

# **Chapter 182**

## **BLIGHTED PREMISES**

### **GENERAL REFERENCES**

**Citation hearings — See Ch. 13.**

**Housing standards — See Ch. 262.**

**Building code — See Ch. 170.**

**Housing code — See Ch. A450.**

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### **§ 182-1. Title.**

This chapter shall be known as the "Blighted Premises Code of the Town of Newington" (the "code") and the standards established by this code shall be referred to as and constitute the minimum property standards of the Town of Newington ("Town").

### **§ 182-2. Intent; authority.**

- A. This code 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 nonresidential structures, equipment and premises as provided by this code. This code 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 code is intended to maintain and preserve the beauty of the neighborhoods and to allow for control of blighted premises.
- B. This code shall establish minimum standards and responsibilities for the maintenance of all premises and delegates administrative responsibility and enforcement powers and creates enforcement procedures.
- C. This code is adopted in accordance with the provisions of Connecticut General Statutes §§ 7-148 (c)(7)(H)(xv), 7-148aa, 7-148ff, 7-148gg and 7-152c and further incorporates all authority and power that currently or in the future is conferred under Connecticut General Statutes.

### **§ 182-3. Scope.**

- A. Applicability. This code shall apply uniformly to the maintenance, use and occupancy of all premises now in existence or hereafter constructed, maintained or modified and shall include:
  - (1) Dwellings or dwelling units, including one-family and two-family dwellings and buildings with multiple-unit dwellings;

- (2) Lots, plots or parcels of land, whether vacant or occupied;
- (3) Buildings of nondwelling use, including commercial properties and mixed-use properties that may include one or more dwelling units;
- (4) Accessory structures to any building;
- (5) All apartments, boardinghouses, group homes, lodging houses, rooming houses, tenement houses and unrelated family units.

B. This code shall not apply to municipal, state or federal property.

#### **§ 182-4. Definitions.**

The following definitions apply to this chapter.

**ABANDON** — To give up control, cease to maintain; for vehicles, the physical condition, the length of time since last used on the public highway, whether or not it is registered; for vehicles and/or other things not required to be registered or not normally used on the public highways, the physical condition, the length of time since it was last used for the purpose intended.

**ACCESSORY STRUCTURE** — A structure, the use of which is customarily incidental and subordinate to that of a principal building, structure or use on the same lot.

**BLIGHTED PREMISES** —

- A. Any building or structure, or any part of a structure that is a separate unit, or a parcel of land or premises, or any necessary structure, or fence, where at least one of the following conditions exists:
  - (1) The Blighted Premises Enforcement Officer determines that existing conditions pose a serious threat to the health, safety and welfare of Town citizenry;
  - (2) It is not being 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, shutters, 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) Overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust or other decay;

- (f) Chimneys and similar appurtenances which are in a state of disrepair;
- (g) Insect screens which contain tears or ragged edges;
- (h) Refuse, rubbish, trash or debris improperly stored or accumulated on the premises, or vehicles, machinery and/or watercraft on the premises;
- (i) Overgrown grass or weeds allowed to reach and remain at a height of 12 inches (one foot) or more for a period of seven days.
- (j) Vermin and/or animal infestations;
- (k) In the case of a fence, broken or rotted sections or in an otherwise dilapidated condition; or
- (l) In-ground or aboveground swimming pools with standing water and/or which are in a state of disrepair.

(3) 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;

(4) It is attracting illegal activity as documented in Police Department records;

(5) It is a fire hazard as determined by the Fire Marshal or as documented in the Fire Department records; and/or

(6) It 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.

B. Blighted premises shall not include any such building, structure or parcel of land located on municipal, state and federal property.

**BLIGHTED PREMISES ENFORCEMENT OFFICER** — An individual or individuals appointed by the Town Manager to inspect and reinspect blighted premises, issue notice of violation warning letters in accordance with § 182-8 of this code, and issue citations for violations of this code in accordance with § 182-9 of this code. Said individual shall not be the Town Manager or a Citation Hearing Officer.

**CITATION HEARING OFFICER** — An individual or individuals appointed by the Town Manager to conduct hearings authorized by this chapter.

**COMMUNITY STANDARD** — A judgment by a reasonable member of the community.

CONNECTICUT GENERAL STATUTES — Shall include any applicable amendments.

DAYS — Calendar days and shall not include the day of receipt of the notice.

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, parts of automobiles, furniture, appliances, cans, boxes, bags, scrap metal, tires, batteries, containers, garbage, rubbish, refuse, machinery and vehicles.

INOPERABLE — A motor vehicle which is incapable of being legally operated on public roads without major work or modification. Missing parts, broken or severely damaged components shall be *prima facie* evidence of inoperability.

