

TOWN OF PROSPECT, CONNECTICUT -- BLIGHT ORDINANCE

BE IT ORDAINED, by the Prospect Town Council, in a meeting duly assembled on February 17, 2015, that the following ordinance is adopted:

BLIGHT ORDINANCE

ORDINANCE #83-02-17-15

of the Code of Ordinances, Town of Prospect, Connecticut is hereby as follows:

Sec. 1. Purpose. The purpose of this ordinance is to define, prohibit and abate blights and nuisances and to protect, preserve, promote public health, safety and welfare, and to preserve and protect property values.

Sec. 2. Scope of provisions.

This ordinance shall apply uniformly to the maintenance of all residential, nonresidential, and undeveloped premises now in existence or hereafter constructed, maintained, or modified.

Sec. 3. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

Abandoned Premises: Buildings, structures and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known or registered address, which persistently or repeatedly become unprotected or unsecured; which have been occupied by unauthorized persons or for illegal purposes; or which present a danger of structural collapse or fire that may spread to adjacent properties.

Abandoned vehicles: More than two (2) unregistered, inoperable cars, trucks, aircrafts, campers, motorcycles or mopeds, recreational vehicles (e.g., golf carts, snowmobiles, water sleds, all-terrain vehicles, etc.) boats or other watercrafts, tractors, carts, trailers, riding mowers, or farming or construction equipment whether self-propelled or towed stored on the exterior of the premises, unless such exterior storage is permitted under the terms of a permit or approval issued by a local or state commission or agency. It shall be a defense that the vehicle is not abandoned if it is currently registered with a state or federal licensing agency such as a department of motor vehicles, or other agency that licenses the particular type of vehicle. Inoperable shall mean that the vehicle is no longer being used for its intended purpose evidenced by two (2) or more of the following conditions:

- (1) Engine no longer starts or is missing;
- (2) Flat tires or missing tires, wheels, or other parts necessary for locomotion;
- (3) Missing doors or windows;
- (4) Close proximity of grass or other vegetation or debris, indicating immobility;

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(5) Holes, rust, or other evidence of obvious physical decay or neglect, lack of maintenance or excessive use; or

(6) Use for another purpose (e.g. storage).

Accumulating Refuse: Waste, garbage, trash, litter, junk or rubbish that accumulates on any private premises, business, lot, or abandoned property, and that is not completely contained within trash or refuse storage bins, racks or enclosures, or other containers as approved by the Town for such use, all or part of which has remained in such location for at least 60 days.

Anti-Blight Commission: A five (5) member Board, appointed by the Prospect Town Council, empowered to identify, receive and investigate complaints and enforce procedures of this ordinance.

Capable individual: A person that can be reasonably expected to perform maintenance and yard work around a property or premises. This shall include children above sixteen (16) years of age without physical or mental disability as defined herein.

Connecticut General Statutes: Laws of the State of Connecticut, including any applicable amendments.

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; plastics, glass, papers; equipment such as automobiles, boats, and recreation vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair; parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, or garbage which is in public view.

Disabled individual: In the case of an owner-occupied residence, an individual who has a disability meeting the definitions for the mental or physical disability as defined under the Americans with Disabilities Act of 1990, and does not have other household members capable of providing the necessary maintenance.

Dilapidated: In a physically deteriorating condition which, if left unabated, would cause an unsafe or unsanitary condition or a nuisance to the general public.

Disrepair: In poor working order, dilapidated, decrepit or in an imminent state of collapse.

Infestation: The presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.

Owner/Occupant: Any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property within the Town.

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Persistent: Existing or remaining in the same state for a period of least 60 days.

Person: Any individual, civic organization, municipal agency, town employee, corporation, partnership, limited liability company, limited liability partnership, association, trust or unincorporated organization.

Premises: A tract of land including its buildings or structures either occupied or unoccupied.

Public view: Visible from any public right-of-way or neighboring property, at grade level.

Reasonable: Exercising the degree of caution and concern an ordinarily prudent and rational person would use in similar circumstances.

