

Chapter 236

NUISANCE ORDINANCE

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(HISTORY: Adopted by the Town of Windsor Locks _____ . Amendments noted where applicable)

ARTICLE I

Purpose and Applicability

§ 236-1. Purpose.

The purpose of this Chapter is to define, prohibit and establish procedures for abating nuisances, including blight, to protect, preserve, and promote public health, safety and welfare, and to preserve and protect property values.

§ 236-2. Applicability.

This Chapter shall apply uniformly to all residential, nonresidential, and undeveloped premises now in existence or hereafter constructed, maintained, or modified but shall exclude: property owned by the Town; agricultural lands as defined in Chapter 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; or areas designated as inland wetlands and watercourses.

ARTICLE II

Definitions, Prohibition, Enforcement

§ 236-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter.

PUBLIC NUISANCE – The active or passive creation or maintenance of any condition or the performance of any activity which unreasonably hinders the reasonable use and enjoyment of adjacent properties or other units within the same property or interferes with the use of a public or private sidewalk, street, or right-of-way. Public nuisances include but are not limited to blight.

BUILDING OFFICIAL – Shall mean the Building Official as designed in Connecticut General Statutes Chapter 29-260. Pursuant to the Section 609 of Charter of the Town of Windsor Locks the Building Official shall also be the Zoning Enforcement Officer.

BLIGHTED PREMISES – Any building, structure or parcel of land in which at least one of the following conditions exist:

- (a) It is *dilapidated* or becoming *dilapidated* as documented by the *Building Official*;
- (b) It is attracting illegal activity as documented by the Police Department;
- (c) It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department;
- (d) It is determined by the *Building Official* or the Health Department reports that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community;
- (e) There are abandoned, inoperable or unregistered motor vehicles on the premises (unless the premises is a junkyard legally licensed by the State of Connecticut);
- (f) There are conditions which unreasonably hinder the use of adjacent properties, block or interfere with the use of the public or private sidewalk, street, or right-of-way, obstruct the visibility of any road sign, obstruct a utility line or other cables to or around the premises, or extend or infringe beyond the boundaries of the premises;
- (g) It violates any state statutes or regulations; the Windsor Locks Charter, ordinances or regulations; or the conditions of any zoning or use permits granted by any state or municipal agency;
- (h) It is a factor that is seriously depreciating property values in the *neighborhood*;
- (i) It contains a *Property Maintenance Violation* as defined by this Section.

DILAPIDATED – Any building or structure or part thereof that would not qualify for a certificate of use and occupancy or which is deemed an unsafe structure, and any dwelling or unit which is designated as unfit for human habitation as defined in the State Basic Building Code.

BLIGHT OFFICER – Shall mean an individual appointed by the First Selectman to enforce the provisions of this Chapter.

NEIGHBORHOOD – Shall mean an area of the Town comprised of all properties or parcels of land, any part of which is within a radius of four hundred (400) feet of any part of another parcel or lot within the Town.

PROPERTY MAINTENANCE VIOLATION – Shall mean the violation of the following standards with respect to lots or parcels;

- (a) All premises shall be graded, drained, kept free of persistent standing water and maintained in a clean, safe and sanitary condition. Surface and sub-surface water shall be appropriately drained to prevent the development of stagnant ponds.
- (b) Shopping baskets, carts or wagons shall not be left unattended or standing, and the baskets, carts or wagons shall be collected as often as necessary and removed to an appropriate enclosure intended for such purpose or to the interior of the building or buildings which they were taken.
- (c) All fences shall be maintained. Such maintenance shall include, but not be limited to, repainting if needed and the replacement or repair of fences which are in substantial disrepair.
- (d) Grass, weeds or similar ground cover shall not reach a height of greater than twelve (12) inches on any premises. Front yards shall not be allowed to deteriorate into unattended, bare dirt patches resulting from vehicular use, persistent lawn parking, or a gross lack of lawn maintenance.
- (e) Any planting strip fronting the premise shall be maintained in a safe condition, mowed as necessary, and free of litter or noxious plants.
- (f) Steps, walks, driveways and other paved areas shall be repaired if they impede safe passage.
- (g) Yards, courts, lots, porches, patios and decks shall be kept clean and free of physical hazards, rodent harborage and infestation, and shall be maintained in a manner that will prevent accumulations of trash, garbage, litter, debris and rubbish. The owner of the property shall remove discarded or inoperative appliances, furnishings or machinery and shall not maintain upholstered furniture in outdoor locations.
- (h) All signs exposed to the public view shall be maintained in good repair. A non-operative or broken electrical or other sign shall be repaired or removed.
- (i) All clothing donation and collection bins may only be placed upon a property in accordance with the zoning regulations, shall be emptied at least weekly, and any and all items left outside the bins shall be removed within 24 hours of being placed there.
- (j) A condition that violates the Connecticut State Building Code shall be considered a property maintenance violation.