JUNKED — A motor vehicle located on the premises which is inoperable; this definition shall also include parts of motor vehicles or iron, metal, glass, paper, cordage or other or waste or discarded or secondhanded materials which have been a part or intended to be a part of any motor vehicle.

LEGAL OCCUPANCY — Occupancy in accordance with state building and fire codes, local zoning regulations, local housing ordinances and all other pertinent codes.

MACHINERY — An assemblage of parts that transmits forces, motor and energy, one to another in a predetermined maneuver; a mechanically, electrically or electronically operated device for performing a task; an instrument designed to transmit or modify the application of force, power or motion.

MOTOR HOME — A vehicular unit designed to provide living quarters and necessary amenities which are built into an integral part of, or permanently attached to, a truck or van chassis, including campers and conveyor trailers.

MOTOR VEHICLE — Any vehicle propelled or drawn by any power other than muscular, any device suitable for the conveyance of, drawing or other transportation of persons or property, whether operated on wheels, runners, a cushion of air or by any other means.

MOTORCYCLE — A motor vehicle, with or without a sidecar, having not more than three wheels in contact with the ground and a saddle or seat on which the rider sits or a platform on which the rider stands, including motor scooters or bicycles with an attached motor.

NEIGHBORHOOD — An area of the Town comprising 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 — Any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property within the Town.

PERSON — Any individual, corporation, limited-liability company, association, copartnership, company, firm, business trust or other

aggregation of individuals, but does not include the state or any political subdivision thereof, unless the context clearly states or requires.

**PREMISES** — Any building, structure, land or portion thereof, including all appurtenances, owned or controlled by a person.

**PROXIMATE PROPERTY** — Any premises or parcel of land within 1,000 feet of the boundary of a blighted premises.

**RECREATIONAL VEHICLE** — A motor vehicle of the type designed for off-the-road uses for recreation, entertainment or pleasure and which is not authorized by the state to be operated on public streets and highways, including but not limited to minibikes, ATVs, trail bikes, dune buggies, snowmobiles and swamp buggies.

**REFUSE** — All putrescible and nonputrescible solids, including garbage, rubbish, ashes and dead animals. These terms shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings and other combustible waste materials.

**RUBBISH** — Nonputrescible solid wastes consisting of both combustible wastes, such as batteries, paint scrapings, paper, cardboard, plastic containers, yard clippings and wood and noncombustible wastes such as tin cans, tires, glass, crockery, metal and used automotive parts, cold ashes, junk, discarded containers, dust, sweepings, wastepaper, boxes, crates, rags, clothing, textiles, glass, crockery and similar waste materials ordinarily accumulated in and around residential premises.

**SNOWMOBILE** — A vehicle for traveling on ice or snow.

**TRAILER** — Any rubber-tired vehicle without motive power drawn or propelled by a motor vehicle.

**TRUCK** — A motor vehicle designed, used or maintained primarily for the transportation of property; a motor vehicle with an enclosed forward passenger compartment and an open rearward compartment used for the transportation of property.

**UTILITY TRAILER** — A trailer designed and used to transport personal property materials or equipment, whether or not permanently affixed to the bed of the trailer.

**WASTE** — Land-clearing debris and waste resulting directly from demolition activities other than clean fill; household items, including but not limited to sofas, mattresses, furniture, machinery and/or appliances.

**WATERCRAFT** — A ship, vessel, boat or craft capable of being used for water transport with or without a motor.

**YARD VEGETATION** — Grass, weeds, garden plants, shrubs, leaves, branches, limbs, brush and similar materials grown on and/or emanating from the premises.

**§ 182-5. 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/occupier.
- 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.

#### **§ 182-6. 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 one foot, 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 property free from vegetation of any type which, based on the reasonable opinion of the Blighted Premises Enforcement Officer, is injurious to public health.
- C. Any violation of Subsection A or B shall constitute a nuisance which may be abated by the Town at the expense of the owner/occupier or any one or more of them to whom the Blighted Premises Enforcement Officer 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 thereof.

#### **§ 182-7. Solid waste, storage and littering.**

- A. Accumulation restricted. It shall be unlawful for an owner/occupier to allow solid waste to accumulate on premises in the Town in such a manner as to create an offensive, unsightly or unsanitary condition.
- B. Storage requirements. In the event that property usage would result in the stacking or piling of materials, including equipment and appliances, even if wanted and useful, they must be so arranged as to prohibit the creation of a blighting factor to their neighbors. Furthermore, all

useful, wanted material, including equipment and appliances, stored out of doors shall be stored in an orderly fashion and, to the extent reasonably feasible, shall be located in the rear yard, and not visible from the adjacent public street, for no longer than 60 days.