Rubbish, Garbage, Refuse: Solid waste consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, leaves, wood, plastics, glass, bedding, crockery, unused and scrap building materials, and similar materials.

Sanitary Conditions: Free from filth and pathogens.

Structure: Anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground.

Vacant: Buildings, structures, premises or portions thereof, including tenant spaces, which have been unoccupied for a period of ninety (90) days or longer.

Vacant Parcel: A parcel of land with no structure thereon.

Sec. 4. Blighted Premises. No owner/occupant of real property within the Town of Prospect shall cause or allow blighted premises to be created, nor shall any owner/occupant allow the continued existence of blighted premises.

A blighted premises is identified as any building or structure, any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or a fence, in which at least one of the following conditions exists:

1. It has been determined by the Town Building Official, Chesprocott Health District, Town Engineer, Zoning Enforcement Officer, or other appropriate official as designated by the Mayor acting within the scope of his or her authority, that a condition exists that poses a serious or immediate threat to the health, safety or general welfare of the occupants or other persons in the Town; or
2. The Fire Marshal has determined that a building or structure is a fire hazard; or
3. The property is in a state of disrepair or is dilapidated; or

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4. The property is attracting illegal activity due to its state of disrepair or dilapidation; or
5. Persistent occurrences of any of the following: violations of building, fire, zoning, housing or health codes; or
6. The property is not being adequately maintained. The following factors shall be considered in determining whether it is not being adequately maintained:
 - (a) Missing, broken or boarded up windows, doors or the existence of graffiti; or
 - (b) Collapsing or missing walls and/or roof; or
 - (c) Seriously damaged or missing siding; or
 - (d) Unrepaired water or fire damage; or
 - (e) Rodent harborage and/or infestation; or
 - (f) Persistent debris, rubbish, garbage or accumulating refuse on the property; or
 - (g) More than two (2) abandoned or unregistered vehicles as defined in Section 3; or
 - (h) Overgrown brush, shrubs, weeds and /or grass as prohibited by Section 5.

Sec. 5. Mowing, removal of weeds and similar vegetation; control of vegetation.

For the period from May 1st and continuing through the end of October of each year, it shall be unlawful for any owner/occupant of property upon which a structure exists, or who is in possession of a vacant lot in an approved subdivision which fronts on a paved public road to allow grass to grow more than one (1) foot in height, unless such grass is harvested as hay or is maintained at such height for ornamental purposes, within six (6) feet of the street line of any paved public highway and within six (6) feet of any side yard property line adjoining a property on which a building or dwelling exists, or to allow any weeds of similar growth in such locations to grow more than one (1) foot in height. Every owner/occupant of property shall keep his property free from vegetation of any type, which, in the opinion of the Chesprocott Health District and/or a designated public official, is overgrown or injurious to public health or safety.

Sec. 6. Establishment of Anti-Blight Commission.

This ordinance provides for the establishment of an Anti-Blight Commission consisting of five members appointed by the Prospect Town Council. The Anti-Blight Commission will meet regularly and/or as needed to identify potentially blighted properties, and receive, review, evaluate and address complaints of blight. The Anti-Blight Commission will have the power to issue Warning Notices and Citations and, with the approval of the Town Council, to authorize the remediation of blighted conditions, according to the processes set forth in this ordinance.

Sec. 7. Complaints, Warning Notice.

(a) Any person may file a written complaint of violation of this ordinance with the Anti-Blight Commission for review. If it appears to the Anti-Blight Commission that a violation of this ordinance exists, the Anti-Blight Commission shall forward a Warning Notice to the owner/occupant and a copy of such notice to each individual or entity with a recorded lien on the real property at the time such determination has been made.

(b) Such a Warning Notice from the Anti-Blight Commission shall be issued prior to issuing a Citation.

