

**EAST LYME BOARD OF SELECTMEN
PUBLIC HEARING
Monday, MARCH 7th, 2016
MINUTES**

FILED IN EAST LYME
CONNECTICUT
Mar 10 2016 AT 11:45 AM/PM
Fesley A. Blais
EAST LYME TOWN CLERK

PRESENT: Mark Nickerson, First Selectman, Holly Cheeseman, Rose Ann Hardy, Marc Salerno, Dan Cunningham

ALSO PRESENT: Attorney Collins, Town Counsel

EXCUSED: Kevin Seery

Chairman Nickerson called the Public Hearing to consider adoption of a Blight Ordinance to order at 7:00 PM and led the assembly in the Pledge of Allegiance.

Mr. Nickerson explained that this has been worked on for some time and that Mr. Salerno and Mr. Mulholland collaborated on the language. With that he asked Mr. Salerno to provide them with a brief overview.

Mr. Salerno said that he; Mr. Mulholland, the Zoning Official and Attorney Collins have worked on this for awhile now. It is not meant to go after people or your neighbor because you do not like what your neighbor has or is doing. This is for truly blighted properties that may pose a very real problem. They are also not trying to bankrupt people as some may be disabled, elderly or low income and unable to do or afford to do what they once were able to. In such a case they can also go to a third party to try to get help in correcting the problem for people who do not have the means. The fines are graduated as the intent is to get people to take care of the issue or seek help with getting it taken care of. The person has a right to a hearing and initially upon notice has 60 days to remediate the problem. Farm properties and historical properties are exempt from the ordinance. Further, this was written in line with what the State Statutes allow.

Attorney Collins said that some 70% of the Towns have some variation of a blight ordinance. The State Statute is very strict in that notice must go out first and the person has the right to appeal. There is a farm and historical property exemption as well as a 90 day exemption for blighted properties that have been sold and have a permit to make improvements. There was talk at the State level of changing this Statute but that has not taken place at this time.

Mr. Nickerson opened the floor for comments from the public asking that they keep their comments to two to three minutes each.

Karen Rak, 27 Black Point Road said that she is sure that they have heard that 'one man's junk is another man's treasure' and 'beauty is in the eyes of the beholder'. In Section 1.c. it cites property values – property values should not enter into this as property values are to be determined by the same size and basic elements of the properties – and not what the landscaping looks like. Property values should not enter into this at all. In Section 2.g. of the definitions it cites unused objects, vehicles, etc. She said that you are taxed on vehicles and then gave an example of a person who works on old VW's to make one good one in their back yard – if they are using this for that purpose or even for art as some people create works of art out of old metal – then it could not be called blight. She continued that she also has the view that you should be able to do what you want on your property; neighbors should be just that – neighborly. Further people should mind their own business as people tend to butt into things that are not their business. She said that it would be her suggestion to strike this as they have Statutes on public safety and health and they also have Zoning regulations and Health regulations that are in effect to take care of these issues.

Doug Waymer, 4 Laurel Street said that he lives in Pine Grove and he only has a tenth of an acre as most of the homes there have and they are very close together. Living so close it is important that others fix up their homes. He said that he is glad to see this go into effect. Regarding Item 3.f. on persistent trash or household garbage he said that he would like to see something added on firewood as he has a neighbor

who stores it and he would like it taken care of. He said that he would also like to see more restrictive things on mowing. The elderly and disabled are a big part of the problem and he would like to see that tightened up and wants them to go after them. Cross off the entire section on the elderly and disabled and go after them as it is unfair to him that they are not treated the same. Treat everyone the same. Lastly he said that this could not be at the discretion of the Blight Officer as they could act in different ways for different people – there has to be a time limit set on it and enforced.

Jim Littlefield, 84 Smith Street said that basically he is in favor of this. His concern is about the person doing it – he said that he does not see this as a full time position and does not see it warranting the hiring of another person and is concerned about how this would be handled.

Mr. Nickerson said that he agrees and sees it as a duty of another person already working for the Town as he also does not want to grow government.

John Bialowans, 61 Walnut Hill Road said that he thought that this was a good idea and a long time in coming. It will create an increase in property values. He does not think that farms should be exempt except for those far from the road where you cannot see them. The ones near the road should be included. Also, elderly who own farms should not be exempt. He submitted the letter he read from (attached to minutes).

Maggie Prokop, 52 Lovers lane said that she was there to complain about the property next door to her. She is in favor of the ordinance.

Dave Godbout, 15 Cardinal Road said that he has lived next to people who have tires, etc in their yards however he is not in favor of the blight ordinance and agrees with the first lady who spoke that people have a right to their property.

Ann Farley, 39 Seacrest Ave. said that it is about time they got around to this. She said that they can ask any real estate agent as they have said that it is harder to sell a home next to a blighted one than one that is not blighted and that the prices have to be reduced in order to sell the home. She does not think that car parts or pieces belong on a property. Further, she said that she is elderly and thinks that if you own a house then it is your responsibility to keep it up and there should not be any exemptions. Also, if she understands this correctly - the blighted property owner would still have some 150 days to take care of the problem, with appeals, etc.