**§ 182-8. Complaints; notice of violation warning. [Amended 6-26-2018 by Ord. No. 1719-05]**

- A. Any person or legal entity, including but not limited to a civic organization, municipal agency, or Town employee, may report a complaint of violation of this chapter to the Town Manager's office. Verbal complaints shall be reduced to writing by the Town Manager's office. The Blight Enforcement Officer, upon his or her determination that there is a violation of this code, shall issue a written warning to the owner/occupier at the time such determination has been made and shall include the property for consideration of inclusion on the Blighted Premises List. Such a warning from the Blight Enforcement Officer shall be issued prior to issuing a citation. Such written warning shall include:
  - (1) A description of the real estate, sufficient for identification, specifying the violation(s) alleged to exist and the remedial action required;
  - (2) A due date for the performance of any act required to remedy the violation and what action needs to be taken to remedy the violation;
  - (3) The amount of the civil penalties/fines, liens, special assessments, costs or fees that may be imposed for noncompliance;
  - (4) At the Blight Enforcement Officer's discretion, contact information for the Town Director of Human Services for the purpose of encouraging social work assistance to those in need.
- B. The owner/occupier may not contest a warning before a Citation Hearing Officer.
- C. Delivery of a written warning or citation to the owner/occupier shall be by one or more of the following methods:
  - (1) By delivery to the owner/occupier by leaving the written warning or citation at the usual place of abode of the owner/occupier or by in-hand delivery to the owner/occupier, or 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.

**§ 182-9. Enforcement by citation. [Amended 6-26-2018 by Ord. No. 1719-05]**

- A. If the corrective actions specified in the warning are not taken, the Blight Enforcement Officer or his/her designee shall issue a written citation to the owner/occupier.
- B. A citation shall be in writing and shall include:
  - (1) A description of the real estate sufficient for identification, specifying the violation(s) alleged to exist and the remedial action required;
  - (2) Detailed information regarding the contents of the initial warning (which may be a copy of such written warning) and the failure of the owner/occupier to take the corrective actions specified therein;
  - (3) Notice of potential liens that may be asserted by the Town pursuant to § 182-12 of this code.
  - (4) The amount of the civil penalties/fines, special assessments; costs or fees due for noncompliance;
  - (5) At the Blight Enforcement Officer's discretion, contact information for the Town Director of Human Services for the purpose of encouraging social work assistance to those in need; and
  - (6) 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 10 days of the date of receipt of the citation.
- C. Delivery of the citation shall be by the manner provided in § 182-8C.

**§ 182-10. Hearing. [Amended 6-26-2018 by Ord. No. 1719-05]**

- A. An owner/occupier may request a hearing after receiving a citation. Said owner/occupier must make his/her request for a hearing within 10 days of his/her receipt of the citation.
- B. The Citation Hearing Officer is designated to conduct hearings in accordance with C.G.S. § 7-152c when requested by an owner/occupier who has been cited under this chapter.
- C. If the owner/occupier who was issued a written citation pursuant to § 182-9 of this code wishes to admit liability and agree to perform all remediation work for any alleged violation(s), he/she may, without requesting a hearing, pay the full amount of the assessed civil penalties/fines, special assessments, 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 owner/occupier who does not deliver or mail written demand for a hearing within 10 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 civil penalties/fines, special assessments, costs or fees provided for by the code and shall follow the procedures set forth in C.G.S. § 7-152c(f).

D. Any owner/occupier 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 15 days nor more than 30 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 warning and subsequent citation issued by the Blighted Premises Enforcement Officer shall be filed and retained by the Town, and shall be deemed to be a business record within the scope of C.G.S. § 52-180 as evidence of the facts contained therein. The presence of the Blighted Premises Enforcement Officer shall be required at the hearing if such person so requests. A person wishing to contest his/her liability shall appear at the hearing and shall present evidence. A designated Town official, other than the Citation Hearing Officer, shall present evidence on behalf of the Town. If the owner/occupier who requested the hearing fails to appear, the Citation Hearing Officer may either dismiss the citation or enter a default against him/her upon a finding of proper notice and liability under this chapter. At the hearing, the Citation Hearing Officer shall accept relevant evidence that may include copies of police reports, investigatory and citation reports, and other documents. The Citation Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as is fair, reasonable 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 provide a decision at the end of the hearing. If the Citation Hearing Officer determines that the person is not liable under the citation, 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 under the violation, the Citation Hearing Officer shall enter his/her determination, in writing, accordingly and include any assessment of civil penalties/fines, special assessments, costs or fees against such person as apply, and shall further provide a copy of his written decision to the Town Manager for his review under § 182-14B of this code.

### **§ 182-11. Appointment of Citation Hearing Officers.**

The Town Manager shall appoint three residents to serve as Citation Hearing Officers pursuant to § 182-5 of the Newington Code of Ordinances. Said residents shall not be the Town Manager, a police officer or employee or person who issues citations, Zoning Enforcement Officer, or Blighted Premises Enforcement Officer or other code compliance authority. Said appointment shall be for a term of two years.