(c) Such Warning Notice shall:

(1) Provide a description of the real estate sufficient for identification, and specify the violation that is alleged to exist and the remedial action required;

(2) Provide a period of not more than thirty (30) days for the performance of any act required; however, the Anti-Blight Commission may allow for a longer period for abatement depending on the nature of the violation. Requests for extension of the time period established for abatement shall be submitted in writing to the Anti-Blight Commission. Approval of an extension request shall require a majority vote of the Anti-Blight Commission;

(3) State that if the required remedial actions are not completed within the time frame in (2) above, the amount of civil penalties that may be imposed for noncompliance shall apply to each violation in the amount of twenty five dollars (\$25.00) per day for days 1-30, then increase to fifty dollars (\$50.00) for days 31-60, then increase to one hundred (\$100.00) dollars per day for each day that the violation continues beyond sixty days from the date of the notice;

(4) State that if the required remedial actions are not completed within the time frame in (2) above, the Town may remediate the property and assess the costs against the property owner in accordance with Sections 16 and 18 of this ordinance;

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(5) State that in the process of remediation, the Town may remove and dispose of items constituting and/or contributing to the blighted condition of the property; and

(6) Advise that the owner/occupant may respond to a Warning Notice in writing or in person at the next Anti-Blight Commission meeting to express concerns or provide information regarding special considerations, as described in Section 19 of this ordinance.

(d) Delivery of a Warning Notice to the owner/occupant and the copy to any lien holders shall be by the following methods:

(1) By personal delivery to the owner/occupant; or

(2) By certified mail, return receipt requested, addressed to the owner/occupant at his/her/its last known address with postage prepaid thereon. Should a Warning Notice served via certified mail be refused, it may be resent by regular United States first class mail.

(3) By first class mail to any lien holder addressed to such lien holder's current or last-known address; however, the failure to send a copy of the notice to any lien holder shall not relieve the owner/occupant from remediating the violation(s) or from paying any civil penalties.

Sec. 8. Enforcement by Citation.

(a) If the corrective actions specified in the Warning Notice are not taken within thirty (30) days of the date that the Warning Notice is personally delivered or mailed unless the Anti-Blight Commission receives information sufficient to determine that no violation exists or that the violation has been corrected, the Anti-Blight Commission shall issue a written Citation to the owner/occupant, with a copy to any lien holder; however, the failure to send a copy to any lien holder shall not relieve the owner/occupant from remediating the violation(s) or from paying any civil penalties.

(b) A Citation shall be in writing and include:

(1) A description of the real estate sufficient for identification, specifying the violation that is alleged to exist and the remedial action required;

(2) Detailed information regarding the contents of the initial Warning Notice (which may be in the form of a copy of such Warning Notice) and the failure of the owner/occupant to take the corrective actions specified therein within the time prescribed in the Warning Notice;

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(3) The amount of the civil penalties due for noncompliance and a statement that the owner/occupant has ten 10 days from receipt of the Citation within which to make uncontested payment;

(4) Notice that it is the owner/occupant's obligation to inform the Anti-Blight Commission in writing that the violation has been brought into compliance;

(5) A statement that the owner/occupant may contest his/her/its liability and request a hearing before a Citation Hearing Officer in accordance with Section 10 of this ordinance; and

(6) A statement that if the owner/occupant does not pay the civil penalties or request a hearing, an assessment and judgment shall be entered against such owner/occupant.

(c) The Citation shall be delivered to the owner/occupant, and a copy to any lien holder, in the same manner as set forth in Section 7 (d) above.

Sec. 9. Uncontested Payment Period

Uncontested payment to the Town of Prospect of the civil penalties specified in the Citation shall be allowed for a period of ten (10) calendar days from receipt of the Citation. If the Citation was sent by regular mail as set forth in Section 7 (d)(2) above, the day of receipt of the Citation shall be deemed to be four (4) days after the date of its mailing.