John Harnly, 31 Regatta Drive said that when he came here 10 years ago that he looked in a nice area and would not look in a blighted area. He came from New York in an area where they did not allow RV's or boats to be stored on people's property and wishes that they would do that here. He is in favor of this and hopes that it passes.

Will Fountain, 31 Whitecap Road said that he is in favor of this ordinance and that he has been after a house that is near his that has a hole in the roof and missing windows for quite some time. He said that there are other places of this type around. Also, he has a hobby and has a boat in his year that was built in 1850 the he is restoring – once he finishes doing that – it will be gone.

Georgia Lee Littlefield, 84 Smith Street said that she thinks that there are things other than junk that are important. Vacant homes with broken windows etc are not only unsightly but unsafe as they could catch fire. She thinks that this ordinance is a good idea.

Harold Clarke, 76 Giants Neck Road said that he believes that a person has the right to use and enjoy their property as they see fit as long as they do not create a safety issue. He heard someone mention firewood and said that he feels that people have the right to have firewood. Also, there are methods in place already to deal with these issues and would like this not to be passed.

Dr. Catherine Johnson, 4 Goodwin Street said that she was a Health Officer in another Town and that this would have helped her address the issues better.

Carol Ward, 23 Blue Heron Road said that she did not intend to speak but felt compelled to now as she supports this ordinance. She said that there are two vacant blighted properties where she lives in Black Point

Beach and that the property owner does nothing about them. She does not believe that there is a financial issue involved with these properties however nothing is done to remedy the problem.

Tom Dennis, 23 Osprey Road said that he lives next to one of the houses that was just spoken about. Zoning and Health have regulations which have restrictions so this ordinance would help with getting to the property owner to fix the issue. He said that he would like to see them go further and specify what steps have to be taken to satisfy 'abatement' of the issue as throwing a tarp over a roof with holes in it is not a satisfactory way of dealing with the problem. He further asked if the Town steps in and takes over if it would involve the demolition of a property as some of them sure would need that.

Paul Stelling, 7 Cherry Street, Pine Grove said that he is in support of this. He has a view of a blighted property from his home and it needs to be taken care of. Regarding cars in yard, he said that he thinks that the Town already has something in place for cars and dealing with them. He thinks that junk in a property just drags everything down.

Karen Rak, 27 Black Point Road said that she would like to clarify that she does not have a collection of VW's in her yard – she was just using that as an example of what people could be doing – using an old vehicle to fix up another one, etc. Further, some people use old metal for art projects. She said that she keeps hearing about houses with holes in roofs and other things and they already have regulations in place to address those issues. She thinks that this ordinance goes well beyond where it should go. Also, people have been talking about houses that have been unoccupied or boarded up for many years and have problems. She has to ask why nothing has been done about them when there are regulations in place to address them. Lastly, she said that she does not have car parts in her yard – she used it as an example that does not pose any safety or health risk.

Tom Dennis, 23 Osprey Road said that the reason why the properties like the one near him that has been that way for many years has not been taken care of is because the Town does not have a blight ordinance.

Will Fountain, 31 Whitecap Road said that he hopes that they will consider this ordinance.

Hearing no further comments from the public –

Mr. Nickerson thanked everyone for coming and called for a motion to close the public hearing.

****MOTION (1)**

Ms. Hardy moved to close the Public Hearing.

Ms. Cheeseman seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Mr. Nickerson closed the Public Hearing at 7:50 PM.

Respectfully Submitted,

Karen Zmitruk

Recording Secretary, Pro-tem

*public view
2/14/16*

Draft #9 2/16/16

BLIGHT ORDINANCE

Section 1. Purpose

(a) This Ordinance is enacted pursuant to authority granted by the Connecticut General Statutes, including without limitation by C.G.S. § 7-148(c)(7)(H)(xv), as amended by P.A. 12-146, §§ 2 and 4; C.G.S. § 148-o(b) and C.G.S. § 7-152c.

(b) This Ordinance prohibits any owner, occupant, agent, tenant and/or person in control of real property located in the Town of East Lyme, from allowing, creating, maintaining or causing to be created or maintained Blighted Premises.

(c) This ordinance shall apply to public and private property, regardless of principal or accessory uses, and is intended to protect, preserve, and promote public health, safety and welfare, including the preservation of property values.

Section 2. Definitions

The following words, terms, and phrases shall have the following meaning ascribed to them in this section.

(a) Blighted Premises means any building, structure or parcel of land where at least one of the following conditions exists:

(1) A condition exists that poses a serious or immediate threat to the health, safety or general welfare of the community.

(2) A building or structure is a fire hazard.

(3) The property is in a state of disrepair or is becoming dilapidated. "State of disrepair" or "becoming dilapidated" shall mean in a physically deteriorating condition causing unsafe or unsanitary conditions or a nuisance to the general public and be evidenced by one or more of the following conditions:

a. Missing, broken or boarded up windows and doors longer than 6 months.

b. Collapsing or missing exterior walls or roof, or other exterior features including but not necessarily limited to stairs, porches, railings, hatchways, chimneys or floors.

c. Seriously damaged or missing siding or roofing.

d. Unrepaired fire or water damage longer than 6 months.

