

202. RESOLUTION THAT THE MAYOR AND COUNCIL FINALLY APPROVE “AN ORDINANCE CONCERNING BLIGHT AND PUBLIC NUISANCE”

(INITIALLY APPROVED FEBRUARY 3, 2014; FINALLY APPROVED MARCH 3, 2014)

I. DECLARATION OF PURPOSE

- A. This Ordinance is enacted pursuant to the Connecticut General Statutes (C.G.S.), Section 7-148(c)(7) and Section 14-150a. This Ordinance is to be enforced as a blight ordinance, pursuant to Section 7-148(c)(7)(H)(xv), and as a nuisance ordinance, pursuant to C.G.S. Section 7-148(c)(7)(E).
- B. It is hereby found and declared that there exist in the City of Groton a number of blighted properties and that continued existence of blighted properties constitutes a continuing nuisance and contributes to the decline of our neighborhoods. Existence of blighted properties adversely affects the economic well-being of the City of Groton. Many of the blighted properties may be rehabilitated, reconstructed, demolished, cleaned up, groomed, maintained, returned to satisfactory condition or reused to provide decent, safe, sanitary housing or commercial facilities. Such rehabilitation, reconstruction, demolition, cleanup or reuse of the blighted and nuisance properties would eliminate, remedy and prevent adverse conditions.

II. DEFINITIONS

For the purpose of this Ordinance, the following words, terms and phrases shall have the following meanings, unless the context indicates otherwise:

- A. Abandoned Motor Vehicle or Marine Vessel. Any motor vehicle or marine vessel which has the appearance that the owner has relinquished control without the intent of reclaiming it including but not limited to, a vehicle or marine vessel with no marker plates, or one which is unregistered, damaged, vandalized, dismantled, partially dismantled, inoperative or in such condition as to be unusable as a motor vehicle.
- B. Abandoned Property. Any real property on which there is a vacant structure and on which (1) real property taxes have been delinquent for one year or more and orders have been issued by the Fire Marshal, Building and Zoning Official or Health District and there has been no compliance with these orders within the prescribed time given by such official or within 90 days, whichever is longer, (2) the owner has declared in writing to the Building and Zoning Official that the property is abandoned or (3) there has been a determination by the Mayor, in accordance with this Ordinance, that the vacant structure contributes to blight.

C. Blighted Property. Any building, structure or parcel of land in or on which at least one of the following conditions exists:

1. It is dilapidated as documented by the Building and Zoning Official.
2. It is being used for or used as storage or harbor for illegal activity as documented by the Police Department or State Police, including criminal activities per investigations, arrest warrant applications and actual arrest convictions.
3. It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department.
4. The condition of the building, structure or parcel of land constitutes an unsafe structure as defined by the Connecticut Building Code and poses a serious or immediate danger to the safety, health or general welfare of the community as documented by the Building and Zoning Official or by the Health District.
5. It is not being adequately maintained, as determined by the following factors:
 - a. missing or boarded windows or doors, collapsing or missing walls, roof or floors,
 - b. seriously damaged or missing siding, or the building is otherwise dilapidated,
 - c. a structurally faulty foundation, fire damage, or physical hazards,
 - d. rodent harborage and infestation, improper storage of garbage, trash, rubbish, discarded household appliance or furniture, tires, discarded motor vehicle parts,
 - e. an overgrown plot of grass, customarily tended or mowed, adjacent to and/or part of a residence, business, commercial entity, or estate, wherein the grass has not been mowed and has grown to at least nine inches in length,
 - f. peeling or chipping paint exceeding thirty-three percent (33%) of the structure's total exposed surface area.

6. Any unregistered, abandoned or inoperable motor vehicle or marine vessel located on a parcel of land for a period exceeding 30 days.
Exceptions:
 - a. Vehicles or marine vessels under cover. One unregistered motor vehicle or marine vessel being offered for sale by the owner or tenant provided said motor vehicle or vessel does not remain on the same property for a period exceeding 60 days.
 - b. Motor vehicles located on a property of a business enterprise lawfully licensed by the City of Groton and Connecticut Department of Motor Vehicles.
 - c. Any motor vehicle, which is in operable condition specifically adapted or designated for operation on drag strips or raceways.
 - d. Any inoperable or unregistered motor vehicle or marine vessel being actively restored to operating condition provided:
 - i. Only two such vehicles or vessels shall be allowed at one time on the property in question.
 - ii. Parts used in the restoration must be stored in the vehicle or marine vessel or in a structure.
 - iii. Such motor vehicles or marine vessels shall be covered and secured with a cover or tarp, provided the tarp is securely attached whenever work is not being done on them.
 - iv. The brush and growth under and around the motor vehicle(s) or marine vessel(s) shall be controlled and mowed.
7. It creates substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the neighborhood as documented by neighborhood complaints, which complaints have been independently substantiated.
8. Its inadequate maintenance or dilapidated condition has led to the cancellation of insurance on proximate properties.
9. Its inadequate maintenance or dilapidated condition has materially contributed to a decline or diminution in property values on proximate properties.