Sec. 10. Notice of Violation and Hearing

(a) If uncontested payment of the civil penalties specified in the Citation is not made within the ten (10) day period set forth in Section 9 above, at any time within twelve (12) months from the expiration of the 10-day period, the Anti-Blight Commission shall send notice to the person(s) cited, informing such person:

(1) Of the allegations against such person and the amount of the civil penalties, costs, or fees due;

(2) That the cited person may contest his/her/its liability before a Citation Hearing Officer by delivering, in person or by mail, within ten (10) days of the date of the notice (the date of delivery if hand delivered or the date of mailing if mailed), a written request for a hearing;

(3) That filing a request for a hearing shall cause the daily accrual of civil

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penalties to cease from the date such filing is hand-delivered or mailed to the Anti-Blight Commission until the date the hearing officer renders a decision unless, during such period, the violation of this ordinance is expanded or increased;

(4) That if the cited person does not request such a hearing, an assessment and judgment shall be entered against such person; and

(5) That such judgment may issue without further notice.

(b) The notice shall be delivered to the owner/occupant, and a copy to any lien holder, in the same manner as set forth in Section 7 (d) above.

Sec. 11. Admission of Liability and Payment of Civil Penalty

Any cited person who wishes to admit liability without requesting a hearing may pay the full amount of the civil penalties admitted to in person or by mail to the Town of Prospect. 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 postmark written request for a hearing within ten (10) days of the date of the notice described in Section 10 above (the date of delivery if hand delivered or the date of mailing if mailed) shall be deemed to have admitted liability, and the Anti-Blight Commission or its designee shall certify such person's failure to respond to the Citation Hearing Officer. The Citation Hearing Officer shall thereupon enter and assess the civil penalties provided for by this ordinance and shall follow the procedures set forth in Section 14 of this ordinance.

Sec. 12. Hearing.

(a) An owner/occupant may request a hearing after receiving a Citation or within ten (10) days of the date of the notice described in Section 10 above. Said request shall be made in writing to the following: Town of Prospect Anti-Blight Commission, 36 Center St., Prospect, CT., 06712.

(b) Any person who requests a hearing shall be given written notice of the date, time and place for a hearing to be held not less than fifteen (15) days nor more than thirty (30) calendar days from the date of the original request. The Citation Hearing Officer shall grant, upon good cause shown, any reasonable request by any interested party for a postponement or continuance. An original or certified copy of the Citation shall be filed and retained by the Anti-Blight Commission and shall be deemed to be a business record within the scope of Connecticut General Statutes, Section 52-180 and evidence of the

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facts contained therein. Upon request of the person appealing the Citation, the presence of a member of the Anti-Blight Commission shall be required at the hearing. A person wishing to contest his/her/its liability shall appear at the hearing and may present evidence in his/her/its behalf and may appear with an attorney. A designated municipal official, other than the Citation Hearing Officer, may present evidence on behalf of the municipality. If the person who received the Citation fails to appear, the Citation Hearing Officer may enter an assessment by default against him/her/it or her upon a finding of proper notice and liability under the applicable provision(s) of this ordinance. The Citation Hearing Officer may accept written information by mail from the person who received the Citation 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/she 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.

(c) Pending the hearing before a Citation Hearing Officer, no further enforcement activity as contemplated by Sections 16 and 18 shall occur until either a hearing is held or the Citation Hearing Officer assesses civil penalties or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Officer assesses civil penalties.

Sec. 13. Decision.

The Citation Hearing Officer shall announce the decision at the end of the hearing. If the Citation Hearing Officer determines that the person who received the citation is not liable, the Citation Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Citation Hearing Officer determines that the person is liable for the violation, he shall forthwith enter and assess the civil penalties against such person as provided by this ordinance, which penalties shall be immediately due and payable. The amount thereof shall be stated by the Citation Hearing Officer in his/her decision.

Sec. 14. Pursuit of Assessment and Judgment

If such assessment is not paid on the date of its entry, the Citation 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 (30) days nor more than twelve (12) 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 the required entry fee. 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 may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and requisite court costs, against such person in favor of the municipality. Notwithstanding any provision of the Connecticut General

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Statutes, the Citation 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.

Sec. 15. Appeal of Assessment

A person against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (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 Connecticut General Statutes, Section 52-259, 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.

