

BOROUGH OF NAUGATUCK

BE IT ORDAINED, by the Board of Mayor and Burgesses, in a meeting duly assembled on October 5, 2010, that the following ordinance is adopted:

ORDINANCE #122

Chapter 10, Article V, Blight and Nuisances, §§ 10-65 – 10-82 of the Code of Ordinances, Borough of Naugatuck, Connecticut is hereby as follows:

Sec. 10-65. 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. 10-66. 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 but shall exclude agricultural lands, land dedicated as public or semipublic open space or preserved in its natural state through conservation easements, or areas designated as inland wetlands and watercourses.

Sec. 10-67. Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

Abandoned vehicle: Any unregistered, inoperable car, truck, aircraft, camper, motorcycle or moped, recreational vehicle (e.g. golf cart, snowmobile, water sled, all-terrain vehicle, etc.) boat or other watercraft, tractor, cart, trailer, riding mower, or farming or construction equipment whether self-propelled or towed. 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) Missing or flat tires or wheels, or other missing parts necessary for locomotion;
- (3) Missing doors or windows;
- (4) Close proximity of grass or other vegetation or debris, indicating immobility;
- (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).

*State law reference C.G.S. §7-152 c(f)

Accumulating refuse: Refuse that accumulates on any private premises, businesses, lots, or abandoned property, and is not completely contained within trash or refuse storage bins, racks or enclosures, or other containers as approved by the Borough for such use.

Blight Enforcement Officer: The Blight Enforcement Officer shall be an individual or individuals appointed by the Mayor to enforce all provisions of this ordinance. The Blight Enforcement Officer is hereby authorized to take such enforcement actions as are specified in 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, junk comprised of 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.

Junk: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed or other use of disposition. Examples of which include tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, crush, wood and lumber. More than two (2) unregistered or inoperable vehicles constitute junk

Junkyard: The storage or parking of two (2) or more unregistered or inoperable motor vehicles.

Garbage: (Also see Refuse, Rubbish). Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food or the keeping of pets or other animals.

Legal occupancy: Occupancy that is legal by virtue of compliance with state building, state fire safety, local zoning, local housing, and all other pertinent codes, which, in the case of rental property, must be substantiated by a rental agreement, a rent receipt or a utility statement.

Mechanical equipment: Any apparatus designed to operate by an internal combustion engine, or designed to be towed by an apparatus propelled by an internal combustion engine.

Natural wooded state: Areas where trees and brush exist in their natural, un-landscaped state.

Nuisance:

(1) Any public nuisance as defined by statute or ordinance.

(2) Any attractive nuisance. An attractive nuisance is defined as the presence of any condition that may prove to be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, the presence of abandoned wells, shafts, basements, excavations, refrigerators, vehicles, lumber, and garbage, refuse, rubbish, and any structurally unsound fences or other structures.

(3) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.

(4) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

(5) Fire hazards. Any situation, process, material, blocked/obstructed egress, or condition that can cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or property as determined by the Borough fire marshal or his duly authorized agent.

Operator: Any person who runs or manages a commercial or industrial establishment.

Orderly fashion: Arranged in conforming to or exhibiting some regular order; systemic in regular or proper order.

Overgrown: Overrun with weeds, plants or grasses that have grown too large or thick.

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

Persistent: Existing or remaining in the same state for an indefinite period.

Person: Any individual, corporation, partnership, Limited Liability Company.

Premises: A platted lot or part thereof or unplatted lot or parcel of land 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 of land or structures contained within the scope of this article.

Proximate property: Any premises or parcel of land within one thousand (1,000) feet of a blighted premises.

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

Putrescible: Liable to undergo decomposition or rotting by bacteria, fungi, and oxidation and/or may result in the formation of foul-smelling products.

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

Rubbish, garbage, refuse: Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, plastics, glass, bedding, crockery, unused and scrap building materials, and similar materials.

Sanitary Conditions: Free from filth and pathogens.

Structure: Any building, walls, dwelling, fence, swimming pool, or similarly constructed object.

Unit: Any space within a building that is or can be rented by tenant(s) for their sole use, and is intended to be a single and distinct space.

Vacant: A period of sixty (60) days or longer from date of complaint, during which a building or structure or any part thereof, or land that is not legally occupied.