10. It is adjacent to a sidewalk, for which the property's owner, agent, tenant or responsible person is responsible for maintaining safe conditions for the use of the public pursuant to ordinances and regulations of the City of Groton, and its sidewalk is in any way obstructed by or littered with any substance, including trees, bushes, overgrowth, leaves, gravel, dirt, rubbish, garbage, bulky waste or trash, which would in any way impede or imperil public travel upon said sidewalk or render it unsafe.
11. It attracts or harbors vectors, rodents, insects, vermin or disease-carrying animals.
12. For residences served by residential curbside collection of wastes or recyclables, the placement of a trash can or recycling container within ten feet of the street or curblines earlier than twenty-four hours before the scheduled time of collection, the failure to remove said trash can or recycling container from said location more than twenty-four hours after said wastes and recyclables have been collected. For residences served by residential bulky waste collection, the placement of bulky waste within ten feet of the curblines earlier than four (4) days prior to a scheduled time of collection or at any time without a scheduled collection.

- D. Building and Zoning Official. Building Official as defined in C.G.S., Section 29-260.
- E. Citation Hearing Officer. The Mayor shall appoint one or more Citation Hearing Officer(s), as defined in and pursuant to C.G.S., Section 7-152c to serve on the Citation Hearing Board. Such officer(s) shall be other than any individual who issues citations, and the City of Groton shall institute a citation hearing procedure pursuant to that Statute and act in accordance with the procedures set forth therein.
- F. Dilapidated. Any building or structure or part thereof that would not qualify for a Certificate of Use and Occupancy or which is deemed an unsafe structure as defined in the Connecticut State Building Code, or any dwelling or unit which is designated as unfit or unsafe for human habitation as defined by the Connecticut Health Code.
- G. Enforcement Officer. The Enforcement Officer(s) are those authorized by the Mayor to take such enforcement actions and to issue citations as specified in this Ordinance.
- H. Exempt Property. Any property acquired by the City of Groton through foreclosure, eminent domain, or by a deed in lieu of foreclosure would only be exempt from the provisions of this Ordinance during the first six (6) months from the date of the foreclosure, and any building or structure undergoing remodeling

being diligently conducted and pursued under an active building permit would only be exempt during such remodeling period.

- I. Inoperable Motor Vehicle or Marine Vessel. Any motor vehicle or marine vessel that is incapable of performing the function for which it was designed by virtue of missing parts, or broken or severely damaged components.
- J. Marine Vessel. A ship, boat or other craft used in water navigation
- K. Motor Vehicle. Any device propelled by any power other than human power that is or was capable for the conveyance, drawing or other transportation of person or property and is suitable for operation on a highway. Excepted are agricultural tractors or farm implements.
- L. Neighborhood. An area of the City of Groton comprised of premises or parcels of land any part of which is within a radius of 800 feet of any part of another parcel or lot within the City of Groton.
- M. Public View. Visible from any public right of way or neighboring property.
- N. Sidewalk. Any public way adjacent to streets, highways and those public rights of ways used for vehicular traffic that are used for pedestrian traffic.
- O. Under Cover. Completely enclosed in a garage or other building serving the same purpose of a garage.
- P. Unregistered Motor Vehicle or Marine Vessel. Any motor vehicle or marine vessel that in its present condition is able to be registered but does not have a valid registration.
- Q. Vacant. A period of sixty (60) days or longer during which a building subject to this Ordinance is not legally occupied. Vacant status in and of itself does not constitute a blighted building.

III. CREATION OR CONTINUATION OF BLIGHTED PROPERTY PROHIBITED

No person, firm or corporation, no owner, agent, tenant, operator, possessor of real property, and no other person responsible for the care, maintenance and/or condition of real property, shall cause or allow any blighted property, as defined in Section II of this Ordinance, to be created or continued.