**§ 182-12. Penalties for offenses; prejudgment lien.**

- A. The owner/occupier of premises where a violation of any of the provisions of this code shall exist or who shall maintain any building or premises in which such violation exist may:
  - (1) Be assessed a civil penalty/fine of not more than \$100 for each violation. Each day that a violation exists after a citation as described in § 182-9 is given to the owner/occupier shall constitute a new violation, and a civil penalty may be imposed for such violation; and/or
  - (2) Be required to abate the violation at the owner's/occupier's expense;
  - (3) Be subject to the Town's remediation of the blighted condition and assessing the costs of said remediation against the subject property by levying a lien on the subject property;
  - (4) Be subject to special assessment pursuant to C.G.S. Section 7-148ff.
- B. Once a finding by the Citation Hearing Officer is made that a person is in violation as provided by § 182-10 above, a prejudgment lien on the real property that is the subject of the violation may be imposed by the Town for any unpaid civil penalty imposed by the Town pursuant to the provisions of this code which is adopted pursuant to C.G.S. Section 7-148(c)(7)(H)(xv) and 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 shall 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 Blighted Premises Enforcement Officer has determined that a blighted condition exists as defined by this code, the Town Manager may order the remediation of the blighted condition and assess the costs against the subject property in the form of lien which shall be recorded in the land records in the same manner as provided in Subsection B.
- D. In addition to all other remedies and any civil penalties/fine, special assessments or lien imposed herein, the provisions of this code may be enforced by injunctive proceedings in the superior court. The Town may recover from such owner/occupier any and all costs and fees, including reasonable attorney's fees, expended by the Town in enforcing the provisions of this code.

**§ 182-13. 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 C.G.S. § 7-152c(g).
- B. Notwithstanding anything herein to the contrary, special consideration may be given to individuals 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 civil penalties/fines, special assessments 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 code.

**§ 182-14. Blighted Premises List.**

- A. No owner/occupier of real property within the Town shall cause or allow blighted premises to be created nor shall any owner/occupier allow the continued existence of blighted premises.
- B. Blighted Premises List.
  - (1) The Town Manager shall use all available relevant information to complete a list of blighted properties to be known as the "Blighted Premises List."
  - (2) The Town Manager shall maintain and update the Blighted Premises List.
  - (3) At least 10 days prior to placing a property on the Blighted Premises List, the Town Manager shall provide written notice to the owner/occupier of the subject property of the intended placement. Said written notice shall indicate the conditions on said property that shall cause placement on the Blighted Premises List, unless corrected, and the steps necessary for removal from said list.
- C. For the purpose of documenting continuous blighted conditions, the Blighted Premises Enforcement Officer shall undertake regular inspections of all properties that are:
  - (1) On the Blighted Premises List; or
  - (2) Actively under a notice of violation or warning letter in accordance with § 182-8 of this code; or
  - (3) Actively under a citation in accordance with § 182-9 of this code.
- D. The Blighted Premises Enforcement Officer shall have all power and authority prescribed by Connecticut General Statutes to enter a suspected blighted premises or a designated blighted premises for purposes of performing his duties hereunder.

**§ 182-15. Removal from Blighted Premises List.**

- A. If the owner/occupier of a property that is included on the Blighted Premises List has remedied the conditions that caused the property to be placed on the Blighted Premises List, and no other blighted condition exists on the property, the owner/occupier may make written request to the Blighted Premises Enforcement Officer requesting inspection of the property. The Blighted Premises Enforcement Officer shall inspect the property within five days of receipt of the written request for the purpose of determining whether the blighted conditions on the property no longer exist. Within 10 days of the inspection, the Blighted Premises Enforcement Officer shall provide a copy of the written report of his/her inspection of the property to the owner/occupier.
- B. If, after inspection of a property that is on the Blighted Premises List, the Blighted Premises Enforcement Officer determines that the conditions that caused the premises to be placed on the list have been remedied, and that no other blighted condition exists on the premises, then the Blighted Premises Enforcement Officer shall provide written notice to the Town Manager that the premises is no longer a blighted premises along with a copy of his/her written report of inspection of the premises. Upon receipt of a determination that a premises is no longer a blighted premises, the Town Manager shall remove the premises from the Blighted Premises List, with written confirmation to the owner/occupier.

#### **§ 182-16. Report to Town Council.**

The Town Manager shall report, at least annually, to the Council on the Blighted Premises List and the civil penalties/fines, special assessments, liens or any other remedies imposed herein.

#### **§ 182-17. 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.

#### **§ 182-18. Term usage; and construal; conflict with other 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 Town of Newington, such terms shall have the same meanings for the interpretation and enforcement of this chapter.
- C. Where terms are not specifically defined in this chapter, they shall have their ordinarily accepted meanings 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 Town of Newington.
- 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 Town of Newington 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 Newington shall prevail.