§ 236-4. Causing or Maintaining a Public Nuisance.

No person, firm, corporation, or other legal entity shall cause or allow any public nuisance as defined in this Chapter, to be created or the existence thereof continued on any real property located within the Town of Windsor Locks. Any exempt property, as defined in this Chapter, shall not be subject to the provision hereof.

§ 236-5. Enforcement.

- (a) General Provisions. The Board of Selectmen shall be responsible for supervising the abatement of public nuisances.
- (b) Enforcement Officer – Except for cases involving Blight, the Zoning Enforcement Officer shall enforce the provisions of this Chapter and any rules or regulations promulgated under this Chapter. The Zoning Enforcement Officer may initiate inspections and investigations.
- (c) Duties of Enforcement Officer. Except in cases of blight, the Zoning Enforcement Officer shall determine violations of this Chapter; may order the person or entity causing or maintaining the public nuisance to abate the nuisance; may issue citations and penalties for violations of this Chapter; may effectuate the removal or abatement of the nuisance under the procedures set forth in this Chapter; may issue informal communications; may issue written notice of violations; or may take any other step not prohibited herein calculated to effectuate the removal or abatement of a nuisance.

§ 236-6. Enforcement in Cases of Blight

- (a) General Provisions. The Board of Selectmen shall be responsible for supervising the enforcement of Blight violations.
- (b) Blight Officer. The Blight Officer shall enforce the provisions of this Chapter relating to Blight and any rules or regulations promulgated under this Chapter. The Blight Officer may initiate inspections and investigations. Complaints may be submitted to the Blight Officer by members of the public, but such complaints shall be in writing on forms provided by the Town or filed electronically.
- (c) Duties of Blight Officer. The Blight Officer shall determine violations of this Chapter that constitute Blight; may order the owner of the Blighted Property to abate such violations; may issue citations and penalties for violations of this Chapter; may effectuate the removal or abatement of the blight condition under the procedures set forth in this Chapter; may issue informal communications; may issue formal written notice of violations; or may take any other step not prohibited herein calculated to effectuate the removal or abatement of a blight condition.

ARTICLE III**Notice, Fines, Remedial Action**

§ 236-7 Notice of Violation. Any written notice to be served upon a person creating or maintaining a public nuisance including an owner of Blighted Property shall be by personal in-

hand service or by mailing such notice by regular mail to the owner's last known address on file with the tax collector. If the person to whom such notice is issued is the owner of residential property who is required to register such property pursuant to Section 7-148ii of the Connecticut General Statutes the municipality may deliver such notice in accordance with that section, provided nothing in this Chapter shall preclude a municipality from providing notice in any other manner permitted by applicable law. The failure of the owner to receive the Notice of Violation shall not affect the validity of the service.

The Notice of Violation shall:

- (a) Describe the conditions that violate this Chapter and direct the owner to remove, correct, or abate the violation within fourteen (14) calendar days from the date of the Notice;
- (b) Inform the owner that the failure to remove, correct, or abate the violation shall result in the issuance of a citation in accordance with this Ordinance and fines imposed of one-hundred dollars (\$100.00) a day for each day that the condition remains in violation of this chapter which can be enforceable subsequently as a lien on the violator's property, and which may also be converted into court judgments;
- (c) Inform the violator that the failure to remove, correct, or abate the violation may cause the removal or abatement of the violation at the expense of the violator; and
- (d) Inform the violator that the violator may schedule a resolution conference with the enforcing officer within fourteen (14) calendar days from the date of Notice of Violation.

§ 236-8 Imposition of Fine. If the owner fails to abate the violation within fourteen (14) calendar days after the Notice of Violation is served, the enforcing officer shall impose a penalty against the owner of one hundred dollars (\$100.00) for each day that an ongoing violation of the chapter continues or for each violation of this chapter. Each day that a continuing violation of this chapter is not removed, corrected or abated shall constitute a separate offense and the penalty shall begin to accrue on the fifteenth (15th) day after the date of the Notice of Violation and continue to be levied each day until the violation is corrected and the owner informs the enforcing officer in writing that the violation has been removed, corrected or abated.