IV. DESIGNATION OF BLIGHTED PROPERTY

- A. The Enforcement Officer(s) shall be responsible for determining whether a property which comes to the attention of the City, whether through written complaint or through the normal operations of the City, is blighted according to the definitions in this Ordinance

- B. The Enforcement Officer(s), shall investigate and document conditions of blight, if any, and file a written report with the Mayor or his/her designee. The Enforcement Officer's report shall state whether or not the property is a blighted property within the meaning of this Ordinance. Such report shall be kept by the City and may be available to the property owner upon request.

V. PROPERTY OWNER NOTIFICATION

- A. Whenever the City of Groton identifies a blighted premises, written notice of the violation shall be given to the owner and/or the occupant of the property, by posting a notice of the violation in a conspicuous location at the blighted premises, and delivering a copy of the notice of the violation to an owner, either by hand delivery or by mail. Said notice shall specify that the owner or occupant has five days, from the date notice was posted and mailed, to remediate the blighted conditions, or the City will take enforcement action. In the case of an unidentified owner or one whose address is unknown, the Enforcement Officer shall publish a notice in *The Day*, stating the property is cited for blight and, if applicable, whether the property has been determined to be abandoned.
- B. Prior to the expiration of the five-day period specified in subsection (A) of this section, the property owner may request additional time for remediation. The Enforcement Officer may determine an alternate timetable of a reasonable length of time if warranted. Such timetable will be in writing and must be signed by both the Enforcement Officer and the property owner. Failure to comply with the agreed upon timetable will make the property owner liable for retroactive fines and penalties as designated in Section VI, subsections (A) and (B).
- C. After the expiration of the five-day period specified in subsection (A) of this section and without the alternate timetable specified in Subsection (B) above, the City of Groton, through its designated agents, may enter blighted premises during reasonable hours for the purpose of remediating blighted conditions, provided neither the City of Groton, nor its designated agents, enter any dwelling house or structure on such property. Costs associated with the remediation of blight may be recovered by the City in accordance with C.G.S. Section 49-73(b).

VI. ENFORCEMENT: CRIMINAL VIOLATIONS AND CIVIL PENALTIES

- A. Criminal Violations: Pursuant to C.G.S. 7-148 (c) (7) (H) (xv), any person or entity who, after written notice and a reasonable opportunity to remediate blighted conditions as specified in Section V(A) of this Ordinance, willfully violates Section III of this Ordinance, may be fined by the State of Connecticut not more than two hundred and fifty dollars for each day for which it can be shown, based upon an actual inspection of the property on each such day, the blighted conditions continued to exist after written notice to the owner or occupant, as provided in Section V (A). This section is designated as a violation pursuant to C.G.S. 53a-27.

1. No person or entity shall be found guilty of a violation pursuant to Section VI (A) and a civil penalty pursuant to Section VI (B) of this Ordinance for the same occurrence.
2. Any person who is a new owner or occupant shall, upon request, be granted a thirty day extension of the notice and opportunity to remediate, provided pursuant to Section V (A), prior to imposition of a fine; if the blight is remediated during said extension, the case shall be dismissed. For purposes of this section, "new owner" means any person or entity who has taken title to a property within thirty days of the notice, and "new occupant" means any person who has taken occupancy of a property within thirty days of the notice.

B. Civil Penalties: Any person or entity who fails to comply with Section III of this ordinance, and, thereafter, fails to remediate the blighted conditions within five days of the notice provided pursuant to Section V (A) may be assessed a civil penalty for each building, structure or parcel of land in violation of this Ordinance. The amount of the civil penalty shall be \$100.00 per day. Each day a building, structure or parcel of land remains in violation of this Ordinance shall constitute grounds for the assessment of a separate civil penalty. The issuing officer shall deliver written notice of the civil penalty, either by hand delivery or by mail, to the owner or occupant responsible for the blighted premises. Said notice will include the nature of the violation and the penalty being assessed.

1. Penalties assessed pursuant to subsection (B) of this section shall be enforceable by citation pursuant to C.G.S. Section 7-152c.
2. Persons or entities assessed a penalty pursuant to subsection (B) of this section shall remit fines for said violation within ten (10) days of the mailing of notice thereof. The fine imposed shall be payable to the City of Groton. Uncontested payments received pursuant to this subsection shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person or entity making the payment.

