence on behalf of the Town. If such owner(s) fails to appear, the Hearing Officer may enter an assessment by default upon a finding of proper notice and liability in accordance with this chapter. The Hearing Officer may accept copies of police reports, investigatory and citation reports or other official documents via mail and may determine thereby that the appearance of such owner is unnecessary. The Hearing Officer shall conduct hearings in a fair and appropriate manner. The rules regarding admissibility of evidence shall not be strictly applied; however, all testimony shall be given under oath or affirmation.

- E. The Hearing Officer shall announce a decision upon conclusion of the hearing. If it is determined that the owner(s) is not liable, the matter shall be dismissed and entered into the record, in writing, accordingly. If the owner(s) demonstrates intent to rehabilitate or demolish the blighted premises, by the submission of documentation such as construction plans, permits and the availability of funds to pay for such work, satisfactorily to address the allegations as cited, the Hearing Officer shall stay the matter and enter a determination, in writing, accordingly. Said stay shall expressly be conditioned upon the rehabilitation or demolition of the blighted premises within three (3) months. If the conditions of the stay have not been met within three (3) months, the Hearing Officer shall enter and assess the fines, penalties, costs or fees against such owner as provided by this chapter retroactive to the date of the hearing. If the Hearing Officer determines that the owner is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines, penalties, costs or fees against such owner as provided by this chapter.
- F. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by first class mail a notice of the assessment to the owner found liable and shall file, not less than thirty (30) days or more than twelve (12) months after such mailing, a certified copy of the notice and assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars (\$8.00). The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same owner may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars (\$8.00), against such owner in favor of the municipality. Notwithstanding any 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 owner.
- G. An owner against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of notice if 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 Section §52-259 of the Connecticut General Statutes at a Superior Court facility designated by the Chief Court Administrator, which shall entitle such owner to a hearing in accordance with the rules of the judges of the Superior Court.

- H. Pursuant to Section §7-148aa of the Connecticut General Statutes, any unpaid fine imposed by the Town, pursuant to the provisions of this ordinance regulating blight and adopted pursuant to subparagraph (H) (xv) of subdivision (7) of subsection (c) of Section §7-148 of the Connecticut General Statutes, 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.

This Ordinance shall be effective thirty (30) days after its adoption.

Dated at Montville Connecticut this 15th day of October 2009.

Lisa Terry, Montville Town Clerk