Additionally, with regard to blighted properties, the following lien rights shall apply:

- (a) **Blight liens authorized.** The Blight Officer is hereby authorized, in accordance with the provisions of Chapter 7- 148aa of the Connecticut General Statutes and this article, to place a lien on any and all Blighted Property as security for any unpaid penalty or fine on behalf of the Town. 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 and may be enforced in the same manner as property tax liens, including enforcement by foreclosure.
- (b) **Waiver of Liens and Penalties.** Prior to the commencement of litigation regarding blighted properties, and subject to the review of the First Selectman, the Blight Officer may waive any penalties or release any liens in the event the Town acquires the property; or at the time of the owner's sale of the Blighted Property to a bona fide third party purchaser if, in his or her opinion, the buyer has the financial ability and the intention to immediately rehabilitate the Blighted Property; or hold all penalties and liens in abeyance until all rehabilitation is completed.
- (c) All funds collected in matters related to Blight shall be deposited into a continuing account

dedicated for the expenses of the municipality related to the enforcement and administration (i.e. legal fees, court costs, service of process, Blight Officer's salary, mailing, copying costs, etc.) of ordinances regulating blight and state and local health, housing and safety codes and regulations, and the remediation of blighted conditions, when authorized. The account shall be administered by the Board of Finance.

§ 236-9 Resolution Conferences

Within seven (7) days of the date of the Notice of Violation by the owner of a property, the owner may request a resolution conference with the enforcing officer. The purpose of the resolution conference is to determine whether the owner is willing and able to abate the nuisance.

Neither the request for, nor the scheduling of a resolution conference shall toll or prohibit the service of a civil citation upon the owner in accordance with Chapter 146-47(d) or the imposition of fines.

However, at the resolution conference, and except in cases involving a public health danger, the property owner may request an extension of time to complete remediation. The enforcing officer may grant this request in his or her sole discretion and so notify the owner of the extension in writing. If the owner completes remediation within the time granted by the enforcing officer, the officer shall waive all fines imposed.

§ 236-10 Remedial Action Authorized.

(a) Remediation by Town with Permission of Owner. A property owner may request that the Town of Windsor Locks, its employees, agents, or servants, including independent contractors hired by the Town of Windsor Locks, enter upon his or her property to abate a public nuisance. The First Selectman may grant or deny the request in his sole discretion.

If the First Selectman grants the request, then prior to the entry of the enforcing officer and/or other Town employees upon owner's property, the property owner must agree in writing to the date(s), time, location and nature of the remediation and release the Town of Windsor Locks, its employees, agents, and servants, including independent contractors hired by the Town of Windsor Locks, from liability for any injury or harm caused by the remediation or the entry onto the property.

(b) Remediation by Town for Public Health Danger. Upon the failure, neglect, or refusal of any owner to abate violations that are dangerous to the public health, safety, or welfare within fourteen (14) calendar days from the date of the Notice of Violation, the Town may cause such remediation by Town employees, agents or an independent contractor engaged by the Town.

(c) Remediation by Court Order. In all cases where an owner has failed to abate the nuisance within fourteen (14) calendar days from the date of the Notice of Violation, the Town may seek a court order allowing such remediation by Town employees, agents or an independent contractor engaged by the Town.

(d) Use of Funds for Remediation under this Chapter. Where an owner has given permission to the Town to abate violations, or where the Town undertakes remediation of violations that are dangerous to the public health, safety or welfare, or where the Town has received a court order, the First Selectman may assign Town employees to remedy the blighted condition(s) if staffing levels are sufficient to do so without causing disruption to other Town business. If the First Selectman does not so assign Town employees to remedy the blighted condition(s), then said First Selectman may consult with the Board of Finance regarding

whether funds for taking remedial action are available in the account described in Section 236-16(c). If adequate funds are available in said account, the First Selectman may use these funds to take, or cause to be taken, action to remedy the blighted condition. If adequate funds are not available in said account, the First Selectman may take, or cause to be taken, action to remedy the blighted condition if said First Selectman deems it appropriate to utilize funds from a different account. If funds for taking remedial action are so used, the owner will be responsible for reimbursing the Town for the cost of the remediation, as set forth below.

- (e) **Owner's Responsibility to Pay for Remediation/Penalty.** Upon completion of any remediation of blight violations by the Town, its employees, agents, servants, or independent contractors hired by the Town of Windsor Locks under this Chapter, the First Selectman or his/her designee shall determine the cost of the remediation and shall bill the owner therefore. The owner shall be responsible to pay a penalty to the Town in the amount of the cost of the remediation. Upon the failure of the owner to pay the Town the cost of the remediation within thirty (30) days from the date of such bill, the First Selectman or his/her designee shall cause to be recorded on the land records of the Town a sworn statement detailing the cost and expense incurred for the abatement work, the date the work was done, and the location of the property upon which the work was done. The recordation of the sworn statement shall constitute a lien on the property. The First Selectman, in his sole discretion, may grant the owner additional time, greater than thirty (30) days from the date of such bill, to pay the penalty.

