

AN ORDINANCE REGARDING PROPERTY MAINTENANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PLAINVILLE IN MEETING DULY ASSEMBLED, THAT PURSUANT TO THE CHARTER OF THE TOWN OF PLAINVILLE AND SECTION 7-148 OF THE CONNECTICUT GENERAL STATUTES, THE ORDINANCE ENTITLED "PARKING OF UNREGISTERED OR INOPERABLE VEHICLES OR OTHER UNSIGHTLY MATERIALS OR EQUIPMENT IN PLAINVILLE" IS REPEALED AND THE FOLLOWING ORDINANCE IS ADOPTED:

§ 1. Purpose

- A. This ordinance is intended to protect, preserve and promote public health, safety and welfare; to prevent and control the incidence of communicable disease; and to reduce environmental hazards to health, safety and welfare, insofar as they are affected by the maintenance of residential and non-residential structures, equipment and premises as provided by this ordinance. This ordinance is further intended to provide minimum standards governing the condition, occupancy and maintenance of occupied and unoccupied premises and establish reasonable safeguards for the health, safety and welfare of the occupants and users of said premises, the community and the general public. This ordinance is intended to maintain and preserve the beauty of the Town's neighborhoods and to allow for the remediation of blighted premises as well as the reasonable and peaceful enjoyment of one's real property pursuant to its zoning designation.
- B. This ordinance shall establish the minimum standards and responsibilities for the maintenance of all premises and delegates administrative responsibility and enforcement powers and creates enforcement procedures.
- C. This ordinance is adopted in accordance with the provisions of Connecticut General Statutes §7-148(c)(7)(H)(xv), § 7-148aa and 7-152c.
- D. This ordinance prohibits any owner, lessee or occupier, as defined herein, from allowing, creating, maintaining, or causing to be created or maintained a blighted premise within the Town.

§ 2. Scope

A. Applicability.

1. This ordinance shall apply uniformly throughout the Town to the maintenance, use and occupancy of all premises now in existence or hereafter constructed, maintained or modified and shall include:

- a. Dwellings or dwelling units, including one-family and two-family dwellings and buildings with multiple-unit dwellings;
- b. Lots, plots or parcels of land whether vacant or occupied;
- c. Buildings of non-dwelling use, including commercial properties and mixed use properties that may include one or more dwelling units;

- d. Accessory structures to any building;
- e. All apartments, boarding houses, group homes, lodging houses, rooming houses, tenement houses and unrelated family units.

2. Exclusions

- a. All State of Connecticut and Town of Plainville owned properties.

§ 3. Definitions

The following definitions apply to this ordinance:

Accessory structure shall mean a structure, the use of which is customarily incidental and subordinate to that of principal building, structure or use on the same lot.

Blighted property or property requiring maintenance under this ordinance shall mean:

- A. Any building or structure, or any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or fence, where the Town Manager and/or his/her designee determines that one or more of the following conditions exists:
 - 1. The existing conditions pose a serious threat to the health, safety and welfare of town citizenry;
 - 2. The building or structure, or any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or fence (the "Premise") is not being properly maintained, as evidenced by the existence, to a significant degree, of one or more of the following conditions:
 - a. Missing, broken or boarded windows or doors;
 - b. Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors;
 - c. Exterior walls which contain holes, breaks, loose or rotting materials or which are not properly surface coated to prevent deterioration;
 - d. Foundation walls which contain open cracks and breaks;
 - e. Tarps and other types of plastic coverings.
 - f. Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust or other decay;
 - g. Chimneys and similar appurtenances which are in a state of disrepair;
 - h. Insect screens which contain tears or ragged edges;
 - i. Garbage or trash improperly stored or accumulated on the premises, or abandoned vehicles on the premises (unless the premises are a junkyard licensed by the State of Connecticut);
 - j. Overgrown grass or weeds at least ten inches in height;
 - k. Vermin infestations;

l. In the case of a fence, broken or rotted boards or in an otherwise dilapidated condition; or

m. Any other exterior condition reflecting a level of maintenance which is not in keeping with community standards or which constitutes a blighting factor for adjacent property owners or occupiers or which is an element leading to the progressive deterioration of the neighborhood.

3. The Premise is attracting illegal activity as documented in Police Department records;

4. The Premise is a fire hazard as determined by the Fire Marshal or as documented in the Fire Department records; and/or

5. The Premise is a factor creating a substantial and unreasonable interference with the use and enjoyment of other premises within the surrounding area as documented by neighborhood complaints, police reports, the cancellation of insurance on proximate properties; or similar circumstances.

