

**Town of Montville Town Council
Public Hearing Minutes for July 15, 2009
Ordinance Regarding Blighted Properties
6:30 PM – Town Council Chambers
Town Hall**

Chairwoman Buebendorf called the Public Hearing to order at 6:30 PM.

Remarks from the Public

Speaking in Favor of the Blighted Properties Ordinance: *Mr. Dana McFee, 192 Leffingwell Road; Mr. Leonard Frank, 736 Raymond Hill Road; Ms. Lisa Smith, 9 Forest Drive; Mr. Tom Gingerella, Montville Manor; Mr. Carl Butsky; Mr. Bob Manfredi, Jensen Hillcrest; Merrilee Beetham-Turley, 55 Riverview Road; Mr. Dennis Clark, 159 Gay Hill Road; Mr. Gary Pike, 38 Bergman Drive; Ms. Cindy Kozaczensky, 22 Dubois Road; Ms. Marjorie Gatheral, 37 Carol Drive; and Ms. Sandie Gregory, 59 Jerome Road.*

Speaking in Opposition of the Blighted Properties Ordinance: *Mr. Richard George, 974 Old Colchester Road; Mr. Ron Siter, Route 163; Mr. Ted Wisniewski, Route 32; Mr. Gary O'Burns, 20 Dock Road; Mr. Thomas Ecklid, 801 Old Colchester Road; Mr. Jim Stuhler, 63 Sarah Drive; Attorney Jon Chase, 1003 Route 163; Mr. Paul Chase, 1004 Route 163; and Mr. Dennis McNulty, 150 Maple Avenue.*

Chairwoman Buebendorf called the Public Hearing to an end at 7:13 PM.

Respectfully Submitted by:

Sandra Anderson, Minutes Clerk

TOWN OF MONTVILLE
NOTICE OF ORDINANCE HEARING

The following Ordinance, copies of which may be obtained at the office of the Town Clerk during office hours, was introduced at a regular meeting of the Town Council held June 8, 2009 and a public hearing thereon and for its consideration by the Town Council will be held at Town Hall Council Chambers, July 15, 2009 at 6:30 P.M.

AN ORDINANCE CONCERNING BLIGHTED PROPERTIES

§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) Missing, broken or boarded windows or doors;
 - (2) Collapsing or deteriorating exterior walls, roofs, stairs, porches, or chimneys;
 - (3) Exterior walls which contain holes, breaks, loose or rotting materials;
 - (4) Deteriorating foundation walls that contain open cracks and breaks;
 - (5) Crumbling or rotting exterior support pillars or beams;
 - (6) Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust or other decay;
 - (7) Exterior evidence of vermin infestation;
 - (8) Garbage, trash, abandoned vehicles, or abandoned appliances and/or abandoned equipment on the premises (unless the premises is a junkyard licensed by the state of Connecticut);
 - (9) In the case of fencing, broken or rotted boards, excessive rusting to the point of decay or being in an otherwise dilapidated condition;

(10) Displays evidence of graffiti or has been otherwise vandalized.

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 document 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.

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.

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. 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 and compile 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. The Town Council shall approve, disapprove or modify said list. In the event that the Town Council fails to take action on the list within seventy-five (75) days from the date of receipt, said list shall be deemed approved.
- D. The Mayor may request additions or deletions to the blighted premises list for consideration by the Town Council.
- E. 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 Mayor. Such complaint may be made anonymously, but 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 Mayor shall determine if the owner of the subject premises appears to be in violation, and shall request the addition of subject premises to the blighted premises list for consideration by the Town Council.

§195-5. Enforcement and hearings with owners of blighted premises.

- A. Once said list of blighted premises, or any additions thereto, has been approved by the Town Council, the Mayor shall undertake regular inspections 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 Mayor 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 Mayor 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 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 Mayor 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 the order and form with methods of proof 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 §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 §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 become effective thirty (30) days from the date of its adoption.

Dated at Montville Connecticut this 16th day of July 2009.

Lisa Terry, Town Clerk