

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 September 10, 2018 adopted the following Ordinance.

ORDINANCE NO. 2018-06

**AN ORDINANCE TO AMEND ORDINANCE #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 Blight Enforcement Officer 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.

BLIGHT ENFORCEMENT OFFICER - An employee appointed by the Mayor, to enforce the blight ordinance.

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, legal entity, partnership, corporation, limited liability company, 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. Creation or Maintenance of Blighted Premises.

No owner and/or occupant 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 and/or occupant allow the continued existence of blighted premises.

Exemptions:

The following properties and or portions of properties shall be exempt from this chapter:

- A. Land subject to recorded documents dedicating it for use only as public open space or parks
- B. Vegetation preserved in its natural state through conservation easements or conservation restrictions
- C. Maintained gardens, flower beds, and/or landscaping as part of a landscape design, or naturalized areas provided they do not cover or block means of egress or access to any building, interfere or otherwise physically or visually obstruct any vehicular sight line, road sign, or emergency access to or at the property or promote rodent harborage

and/or infestation.

- D. Any building or structure undergoing remodeling, being diligently conducted, pursuant to an active building permit, provided that said exemption is applicable only during such remodeling.
- E. Any blighted premises for which there is a pending land use application that if granted will result in the elimination of the blighted condition(s), but only for a period not to exceed ninety (90) days from the date of the submission of the application to the town land use agency with jurisdiction.

§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. Special Conditions.

Notwithstanding time limits set by any other section of this chapter, if any individual home owner cannot maintain a reasonable level of upkeep of owner-occupied residence because the individual is disabled, elderly, or low income (as determined annually by the State of Connecticut Office of Policy and Management for Elderly/Disabled Tax Relief), and no capable individual resides in the residence (and there is no other person or entity legally obligated to maintain the blighted premises), the Blight Enforcement Officer may give said individual homeowner a reasonable amount of time to correct the problem, the duration of which shall be in the discretion of the Blight Enforcement Officer, subject to the need to maintain public safety and health. If needed, assistance in finding solutions may be offered by the town.

- A. Capable individual shall mean a person who can be reasonably expected to perform maintenance or yard work around a property or premises. This shall include children over 16 years of age, without physical or mental disability as defined herein.
- B. Disabled individual shall mean in the case of an owner occupied residence, an individual who has a disability or handicap as defined under the Americans With Disabilities Act of 1990 and the Fair Housing Act Amendments.
- C. Elderly individual shall mean an individual over the age of 65.

§195-6. Pre-citation Notice of Violation.

Prior to taking enforcement action against a blighted premises, the Blight Enforcement Officer shall give written notice of a violation of this chapter to the owner and occupant of the blighted premises. The notice of violation may be hand delivered or mailed by certified mail, return receipt requested, to the last known address on file with the Tax Collector for each person to whom it is directed.

- A. Such notice of violation shall state the violation(s) and demand its/their remediation within a reasonable time (not to exceed sixty (60) days from the date of the notice of violation) to be determined by the Blight Enforcement Officer based on the nature and extent of the violation at the blighted premises. If the violation is not corrected within the time provided in the written notice of violation, the Blight Enforcement Officer may issue a citation and/or take such other enforcement action as authorized by law.
- B. Any person who is a “new owner” or “new occupant” of a blighted premises shall, upon request to the Blight Enforcement Officer, be granted a thirty (30) day extension of the notice and opportunity to remediate provided pursuant to §195-6 (B) above. For purposes of this chapter, “new owner” shall mean any person or entity who has taken title to a property within thirty (30) days of the date of the notice of violation, “new occupant” shall mean any person who has taken occupancy of a blighted premises within thirty (30) days of the date of the notice of violation.

§195-7 Civil Penalties.

Violations of this chapter shall be punishable by a civil penalty of no less than \$10 and no more than \$100 for each violation. Each day after the notice of violation has been received by the owner/occupant shall constitute a separate offense.

§195-8 Enforcement: Hearings with Owners of Blighted Premises.

- A. At any time within twelve (12) months from the expiration of the final period for the uncontested payment of fines, civil penalties, costs or fees for any citation issued for an alleged violation of this chapter, the Blight Enforcement Officer shall send notice, by hand delivery or by certified mail, to the person(s) cited. Such notice shall inform said person(s): (1) Of the allegations cited against him/them and of the amount of fines, penalties, costs or fees due; (2) that said person(s) may contest his/their liability before a hearing officer, by delivering to the Blight Enforcement Officer in person or by mail written notice within ten (10) days of the date thereof; and that such judgment shall attach without further notice; (3) that if a cited person does not request such a hearing, an assessment and judgement shall be entered against him; (4) that such judgment may issue without further notice; and (5) and that any unpaid fine, civil penalties, costs or fees shall constitute a lien upon the blighted premises as set forth in Subsection D of this section.