Sec. 16. Enforcement by Town Remediation

When an owner/occupant has been found liable for a violation of this ordinance through his/her/its failure to timely seek a hearing to contest liability before a Citation Hearing Officer or due to the determination of the owner/occupant's liability by the Citation Hearing Officer, the Anti-Blight Commission, subject to the approval of the Town Council, may authorize a remediation company or the Public Works Department to enter the property during reasonable hours for the purpose of remediating the blighted conditions. In performing such remediation, however, the Town and/or its designated agents may not enter any dwelling, house or structure on such property without the written permission of the owner and any occupants.

Sec. 17. Appointment of Citation Hearing Officers.

The Mayor shall appoint three Town of Prospect residents to serve as Citation Hearing Officers. Although the Mayor may ask the Town Council to recommend candidates, the Mayor shall not be required to select from among the recommended candidates. Such officers shall serve staggered terms of three (3) years each. No member of the Anti-Blight Commission, zoning enforcement officer, police officer, building inspector or employee of the Town may be appointed as a Citation Hearing Officer under this ordinance.

Sec. 18. Penalties for offenses; lien.

(a) The owner/occupant 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:

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(1) Be assessed civil penalties of not more than one hundred dollars (\$100.00) for each day that a violation continues after a Warning Notice described in Section 7 is given to the owner/occupant; and/or

(2) Be required to abate the violation at the owner/occupant's expense; and or

(3) Be subject to the Town's remediation of the blighted condition(s) and assessing the costs of said remediation against the subject property by levying a lien on the subject real estate.

(b) Any unpaid civil penalty imposed pursuant to this ordinance, shall constitute a lien upon the real estate against which the civil penalty was imposed from the date of such civil penalty. 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 and encumbrances filed after July 1, 1997, except for taxes. Each such lien may be enforced in the same manner as property tax liens, including foreclosure of the real property.

(c) If the Town remediates blighted conditions on property pursuant to Section 16 above, the costs of such remediation may be assessed against the property in the form of a lien which shall take precedence over any other encumbrance except municipal tax assessments on such property. The Town shall, not later than thirty (30) days after the date on which such work has ceased, file a certificate of such lien and give notice to the owner of the property in the same manner as provided in Section 49-34 of the Connecticut General Statutes. Simultaneous with the filing, the Town shall make reasonable efforts to mail a copy of the certificate by first class mail to any recorded lien holder's current or last-known address.

(d) In addition to all other remedies and any civil penalties imposed herein, the provisions of this ordinance may be enforced by injunctive proceedings in Superior Court. The Town may recover from such owner/occupant or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the Town in enforcing the provisions of this ordinance.

Sec. 19. Special consideration.

(a) Notwithstanding anything herein to the contrary, in evaluating whether to issue a Warning Notice, Citation, or Notice of Violation and Hearing, the Anti-Blight Commission may give special consideration to individuals who are elderly, disabled, hospitalized, or on active military duty and who demonstrate that the violation results from an inability to maintain an owner-occupied residence and no person with that ability resides therein.

(b) Such special consideration shall be limited to the reduction or elimination of civil penalties and/or an agreement that the Town or its agents may perform the necessary

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work and place a lien against the premises for the cost thereof in accordance with the provisions of this ordinance.

Sec. 20. Severability.

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

Sec. 21. Construal of terms and provisions.

(a) Where terms are specifically defined or the meanings of such terms are clearly indicated by their context, that meaning is to be used in the interpretation of this ordinance.

(b) Where terms are not specifically defined and such terms are defined in the Charter and Town Ordinances, such terms shall have the same meaning for the interpretation and enforcement of this ordinance.

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

(d) The provisions of this ordinance shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Town.

(e) 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 Town Charter and/or Town Ordinances or the laws of 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 Prospect shall prevail.

Adopted February 17, 2015

**Thomas Galvin, Chairman
Prospect Town Council**

Received for record: February 19, 2015

Adopted Date: February 17, 2015

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Maryann C. Anderson, Town Clerk