ARTICLE IV

Citations; Citation Hearing; Appeal

§ 236-11 Citation. If the owner fails to remediate any violation of this chapter within fourteen (14) calendar days from the date of the Notice of Violation, the enforcing officer shall serve a written civil citation upon the person creating or maintaining a public nuisance or an owner of Blighted Property by personal, in-hand service or by mailing such citation to the violator's last known address on file with the tax collector. If the person to whom such notice is issued is the owner of residential property who is required to register such property pursuant to Section 7-148ii of the Connecticut General Statutes the municipality may deliver such notice in accordance with that section, provided nothing in this Chapter shall preclude a municipality from providing notice in any other manner permitted by applicable law. The failure of the owner to receive the Citation shall not affect the validity of the service.

The citation shall inform the owner:

- (a) Of the allegations against said person and the amount of the fines, penalties, costs or fees due.
- (b) That the fines, penalties, costs or fees will continue to accrue on a daily basis until the owner re mediates the blight violation and provides written notice to the enforcing officer that the blight violation is abated.
- (c) That said person may contest his or her liability before a Hearing Officer by delivering, in person or by first class mail, written notice to the enforcing officer within ten (10) days of the date of notice.
- (d) That if said person does not demand such a hearing, an assessment and judgment shall be entered against him.
- (e) That such judgment may issue without further notice.

- (f) That any unpaid fine imposed pursuant to the provisions of this section shall constitute a lien upon the property against which the penalty was imposed from the date of such penalty.

§ 236-12 Citation Hearings

- (a) Appointment of Hearing Officer. The First Selectman shall appoint a Hearing Officer, which Hearing Officer shall conduct citation hearings for violations of this Chapter.
- (b) Section IV - Notice of hearing; notice of violation retained.
- (1) Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of notice, provided that the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance.
 - (2) An original or certified copy of the initial notice of violation issued by the Zoning Enforcement Officer or Blight Officer shall be filed and retained by the municipality and shall be deemed to be a business record within the scope of Chapter 52-180 of the Connecticut General Statutes and evidence of the facts contained therein.
- (c) Admission of liability; failure to respond; fines assessed.
- (1) If any person cited pursuant to this article wishes to admit liability for any alleged violation, said person 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. Said payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.
 - (2) Any person cited pursuant to this article who does not deliver or mail written demand for a hearing in accordance with § 236-19(c) above shall be deemed to have admitted liability, and the Zoning Enforcement Officer or Blight Officer shall certify such person's failure to request a hearing.
 - (3) The Hearing Officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in § 236-20(c)(6) of this Article.
 - (4) If the person cited fails to appear, the Hearing Officer may enter an assessment by default against said individual upon a finding of proper notice and liability under the applicable ordinance or regulation. Before the time and date of the hearing, the Hearing Officer may accept from the cited individual copies of police reports, investigatory and citation reports and other official documents by mail and may determine thereby that the appearance of such person is unnecessary and find in favor of such person.
 - (5) The hearing procedure shall be taken under oath or affirmation. In considering an appeal, the standard of proof shall be by preponderance of the evidence. The Hearing Officer shall consider all facts and circumstances that said Hearing Officer deems to be relevant. All evidence and testimony must be presented at the time of said hearing; no other testimony or evidence shall be considered.
 - (6) The Hearing Officer shall issue a written decision within five days after the conclusion

of the hearing. If the Hearing Officer determines that the person is not liable, it shall dismiss the matter and enter its determination, in writing, accordingly. If the Hearing Officer determines that the person is liable for the violation, he shall forthwith enter, in writing, its determination and an assessment of the fines, penalties, costs or fees against such person as provided for in this article. 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 found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with an entry fee of eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment within such twelve-month (12) period, assessments against the same person 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, against such person 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 person.

- (7) A person 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 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 Chapter 52-259 of the Connecticut General Statutes, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

§ 236-13. Appeals

Any person notified in accordance with § 236-15 above may appeal said notice of violation(s) to the Housing Code Appeals Board, in writing, within ten (10) days of the date of said notice. If an appeal is taken as aforesaid, the first day of violation shall be seven (7) days after the decision of the Housing Code Appeals Board or on such later date as established by the Housing Code Appeals Board.

§ 236-14. 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.
- C. This chapter shall not affect violations of any other ordinances, code or regulation existing prior to the effective date of this code, and any such violations may be governed and continue to be punishable under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

§ 236-15. Responsibility for Compliance

§ 236-9

WINDSOR LOCKS CODE

§ 236-9

The owner, lessee, or occupant of premises subject to this ordinance, including the agents thereof, shall be jointly and severally obligated to comply with the provisions of this ordinance. Whenever the person, as herein defined, is a corporation or other legal entity, the officers thereof shall be jointly and severally responsible with that corporation or other legal entity.