Vacant Parcel: A parcel of land with no housing units thereon.

Sec. 10-68. Blighted premises.

No owner/occupant of real property within the Borough of Naugatuck 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, or any part of a structure that is a separate unit, or a parcel of land, or any accessory structure, or fence, in which at least one of the following additional conditions exists:

1. It has been determined by the Borough Building Official, Director of Health, Borough Engineer, or Zoning Enforcement Officer, or other appropriate official as designated by the Mayor acting within the scope of their authority, that a condition exists that poses a serious or immediate threat to the health, safety or general welfare of the persons in the Borough; or
2. The Fire Marshal has determined that a building or structure is a fire hazard, and/or it is a factor in operating a substantial and unreasonable interference with the use and enforcement of other premises within the surrounding area as documented by neighbor complaints; or
3. The property is in a state of disrepair or is becoming dilapidated; or
4. The overall condition of the property is not being maintained which causes an unreasonable impact on the enjoyment of/or value of neighboring properties and stems from violations as expressed by adjoining property owners; or
5. The property is dilapidated, attracting illegal activity; or
6. Persistent occurrences in a one-year period of any of the following: violations of building, fire, zoning, housing or health codes; or
7. Persistent occurrence in a one-year period of the premises not being maintained as evidenced by the existence, to a significant degree:

(a) The rubbish and recycling set-out is allowed eighteen (18) hours prior to the start of the designated collection day (7:00 a.m. start time). Container must be removed from curb/public sight within eighteen (18) hours after collection of materials; or

(b) Missing, broken or boarded windows or doors; Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors; or

(c) Exterior walls containing holes, breaks, loose, missing or rotting materials; or

(d) Foundation walls containing open cracks and breaks; or

(e) Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts, which contain rust or other decay; or

(f) Unrepaired fire or water damage; or

(g) It has been vandalized, or otherwise damaged to the extent that it is a factor in depreciating property values in the neighborhood; or

(h) Swimming pools, spas or architectural pools that are not properly maintained or are in a state of disrepair; or the accumulation of stagnant or unsanitary water; or

(i) Display lights/fixtures or exterior signs in a broken or disassembled state; or

(j) Rodent harborage and/or infestation; or

(k) Garbage, trash or unused building materials improperly stored in dumpsters or accumulated on the premises; unauthorized outside storage or accumulation of junk, campers, trash, rubbish, boxes, paper, plastic or refuse of any kind; the parking of more than two (2) unregistered and inoperable cars, boats, motorcycles or other inoperable machinery on the property or the public right-of-way. For the purposes of this Article "authorized" shall pertain to local, state or federal laws and/or regulations; or

(l) In the case of fence, broken or rotted boards or in an otherwise dilapidated condition; or any other exterior condition reflecting a level of maintenance or which constitutes a blighting factor for adjacent property owners or occupant or which is an element leading to the progressive deterioration of the neighborhood; or

(m) Abandoned motor vehicles on the premises unless properly permitted as a junkyard see definition of Abandoned Vehicle currently no distinction between front, side or back yard; or

(n) Overgrown brush, shrubs and weeds; or

(o) Dead trees deemed hazardous to the public or to adjacent property, or subject to vermin infestation; or

(p) Parking lots left in a state of disrepair or abandonment.

Sec. 10-69. Mowing, removal of weeds and similar vegetation; control of vegetation.

For the period of May 1st and continuing through the end of October of each year, it shall be unlawful for every owner/occupant 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 in the Borough to allow grass to grow more than one (1) foot in height, unless such grass is harvested as hay by a registered farmland or 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 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 Director of Health and/or a designated public official, is overgrown or injurious to public health.

Any violation of this Section shall constitute a nuisance which may be abated by the Borough at the expense of the owner, lessor, lessee or any other person in possession or any one or more of them to whom the Mayor or his representative has given not less than 10 days' written notice of intention to abate such nuisance. Such expense will be reimbursed to the Borough in a civil action against any one or more of the above-named persons responsible therefore.

Sec. 10-70. Storage; accumulation restricted.

It shall be unlawful for an owner/occupant to store, house, accumulate or otherwise permit solid or liquid waste on a premises in the Borough in such a manner as to create an offensive, unsightly or unsanitary condition.

