ANTI BLIGHT ORDINANCE

Town of
ESSEX, CONNECTICUT

Draft August 6, 2013

BLIGHTED PREMISES

An Ordinance Regarding Prohibition and Abatement of Blighted Premises in Residentially Zoned Areas

Section 1. Purpose of this Ordinance is to Prevent or Eliminate Blighted Premises

It is hereby found and declared that there exist within the Town of Essex a number of blighted 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. The purpose of this ordinance is (1) to define, prohibit and abate blighted premises; (2) to protect, preserve and promote public health, safety and welfare; and (3) to preserve and protect property values within the Town. This ordinance is adopted pursuant to the authority granted by Connecticut General Statutes § 7-148 (c) (7) (H) (xv).

Section 2. Definitions

As used in this ordinance, the following terms shall have the meanings set forth below:

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 exist (the following list is illustrative, not exhaustive):

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

c. There exist thereon violations of the Connecticut Public Health Code as determined by the Acting Director of Health and/or his/her agent or designee.

d. It has been unoccupied for at least 30 days, is not being maintained and contributes to housing decay as is be evidenced by one or more of the following existing conditions or combination thereof as found and specified by the Anti-Blight Board (this following list is illustrative, not exhaustive):

(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 as a result of damage, dilapidation or decay;

(2) Any premises, in which a building or structure intended for human occupancy is located, upon which grass, weeds or similar vegetation is allowed to reach and remain at a height of ten (10) inches or greater for a period of ten (10) days or longer. This subsection specifically excludes flowers, fruits, vegetables and areas maintained in their natural wooded or field states from the height requirement so stated;

(3) Location thereon of dead, decayed, diseased or damaged trees constituting a hazard or danger to public property to persons lawfully therein;

(4) Stored thereon one or more pieces of non-operational mechanical equipment in the public view, including any unregistered and/or inoperable motor vehicles in the public view, pursuant to § 14-150a of the Connecticut General Statutes; or

(5) Location thereon of accumulated debris. This subsection specifically excludes compost piles or piles of grass and/or brush which (i) are not within the public view and (ii) do not otherwise constitute a public health or safety hazard;

(6) Location thereon of landscaping, including trees, shrubs, hedges, grass, 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;

(7) Location thereon of more than one (1) Abandoned and/or vacant building or structure devoid of water, sewer, utility function or services.

PERSON – Any man, woman, corporation, or other legal entity capable of owning or possessing real property.

PREMISES – any lot or part thereof or parcel or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure and includes any such building, accessory structure or other structure thereon, or any part thereof. The term “premises”, where the context requires, shall be deemed to include any buildings, dwellings, parcels, land or structures contained within the scope of this article.

STRUCTURE – Any building, dwelling, fence, swimming pool, garage or similarly constructed object.

Section 3. Prohibition against Creating or Maintaining Blighted Premises

No person owning or legally responsible for maintaining premises shall cause or allow blighted premises to be created, nor shall any such person allow the continued existence of blighted premises. Such creation or maintenance of blighted premises shall be considered a public nuisance and subject that person or persons to potential penalties and enforcement pursuant to this ordinance.

Section 4. Responsibility for Compliance

Any person owning premises subject to this ordinance or legally responsible for maintaining premises, 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.

Section 5. Establishment of Anti-Blight Board

A. Composition

Within thirty (30) days after the effective date of this Ordinance, the First Selectman shall appoint members to the Anti-Blight Board. Pursuant to Connecticut General Statutes Section 7-148ff, the Anti-Blight Board shall consist of three (3) members: (1) the Finance Director of the Town of Essex; (2) the Tax Assessor of the Town of Essex; and (3) the municipal code enforcement official of the Town of Essex. For the purposes of implementation of the statutory requirements, the Finance Director shall be the person determined by the Board of Selectmen to be performing that function in the Town of Essex and the municipal code enforcement official shall be the person determined by the Board of Selectmen qualified to be the person serve in that capacity, without conflict with other duties under this Ordinance..

B. Purpose

The Board shall receive complaints pursuant to this Ordinance, determine if a person responsible for compliance under § 4 is in violation of the Ordinance and shall be responsible for enforcement of the Ordinance pursuant to § 8 below.

Section 6. Violations

A. COMPLAINTS

Complaints may be submitted to the Board or its designee by the Building Official, the Fire Marshall, the Acting Director of Health or his/her designee, by any person charged with the interpretation and enforcement of the zoning regulations of the Town or any member of the public, but such complaints must be in writing and signed on forms provided by the Town.

B. NOTICE OF VIOLATION

Whenever the Board or its designee determines by majority vote that there has been a violation of any provision of this ordinance, the Board or designee shall give notice of such violation to the person or persons responsible therefor, as defined in § 4 above. A copy of the notice shall also be sent via regular mail to the person(s) making complaint under § 6 A. above.