VII. CIVIL PENALTY CITATION HEARING PROCEDURE

A. Notification of right to hearing. At the time that the civil penalty is assessed, the property owner shall be notified in writing of the availability of a hearing before the Citation Hearing Officer to contest the determination of blight and/or the assessed penalty. Specifically, the property owner will be notified

1. that the owner may request a hearing to contest the determination of blight and/or the assessed penalty,
2. that the owner must provide a written request for such a hearing within ten days of the date of notification,

3. that if the property owner does not demand such a hearing, an assessment and judgment shall be entered against the property owner
4. that the judgment may be issued without further notice

B. Rights of the respondent.

1. Admission of liability. If the property owner who is sent notice pursuant to subsection (A) above wishes to admit liability for any alleged violation, the owner may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail in accordance with Section VI (A) (2) above and remediate the blighted property. Payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the property owner making the payment.
2. Constructive admission of liability. Any person or entity who fails to deliver or mail written demand for a hearing within ten days of the date of the first notice provided for in subsection A above shall be deemed to have admitted liability, and the Citation Hearing Board shall certify the property owner's failure to respond to the Citation Hearing Board. The Citation Hearing Board shall thereupon enter and assess the fines, penalties, costs or fees provided for in this ordinance including per diem penalties retroactive to the original date of expected remediation as specified in Section V (A), and shall follow the procedures set forth in Section VII (C) of this ordinance.
3. Right to hearing. Any person or entity who requests a hearing shall be given written notice of the date, time and place for the hearing. The 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 Board may grant, upon good cause shown, any reasonable request by any interested party for continuance.

C. Formal hearing procedure. The Citation Hearing Officer shall preside over a hearing which shall be held in the manner outlined in Connecticut General Statutes, Section 7-152c. The Citation Hearing Officer shall render the decision in writing and file it within five days with the Enforcement Officer, the Mayor, and send it by certified mail, return receipt requested, to the property owner or other responsible person and to all parties in the proceedings. The Citation Hearing Officer may decide one of the following:

1. Dismissal. If the Citation Hearing Officer determines that the respondent is not liable, the Citation Hearing Officer shall dismiss the matter, and enter the determination in writing.

2. Finding of liability: assessment. If the Citation Hearing Officer determines that the respondent is liable for the violation, the Citation Hearing Officer shall enter and assess the fines, penalties, costs or fees against the respondent, as provided by the Section VI (A) including per diem penalties retroactive to the expected date of remediation as set forth in Section IV (A).

D. Notice of assessment; effect.

1. Assessments must be paid to the City of Groton within 10 days of receipt of the Citation Hearing Officer's determination.
2. Not less than thirty days, but not more than twelve months, after the mailing, as set forth in subsection (D) (1) above, the Citation Hearing Officer shall file a certified copy of the notice of assessment with the clerk of a Superior Court designated by the Chief Court Administrator (as of the date of adoption hereof, the New London judicial district civil courthouse), together with the appropriate entry fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within the twelve-month period, assessments against the same person may be accrued and filed as one record of assessment.
 - a. Entry of judgment. The court clerk shall enter judgment in the amount of the record of assessment, and court costs, allowed by the General Statutes, in favor of the city pursuant to C.G.S. 7-152(c).
 - b. Effect of judgment; levy of execution permitted. Notwithstanding any provision of the General Statutes, the Citation Hearing Officer's assessment, when so entered as a judgment, shall have effect of a civil money judgment, and a levy of execution on the judgment may issue without further notice, to the respondent.

- E. A decision of the Citation Hearing Officer may be appealed to superior court in accordance with the provisions of C.G.S., Section 7-152c(g).

VIII. FAILURE TO RESPOND TO CITATION

- A. If the property owner, agent, tenant or responsible person fails to respond to the citation of blight or is unwilling or unable to rehabilitate, demolish, groom, or maintain the blighted property according to the provisions of this Ordinance, the City may
1. Take the necessary steps to acquire blighted properties, which have been certified by the Building and Zoning Official to be abandoned pursuant to the Urban Homestead Act of the Connecticut General Statutes.

2. Take the necessary steps to acquire and rehabilitate the blighted premises in accordance with the City of Groton Plan of Development.
3. Take the necessary steps to acquire blighted properties using other state or federal means as they may be available.

IX. REMOVAL OF ABANDONED, INOPERABLE OR UNREGISTERED MOTOR VEHICLES

For all properties declared blighted properties within the meaning of this Ordinance as a result of the presence of an abandoned, inoperable or unregistered motor vehicle, which blighted condition has remained in effect for thirty (30) days or which motor vehicle has remained abandoned, inoperable or unregistered on site for thirty (30) days after (1) Notice by hand delivery or by certified mail, return receipt requested, to the last known address of the owner of the property on which such motor vehicle remains, or the owner of the abandoned motor vehicle, if different from the owner of the property requesting the removal of such motor vehicle, and (2) Notice in a newspaper having a general circulation in the City of Groton.