Citation Hearing Officer shall mean an individual(s) appointed by the Town Manager to conduct hearings authorized by this chapter.

Community standard shall mean the local norms regarding the condition, upkeep, and maintenance of property by an owner or occupier, as determined by the judgment of a similarly situated reasonable owner or occupier or member of the same neighborhood.

Connecticut General Statutes shall include any applicable amendments.

Inoperable shall mean inherently incapable of performing the function for which designed by virtue of parts missing, essential components broken or severely damaged, and/or incapable of being registered or fit for the intended use.

Legal occupancy shall mean occupancy in accordance with state building and fire ordinances, local zoning regulations, local housing ordinances and all other pertinent ordinances.

Motor Vehicle shall include automobiles, cars, trucks, camp trailers, boat trailers, mobile homes, motorcycles, or any other wheeled vehicle designed or used for highway use and required to be registered by the State Department of Motor Vehicles.

Neighborhood shall mean 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/occupier shall mean any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property within the Town.

Proximate property shall mean any premises or parcel of land within one thousand (1,000) feet of a blighted premise.

Solid waste means any solid, liquid, semisolid or contained gaseous material including but not limited to demolition debris, trash, refuse, and the like.

Unightly materials shall include parts of motor vehicles, (parts of other types of vehicles) or old iron, metal, glass, paper, cordage or other waste, discarded or second-hand material. “Unightly equipment” shall include used or second-hand household, construction, business or industrial equipment.

Vacant shall mean a period of 60 days or longer during which a building or structure or part thereof is not legally occupied by human beings.

Vacant parcel shall mean a parcel of land with no structure(s) thereon.

Visible blight shall mean any condition defined herein as blighted property that is visible from any public or private proximate land from any viewing angle on such land.

§ 4. Signs, Awnings and Marquees

A. Signs. All permanent signs and billboards exposed to public view permitted by reason of other ordinances or laws shall be maintained in good repair. Any signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked or whose supporting members have deteriorated shall be removed forthwith or put into a good state of repair by the owner of the sign.

B. Awnings and marquees. Any awning or marquee and its accompanying structural member which extends over any street, sidewalk or other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event that such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event that said awnings or marquees are made of cloth, plastic or of similar materials, said cloth or plastic where exposed to public view shall be maintained in good condition and shall not show evidence of excessive weathering, ripping, tearing or other holes. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

§ 5. Removal of Weeds and Similar Vegetation

A. Every owner /occupier of properties upon which a building exists, or who is in possession of a vacant lot in an approved subdivision which fronts on a paved public road and to which a public water and/or public sewer lateral has been provided, shall cut, to a height of not more than ten inches, all grass, weeds and similar vegetation not planted as a crop to be harvested or for ornamental purposes.

B. Every owner/occupier of property shall keep his/her property free from vegetation of any type which, in the opinion of the Town Manager or his/her designee, is injurious to public health.

C. Any violation of § 5A or 5B shall constitute a nuisance which may be abated by the Town at the expense of the owner, lessee or any other person in possession or any one or more of them to whom the Town Manager or his/her designee has given not less than 10 days written notice of intention to abate such nuisance. Such expense may be collected by the Town in a civil action against any one or more of the above-named persons responsible therefore.

§ 6. Solid Waste, Storage and Littering

A. Accumulation restricted. It shall be unlawful for an owner/occupier to allow solid waste to accumulate anywhere on premises in the Town in such a manner as to create an offensive, unsightly or unsanitary condition.

B. Storage requirements. Unless otherwise prohibited by the zoning regulations of the Town of Plainville, property use resulting in the stacking or piling of materials, including equipment, even if wanted and useful, must be so arranged as to prohibit the creation of a blighting factor to their neighbors. Furthermore, all useful, wanted material, including equipment, stored out of doors shall be stored in an orderly fashion and, to the extent reasonably feasible, shall be located in the rear yard.

§ 7. Unsightly Materials

A. No unsightly materials or equipment shall be stored or kept out of doors in any residential zone in the Town of Plainville for a period exceeding five days unless such materials or equipment is intended for bona fide construction for which a permit has been issued by the Building Department.

B. No unsightly materials or equipment shall be stored or kept in any Industrial or Commercial Zone in the Town of Plainville for a period exceeding five (5) days unless such materials or equipment are intended for bona fide construction for which a permit has been issued by the Building Department or screened from public view by means of natural or artificial screening.

§ 8. Inoperable Motor Vehicles

A. No unregistered or inoperable motor vehicles shall be stored, parked or kept out of doors in Plainville for a period exceeding five days.

EXCEPTIONS.