Sec. 10-71. Maintenance of exterior of premises; duties of owners, operators and occupants.

(a) It shall be the duty of all owners and occupants of premises to keep the exterior of the premises and all structures thereon free of all abandoned/unregistered vehicles (unless the premises are a legal junkyard), nuisances, garbage, refuse, rubbish, and infestations. The exterior of every structure or accessory structure (including fences and walls) shall be maintained free of broken glass, loose shingles, damaged siding, crumbling stone or brick, cracks or other condition reflective of deterioration or inadequate maintenance. The outside structure walls shall not have any holes, loose boards, or any broken, cracked or damaged siding that admits rain, cold air, dampness, rodents, insects or vermin. Every building shall be maintained as to be weather and watertight.

(b) Garbage, refuse and rubbish for weekly pickup must be stored to maintain sanitary conditions and to minimize its exposure to public view.

(c) Where weekly curbside pickup of garbage, refuse and rubbish is not available, it further shall be the duty of every dwelling owner or occupant to provide a place reasonably calculated to maintain sanitary conditions and to minimize its exposure to public view before transfer for safe and sanitary disposal. All dumpsters must maintain completely closed lids at all times; being opened only to allow deposit or withdrawal of refuse. All areas surrounding dumpsters shall be kept completely free from such refuse and debris. All dumpsters must be placed as far as possible from public view.

Sec. 10-72. Applicability.

Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this ordinance. Such compliance is

required whether or not such building shall have been constructed, altered or repaired before or after the enactment of this ordinance. Such compliance further is required irrespective of any permits or licenses issued for the use or occupancy of the building or premises, for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this ordinance. This ordinance shall also apply to mobile home parks.

Sec. 10-73. Signs; awnings and marquees.

All signs and billboards, awning and marquees exposed to public view permitted by reason of other ordinances or laws shall be maintained in good repair.

Sec. 10-74. Complaints, Warning Notice.

(a) Any individual, civic organization, municipal agency, or Borough employee affected by the action or inaction of an owner/occupant of property subject to the provisions of this ordinance may file a complaint of violation of this ordinance with a Blight Enforcement Officer. The Blight Enforcement Officer, upon his or her determination whether there is a violation of this ordinance, shall forward a Warning Notice to the owner/occupant at the time such determination has been made.

(b) Such a Warning Notice from a Blight Enforcement Officer shall be issued prior to issuing a citation.

(c) Such Warning Notice shall include:

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

(2) A period of not more than thirty (30) days shall be allowed for the performance of any act required; and

(3) The amount of the fines, penalties, costs or fees that may be imposed for noncompliance shall apply for each infraction per day in the amount of one hundred (\$100.00) dollars.

(d) The owner/occupant may not contest a warning before the Citation Hearing Board.

(e) Delivery of a Warning Notice letter to the owner/occupant 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 last known address with postage prepared thereon; or

(3) By posting and keeping posted for twenty-four (24) hours a copy of the Warning Notice letter in placard form in a conspicuous place on the premises.

Sec. 10-75. Enforcement.

(a) If the corrective actions specified in the Warning Notice letter are not taken, the Blight Enforcement Officer shall issue a written Citation to the owner/occupant.

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

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

(2) Detailed information regarding the contents of the initial Warning Notice (which may be 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;

(3) The amount of the fines, penalties, costs or fees due for noncompliance; and

(4) A statement that the owner/occupant may contest his liability and request a hearing before the Citation Hearing Board by delivering in person or by mail written notice of objection within ten (10) days of the date of the citation.

Sec. 10-76. Hearing.

(a) An owner/occupant may request a hearing after receiving a citation. Said owner/occupant must make his/her request for a hearing within ten (10) days of issuance of the citation. Said request shall be made in writing to the following: Citation Hearing Board, Borough of Naugatuck, 229 Church Street, Naugatuck, CT 06770.

(b) The Citation Hearing Board is designated to conduct hearings in accordance with Connecticut General Statutes, Section 7-152c, Subsections (a) through (f), when requested by an owner/occupant who has been cited under this ordinance.

(c) Any cited person who wishes to admit liability without requesting a hearing may pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to the Blight Enforcement Officer. 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 (10) days of the citation shall be deemed to have admitted liability, and the Blight Enforcement Officer or his/her designee shall certify such person's failure to respond. The Citation Hearing Board 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 Connecticut General Statutes, Section 7-152c(f).