The City Council may provide for the removal and storage of said motor vehicle or parts thereof. The costs of the removal and storage of said motor vehicle or parts thereof and the costs of notices shall be borne by the owner of the property from which the motor vehicle or parts thereof are removed or, if the owner of the property is not the owner of the abandoned motor vehicle, by the owner of the abandoned motor vehicle.

Any motor vehicle that is removed pursuant to this Ordinance may not be returned to the same property unless it has been made operable and has been registered.

If the costs of the removal and storage of the motor vehicle remain unpaid for a period of thirty (30) days, the City Council may order the motor vehicle or parts thereof sold at public auction and no such public auction shall occur without being sent, certified mail, return receipt requested, to the owner of the property involved or, if the owner of the property is different from the owner of the motor vehicle, the motor vehicle is to be auctioned and the proceeds of the auction applied to the cost of removal and storage. Notice of the auction shall be published in a newspaper having circulation in the City of Groton at least ten (10) days prior to said auction date. The proceeds of such sale will be used by the City Council to defray the costs of removal, storage and notice. If there should be any money left over after the payment of said costs, the excess proceeds shall be turned over to the owner of the property involved, or if the owner of the property is different from the owner of the abandoned motor vehicle, or if neither property is known, said funds shall be deposited in the General Fund of the municipality.

Any person aggrieved by a notice requesting the removal of a motor vehicle or by the removal of same may, within 15 days of receipt of notice, appeal said ruling to the Citation Hearing Officer. Said appeal shall be heard and appeals may be taken from any such hearing in accordance with the procedures as set forth in the C.G.S., Section 7-152c.

X. COLLECTION OF FINES IMPOSED AND COSTS INCURRED

- A. All fines imposed for violation of this Ordinance shall be payable to the City of Groton and deposited in the General Fund.
- B. Upon petition of the property owner, the City Council may waive and release the penalties and liens (excluding motor vehicle violations) if: (1) The City of Groton acquires the property or (2) at the time of the sale of the blighted property, in the City Council's opinion, the buyer has the financial ability and intention and has indicated in writing to the City Council hi, her, or its intent to immediately rehabilitate the blighted property. Failure to rehabilitate the blighted property, within the agreed upon timeframe will result in reinstatement of the previous penalties and liens as well as accrual of additional penalties and liens from the date of the waiver.
- C. Pursuant to C.G.S., Section 7-148aa, any unpaid fine imposed pursuant to this Ordinance shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. In addition, pursuant to C.G.S. 49-73, any expenses incurred by the City pursuant to this Ordinance shall be subject to a lien. Said lien may be foreclosed upon and enforced in the same manner as property tax liens. The Town of Groton Tax Collector is hereby empowered to place a lien on the land records in the manner as specified by Connecticut General Statutes provided a copy of said lien is mailed by first class mail to the owner as set forth on the most recent tax assessment list.

XI. MUNICIPAL ABATEMENT

In any action to enforce this Ordinance or to enforce any violation hereof, including the failure to pay a fine or penalty, the City of Groton may recover its costs, any and all fines provided for herein, equitable and legal relief, along with any reasonable attorney fees and its witness fees and such other relief as permitted by law.

XII. ADMINISTRATIVE RESPONSIBILITY

The Enforcement Officer(s) may prescribe administrative procedures necessary for the purpose of effectuating this Ordinance, which procedure shall be approved by the City Council.

XIII. SAVINGS CLAUSE

Should any court of competent jurisdiction declare any section, clause or provision of this Ordinance to be unconstitutional, such decision shall affect only such section, clause or provision and shall not affect any other section, clause or provision of this Ordinance.

XIV. XIII. VIOLATION

A violation of this Ordinance is a public nuisance.

XV. EFFECTIVE DATE


This Ordinance shall become effective ten (10) days after final passage.

WHEREAS, this Ordinance was published in The Day, a newspaper having general circulation in the City of Groton on February 6, 2014 and February 7, 2014;

THEREFORE, BE IT RESOLVED that the Mayor and Council finally approve “An Ordinance Concerning Blight and Public Nuisance”

Initially Approved: February 3, 2014

Finally Approved: March 3, 2014


Marian K. Galbraith, Mayor


Debra Patrick, City Clerk