A. Licensed garages, service stations, new or used car lots, are outside the scope of this ordinance and such uses shall continue to be regulated by the provisions of the Plainville Zoning Regulations or by the Connecticut General Statutes.

B. This ordinance shall not apply to mobile homes which are operable, capable of being registered, and fit for occupancy.

C. This ordinance shall not apply to operable unregistered motor vehicles owned by persons serving in the Armed Forces of the United States outside the State of Connecticut. Such persons shall be required to submit evidence satisfactory to the Building Inspector to qualify for the exception.

D. In Industrial and Commercial Zones, this ordinance shall not apply to operable commercial vehicles/equipment that may be seasonably registered due to the nature of the business involved, to operable commercial vehicles that are not customarily registered because of the type of work for which they are used provided they are screened from public view by means of natural or artificial screening.

§ 9. Responsibility

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

§ 10. Complaints

A. Any individual, civic organization, municipal agency, or Town employee affected by the action or inaction of an owner/occupier of property subject to the provisions of this ordinance, may file a complaint of violation of this ordinance with the Town Manager or his/her designee.

B. The Town Manager or his/her designee, upon his or her determination whether there is a violation of this ordinance, may forward a notice of violation warning letter to the owner/occupier.

C. Such a notice of violation warning letter from the Town Manager or his/her designee shall be issued prior to issuing a citation and the notice of violation warning letter shall include:

1. A description of the real estate sufficient for identification;
2. A statement of the violation(s) alleged to exist and the remedial action(s) required; A due date, within a reasonable time, for the performance of any remedial action(s) required; and
3. The amount of the fines, penalties, costs or fees that may be imposed for noncompliance.

D. In addition, the Town Manager or his/her designee may send a copy of the notice of violation warning letter to each individual or entity with a recorded lien on the real property by first class mail addressed to the lienholder's last known address. However, lack of this notice to any lienholder shall not relieve the owner/occupier from remediating the violation(s) or from paying any fine(s).

E. The owner/occupier may not contest a notice of violation warning letter before a Citation Hearing Officer.

F. Delivery of a notice of violation warning letter or citation to the owner/occupier shall be by one or more of the following methods:

1. By personal delivery to the owner/occupier or by leaving the notice of violation warning letter or citation at the usual place of abode of the owner/occupier with a person of suitable age and discretion;
2. By certified, registered or regular mail addressed to the owner/occupier at his last known address, with postage prepared thereon; or
3. By posting and keeping posted for 24 hours a copy of the notice of violation warning letter or citation in placard form in a conspicuous place on the premises.

G. Notwithstanding the foregoing, the Town Manager or his/her designee may elect to first provide informal verbal notice to the owner or owner's agent and the occupant of the property in an attempt to resolve this matter prior to formal written notice being sent.

§ 11. Enforcement

A. If the remedial action(s) specified in the notice of violation warning letter are not timely performed, the Town Manager or his/her designee shall issue a written citation to the owner/occupier.

B. A citation shall be in writing and include:

1. A description of the real estate sufficient for identification;
2. The violation(s) which is alleged to exist and the remedial action required;

3. Detailed information regarding the contents of the notice of violation warning letter (which may be satisfied by enclosing a copy of such issued notice of violation warning letter) and the failure of the owner/occupier to timely perform the corrective actions specified therein;
4. The amount of the fines, penalties, costs or fees due for noncompliance;
5. A statement that the owner/occupier may contest his liability and request a hearing before the Citation Hearing Officer by delivering in person or by mail written notice of objection within ten days of the date of receipt of the citation; and
6. The statement that if the owner/occupier does not timely demand such a hearing, an assessment and judgment shall be entered against him without any further notice.

C. Delivery of the citation shall be accomplished in accordance with §10(F).

D. In addition, the Town Manager or his/her designee may send a copy of such citation to each individual or entity with a recorded lien on the real property by first class mail addressed to the lien holder's last known address. However, lack of this notice to any lien holder shall not relieve the owner/occupier from remediating the violation(s) or from paying any fine(s).

§ 12. Hearing

A. An owner/occupier may request a hearing after receiving a citation. Said owner/occupier must make his/her request for a hearing to the Town Manager or his designee within ten (10) days of his/her receipt of the citation.

B. The Citation Hearing Officer is designated to conduct hearings in accordance with Conn. Gen. Stat. Sec. 7-152c when timely requested by an owner/occupier who has been cited under this chapter.

C. If the person who is sent notice pursuant to §10 of this ordinance wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the assessed fines, penalties, costs or fees in person or by mail to the Town Manager. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of receipt of the citation shall be deemed to have admitted liability, and the Town Manager shall certify such person's failure to respond to the Citation Hearing Officer. The Citation Hearing Officer shall thereupon enter and affirm the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in Conn. Gen. Stat. Sec. 7-152c (f).