(d) Any person who requests a hearing shall be given written notice of the date, time and place for a hearing to be held within thirty (30) calendar days from the date of the original request notice. The Citation Hearing Board may grant a postponement or continuance for good cause. An original or certified copy of the citation and notice shall be filed and retained by the Blight Enforcement Officer.

(e) Pending the hearing before the Citation Hearing Board, no further enforcement activity as contemplated by Section 10-78 (b) or (c) shall occur until either a hearing is held and the Citation Hearing Board assesses fines, penalties, costs and/or fees or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Board assesses fines, penalties, costs and/or fees. This section shall not preclude the accrual of fines during the period from the issuance of the notice until a hearing is held.

Sec 10-77. Appointment of Citation Hearing Board.

The Mayor shall appoint three Borough residents to serve as a Citation Hearing Board and who shall collectively constitute the Citation Hearing Officer. Such members shall serve staggered terms of three (3) years each. Proceedings of the Citation Hearing Board shall be conducted in accordance with the laws of the State of Connecticut and any provisions of the Charter or ordinances of the Borough generally applicable to its boards and commissions. No zoning enforcement officer, police officer, building inspector or employee of the Borough may be appointed to as a hearing officer under this ordinance.

Sec 10-78. Penalties for offenses; prejudgment 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:

(1) Be fined not more than one hundred (\$100.00) dollars for each violation. Each day that a violation exists after a citation as described in Section 10-75 is given to the owner/occupant shall constitute a new violation, and a fine may be imposed for each such violation; and/or

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

(b) A prejudgment lien on real estate may be imposed where the fine for violation of the blighted premises provisions of this ordinance not paid within thirty (30) days, despite proper notice to the person found liable. Any unpaid fine imposed by a municipality pursuant to the provisions of an ordinance regulating blight, adopted pursuant to Connecticut General Statutes, Section 7-148(c)(7)(H)(xv), 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 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) In addition to all other remedies and any fines imposed herein, the provisions of this code may be enforced by injunctive proceedings in Superior Court. The Borough may recover from such owner/occupier or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the Borough in enforcing the provisions of this code.

Sec 10-79. Appeals; special consideration.

(a) Any person aggrieved by any order, requirement or decision of the Citation Hearing Board may take an appeal in accordance with Connecticut General Statutes, Section 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.

(c) Such special consideration shall be limited to the reduction or elimination of fines and/or an agreement that the Borough 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 code.

Sec 10-80. Assessor authorized to freeze assessment of rehabilitated buildings.

To better achieve the rehabilitation of blighted property the Borough Assessor is authorized to freeze the assessment of any building that was the object of an enforcement action by the Citation Hearing Board, and has been substantially rehabilitated. Upon recommendation by the Citation Hearing Board, Blight Enforcement Officer, Zoning Enforcement Officer and approval by the Borough Board of Mayor and Burgesses, the Borough Assessor shall freeze the assessment of any building that has been substantially rehabilitated to reflect the value of the structure prior to rehabilitation and shall be applicable for a period of five (5) years. No property owner shall receive this benefit if it was determined that the property owner caused any condition or violation of any code or regulation that required enforcement. If, however, the property becomes the object of an enforcement action by any member of the Citation Hearing Board during the five-year period, the adjusted assessment may be revoked by the Borough Assessor.

Sec 10-81. Severability.

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

Sec 10-82. Construal of terms and provisions.

- (a) Where terms are specifically defined or the meaning of such terms are clearly indicated by their context, that meaning is to be used in the interpretation of this code.
- (b) Where terms are not specifically defined and such terms are defined in the Charter and Municipal Code of the Borough, such terms shall have the same meaning for the interpretation and enforcement of this ordinance.
- (c) Where terms are not specifically defined in this chapter, they shall have their ordinarily accepted meaning or such meaning as the context may imply.
- (d) The provisions of this code shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Borough.
- (e) In any case where a provision of this code 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 Code of the Borough 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 Naugatuck shall prevail.

This Ordinance shall be effective upon publication.

Nancy K. DiMeo, Borough Clerk

Adopted October 5, 2010 – Effective November 1, 2010
Printed 10/31/2010 and 11/1/2010