For purposes of this chapter, notice shall be presumed to have been properly sent if such notice was mailed to the such person's last known address on file with the Tax collector. If a person to whom such notice is issued is a registrant, as defined by C.G.S. §7-148hh(1) the Blight Enforcement Officer may deliver such notice in accordance with C.G.S. §7-148ii provided nothing in this subsection shall preclude the Blight Enforcement Officer from providing notice to a registrant in another manner permitted by applicable law.

- B. If a person who is sent a post citation notice pursuant to subsection (A) of this section wishes to admit liability for any alleged violation(s), he/she may, without requesting a hearing, in person or by mail, pay to the Town of Montville Building Department the full amount of the fines, civil penalties, costs or fees admitted to. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person(s) making the payment. Any person(s) who does not deliver or mail a written request for a hearing within ten (10) days of the date of the first post-citation notice provided for in subsection A of this section shall be deemed to have admitted liability, and the Blight Enforcement Officer shall certify such owner's failure to respond to a Hearing Officer. A Hearing Officer shall thereupon enter and assess the fines, penalties, costs and/or fees provided for by this chapter and shall follow the procedures set forth in subsection D of this section.
- C. Any person(s) issued a citation who requests a hearing shall receive written notice, via certified mail, regarding the 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 the 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 issued by the Blight Enforcement Officer shall be filed and retained by the Town, and shall be deemed a business record within the scope of §52-180 of the Connecticut General Statutes and evidence of the facts contained therein. This provision does not mean that other documents created and/or obtained by the Blight Enforcement Officer and/or other municipal officials might not also qualify as business records under said statute. The Blight Enforcement Officer shall be required to attend the hearing, upon request of any person who requested the hearing. A person wishing to contest liability shall appear at the hearing and may present evidence in his/her behalf. A designated Town official other than the Hearing Officer may present supporting evidence on behalf of the Town. If such person(s) fails to appear, the Hearing Officer may enter an assessment by default against him/her 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 person(s) is unnecessary. The Hearing Officer shall conduct all hearings in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding admissibility of evidence shall not be strictly applied; however, all testimony shall be given under oath or affirmation.

- D. The Hearing Officer shall announce a decision at the end of the hearing. If the hearing officer determines that such person(s) is not liable, he shall dismiss the matter and shall enter his determination in writing, accordingly. If the hearing officer determines that the person(s) is liable for the violation, the hearing officer shall forthwith enter and assess the fines, penalties, costs and/or fees against such owner and/or occupant as provided by this chapter.
1. However, if the person(s) demonstrates intent to rehabilitate or demolish the blighted premises, by the submission of documentation such as construction plans, permits, agreement of all parties with legal interests in the blighted premises, and the availability of funds to pay for such work, satisfactorily to address the allegations as cited, the Hearing Officer may stay the entry of the finding of liability and imposition of penalties and enter a determination, in writing, accordingly. Said stay shall expressly be conditioned upon the rehabilitation or demolition of the blighted premises within a period of time, to be set by the Hearing Officer, not to exceed three months from the date which the stay is granted. If the conditions of the stay have not been completely fulfilled within the time allotted by the hearing officer he shall enter and assess the fines, penalties, costs and/or fees provided by this chapter, commencing from the date of the notice of violation provided pursuant to Section 195-(4) of this chapter, and including the duration of the stay.
- E. 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 person(s) 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 in the amount prescribed by the State of Connecticut Judicial Department. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same person(s) 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 in the amount of the entry fee, against such owner(s) and/or occupant in favor of the Town of Montville. 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 person(s).
- F. A person(s) 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 30 days of the mailing of notice of 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 person(s) to a hearing in accordance with the rules of the judges of the Superior Court.

- G. In the event any owner, agent, tenant or person in control of real property 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 property to appeal from the issuance of said citation, or by such appeal being denied, the Town of Montville, acting through its designated enforcement officer issuing such notice of violation, 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 attorney may bring an action to recover all such costs and expenses incurred.
- 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 to take effect 30 days after its adoption.

Dated at Montville, Connecticut, this 11th day of September, 2018.

Katie Sandberg, Town Clerk