D. 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 days nor more than thirty days from the date of the mailing of notice, provided the Citation Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the town manager or his/her designee shall be filed and retained by the town, and shall be deemed to be a business record within the scope of Conn. Gen. Stat. Sec. 52-180 and evidence of the facts contained therein. The presence of the town manager and/or his/her designee shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated town official, other than the Citation Hearing Officer, may present evidence on behalf of the town. If such person fails to appear, the Citation Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable

statutes or ordinances. The Citation Hearing Officer may accept from such person 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. The Citation Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Citation Hearing Officer shall announce his/her decision at the end of the hearing. If the Citation Hearing Officer determines that the person is not liable, the Citation Hearing Officer shall dismiss the matter and enter his/her determination in writing accordingly. If the Citation Hearing Officer determines that the person is liable for the violation, the Citation Hearing Officer shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the Town.

E. Pending the hearing before the Citation Hearing Officer, no further enforcement activity as contemplated by § 14 shall occur until either a hearing is held and the Citation Hearing Officer assesses fines, penalties, costs and/or fees or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Officer assesses fines, penalties, costs and/or fees. This section shall not preclude the accrual of fines during the period from the issuance of the citation until a hearing is held.

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 chapter.

§ 13. Appointment of Citation Hearing Officers

The Town Manager shall appoint and the Town Council shall confirm, the number of Citation Hearing Officers he/she deems necessary. Each Citation Hearing Officer must be a Plainville resident.

§14 Penalties - - Lien

- A. The owner/occupier of premises where a violation of any of the provisions of this ordinance shall exist or who shall maintain any building or premises in which such violations exist may:
 - 1. Be fined not more than \$100 for each violation. Each day that a violation exists after a citation as described in §11 is given to the owner/occupier shall constitute a new violation and a fine may be imposed for each such violation;
 - 2. Be required to abate the violation at the owner/occupier's expense; and/or
 - 3. Be subject to the Town's remediation of the condition(s) and assessing the costs of said remediation against the subject property by levying a lien on the subject real estate.

- B. A lien on real estate may be recorded by the Town Manager or his/her designee where the fine for violation of the blighted premises provisions of this ordinance remains unpaid, and such recorded lien 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 may be enforced in the same manner as property tax liens, including foreclosure of the real property.

- C. Where the Town Manager determines that a blighted condition exists, or any other violation of this ordinance, which finding has become final through the failure of the owner/occupier to timely

seek a hearing to contest liability before a Hearing Officer or due to the determination of the owner/occupier's liability by a Hearing Officer, the Town Manager or his/her designee, may order the remediation of the condition and assess the costs against the subject real estate in the form of a lien which shall be recorded in the land records in the same manner as provided in §14B above and/or Connecticut General Statutes §12-169b.

D. In addition to all other remedies and any fines imposed herein, the provisions of this ordinance may be enforced by injunctive proceedings in the superior court. The Town may recover from such owner/occupier or other responsible person any and all costs, fees, losses or damages including reasonable attorneys' fees, expended by the Town in enforcing the provisions of this ordinance.

§15. Appeals - - Special Consideration

A. Any person aggrieved by any order, requirement or decision of the Citation Hearing Officer may take an appeal in accordance with Conn. Gen. Stat. § 7-152c(g).

B. Notwithstanding anything herein to the contrary, special consideration may be given to individuals who are elderly or disabled and who demonstrate that the violation results from an inability to maintain an owner-occupied residence and no person with that ability resides therein. Such special consideration shall be limited to the reduction or elimination of fines and/or an agreement that the Town or its agents may perform the necessary work and place a lien against the premises for the cost thereof in accordance with the provisions of this ordinance.

§16. Severability

In the event that any part or portion of this ordinance is declared invalid for any reason, all the other provisions of this ordinance shall remain in full force and effect.

§17. Terms and Provisions

A. Where terms are not specifically defined in this chapter, they shall have their ordinarily accepted meaning or such meaning as the context may imply.

B. The provisions of this ordinance shall not be construed to prevent the enforcement of other ordinances, ordinances or regulations of the Town of Plainville.

C. In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other provision of the Charter and Municipal Ordinance of the Town of Plainville or the State of Connecticut, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town of Plainville shall prevail.

§ 18. Effective Date

The effective date of this ordinance shall be 30 days after the legal Notice of Adoption has been published.

Adopted by the Town Council June 1, 2015
Published June 11, 2015