Notice to the person(s) responsible shall be sufficient if sent by both regular and certified mail return receipt requested to the last known address for the person responsible and/or posted in a conspicuous place in or about the premises affected by the notice. Such notice shall be set forth in writing and shall contain the following:

(1) A description of the violation(s) of this ordinance;

(2) A date by which the violation(s) must be corrected in order to avoid penalty and enforcement pursuant to this ordinance. Such compliance date shall not be less than fifteen (15) days from date of the notice and may be extended upon request to the Anti-Blight Boardor its designee, but under no circumstances shall the compliance date be extended more than sixty (60) days from the original compliance date;

(3) A description of the remedial action which, if taken, would effect compliance with the provisions of this ordinance; and

(4) A statement that the penalties and enforcement provisions of this ordinance will take effect the day after the compliance date, if compliance is not effected.

Note: An Appeals process is required, but it need not be the Board of Selectmen. There was some comment at its earlier Public Hearing on a draft ordinance that making the Board of Selectmen be the Appeals Board would "politicize" the process.

I would suggest that there be a three member Anti-Blight Appeal Board appointed by the Board of Selectmen

Section 7. Appeals

Any person notified in accordance with § 6 or § 8 (2) may appeal the notice of violation(s) and/or right of entry to the Board of Selectmen within fifteen (15) days of the date of the notice. Such appeal shall be in writing and delivered to the First Selectman's office at the Essex Town hall, 29 West Avenue, Essex, CT 06426 during business hours.

If an appeal is taken within fifteen (15) days of the date of the notice, the enforcement provisions of this section, including imposition of any penalties, shall not take effect until seven (7) days after a decision on the appeal by the Board of Selectmen or on such later date as established by the Board of Selectmen in rendering its decision on the appeal.

The Town hereby specifically adopts the provisions of Connecticut General Statutes § 7-152c for the establishment of an appeal and citation hearing process for considering all appeals under this ordinance.

Section 8. Enforcement of Provisions; Penalties for Violation

A. ENFORCEMENT

(1) Issuance of Citations

The Board is authorized to issue a citation imposing fines for violation(s) of this ordinance.

(2) Legal Action

The Board is authorized to initiate legal proceedings in the superior court of the State of Connecticut for the immediate correction of the violation(s), collection of any penalties, and the recovery of all costs, including costs of remedial action(s), ordered by the Court and reasonable attorney's fees incurred by the Town to enforce this ordinance.

(3) Remediation

The Town may, but shall not be required to, take such remedial action to secure and/or improve the premises to protect public health and safety and/or property values of the surrounding neighborhood as permitted under Court order, other applicable law or this Ordinance.

(4) Remediation and Limited Right of Entry to Remediate

The Board may, but shall not be required to, remediate blighted properties, and entry for remediation purposes shall only be commenced after the provisions of § 6 have been followed without remedial action having been taken and the appeal period under § 7 having expired.

Remediation shall only be authorized by the Board if the estimated cost of such remediation is duly appropriated in the applicable fiscal year budget or by special appropriation.

If a right of entry is authorized by the Board it shall give notice of such authorization to the responsible person as defined in § 4 above. Notice to the person(s) responsible shall be sufficient if sent by both regular and certified mail return receipt requested to the last known address for the person responsible and/or posted in a conspicuous place in or about the premises affected by the notice. Such notice shall be set forth in writing and shall contain the following:

(i) A statement that the Board has authorized designated agents of the Town to enter the Premises during reasonable hours for the purpose of remediating the Blighted Premises.

(ii) A date by which the violation(s) must be corrected in order to avoid entry by the designated agents of the Town pursuant to this ordinance. Such compliance date shall not be less than fifteen (15) days from date of the notice.

(iii) A statement that the authorization may be appealed to the Board of Selectmen within fifteen (15) days from the date of the notice as provided for in § 4 above.

No agent or agents of the Town shall enter any dwelling house or structure for the purposes of remediating blighted conditions. Entry and remediation shall only be during weekday daylight hours.

The person or persons responsible, as defined in § 4 above, shall be liable for the costs of remedial actions taken pursuant to this section.

B. PENALTIES

(1) Each violation of this Ordinance shall be considered a separate offense.

(2) Each day any violation continues, shall constitute a separate offence.

(3) Each violation under this ordinance shall be punishable by a fine of $100 payable to the Town of Essex for each separate offense.

(4) Each willful violation of this Ordinance, after notice and reasonable opportunity to remediate the blighted premises, shall be punishable by a fine of $250 payable to the Town of Essex for each separate offense. The date set forth in the notice of violation by which the blight must be remediated shall constitute reasonable opportunity for this purpose.

C. LIENS

In accordance with the provisions of § 7-148aa of the General Statutes, any unpaid fines imposed by this ordinance under § 8 B above, 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 maybe enforced in the same manner as property tax liens.

D. SPECIAL ASSESSMENTS

No provision in this Ordinance has been made for Special Assessments for costs and expenses of remediation.

Section 9. Miscellaneous Standards

A. The provisions in this chapter shall not be construed to prevent the enforcement of the other statutes, codes, ordinances or regulations which prescribe standards other than are provided in this ordinance.

B. This ordinance is not intended to affect violations of any other ordinances, codes or regulations 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 as well as this ordinance.

C. In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safe 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 of the public and/or the property values in the Town of Essex shall prevail.