Attachment

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e. Rodent harborage and/or infestation.

f. Persistent household garbage or trash on the property.

g. Abandoned or unused objects such as automobiles, boats and recreation vehicles which are inoperable or unregistered or in an obvious state of disrepair.

h. Parking lots in excess of 10 parking spaces in a state of disrepair or abandonment evidenced, for example, by cracks, potholes, overgrowth of vegetation within the surface, pavement or macadam, or within medians and buffers.

i. Shrubs, hedges, grass, plants, weeds or any other vegetation that have been left to grow in an unkempt manner that are covering or blocking means of egress or access to any building or that are blocking, interfering with, or otherwise obstructing any sightline, road sign, or emergency access to or at the property, when viewed from any property line. Maintained gardens, flower beds and xeriscape landscaping as part of a landscape design are excluded from enforcement under this subsection.

j. The overall condition of the property structure and/or grounds causes an unreasonable impact on the value of neighboring properties.

k. Vacant buildings or structure left unsecured or unguarded against unauthorized entry.

(b) Blight Enforcement Officer means a Town official and/or employee designated by the Board of Selectmen to enforce this Ordinance and to issue citations and/or take other actions he/she deems necessary to compel compliance with it.

(c) Blight Hearing Citation Officer means an official appointed by the Board of Selectmen who is not a town employee who will preside over Blight Citation Hearings, issue decisions and if necessary, convert assessments into judgments in the Connecticut Superior Court.

Section 3. Exemptions

The following properties shall be exempt from this Ordinance:

(1) Farms as defined in the Town of East Lyme Zoning Regulations: A tract of land used for necessary farm buildings in connection with the raising and/or caring for agricultural, livestock, poultry or dairy products, but excluding the raising of fur bearing animals and the maintaining of dog kennels.

(2) Historic Properties as defined in the Town of East Lyme Ordinance entitled "Ordinance Designating Historic Properties and Establishing a Historic Properties Commission."

Section 4. Prohibition

No owner, agent, occupant and/or a tenant required by a lease to maintain a property, and/or any person in control of real property located in the Town of East Lyme shall allow, maintain or cause to be maintained a Blighted Premises.

Section 5. Special Consideration

Special consideration may be given to individuals that are disabled, elderly, or low income in the Town's effort to correct housing blight. If an individual cannot maintain a reasonable level of upkeep of his owner-occupied residence because the individual is disabled, elderly or low income, and no Capable Individual resides in the residence, the Town may give said individual a reasonable amount of time to correct the problem, the duration of which shall be in the discretion of the Blight Enforcement Officer. If needed, assistance in finding solutions will be offered by the Town.

- 1) **Capable Individual** shall mean a person who 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 a physical or mental disability as defined herein.
- 2) **Disabled Individual** shall mean, 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 a household member capable of providing the necessary maintenance.
- 3) **Elderly Individual** shall mean an individual over the age of sixty-five (65), who does not have a household member capable of providing the necessary maintenance.
- 4) **Low Income Individual** shall mean, in the case of an owner occupied residence, an individual, or where more than one person resides in the premises, a family unit, that has an income below the highest level of "qualifying income" established by Conn. Gen. Statute Section 12-170d(a)(3).

Section 6. Notice of Blight Violation

(a) The Blight Enforcement Officer shall give written notice of a violation of this Ordinance to the owner and occupant of the premises and may give written notice to their agent(s), and/or any other person responsible for the Blighted Premises. The notice should be mailed by both certified mail, return receipt requested, and regular mail

to the last known address of the person to whom it is directed, to the owner of the property at the last known address on file in the tax collector's records and a copy by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(b) Such notice shall state the violation and demand its abatement within 60 days. If the violation is not corrected at the end of the 60 day period, the Blight Enforcement Officer may issue an enforcement citation and/or take other enforcement action as specified in Section 8 herein.

(c) Any person who is a new owner or new occupant of Blighted Premises shall, upon request in writing to the Blight Enforcement Officer, be granted a thirty-day extension of the notice and opportunity to remediate. For purposes of this Ordinance, "new owner" shall mean any person or entity who has taken title to a property within thirty days of the Notice of Blight Violation, and "new occupant" shall mean any person who has taken occupancy of a property within thirty days of said notice.

Section 7. Penalty for Violation

Violations of this Ordinance shall be punishable by a civil penalty of \$10.00 per day for the first ninety (90) days of a violation. If, after ninety (90) days the violation continues, the fine thereafter shall be \$50.00 per day for each day a violation continues. Each day after due notice of the violation has been served shall constitute a separate offense.

Section 8. Enforcement Citation

(a) A citation hearing procedure per C.G.S. § 7-152c is hereby established for purposes of this Ordinance. The Board of Selectmen shall appoint one or more Citation Hearing Officers for the Town. The Citation Hearing Officer may not be a police officer, a Blight Enforcement Officer or an employee of the Town of East Lyme.

(b) If a violation remains unabated after 60 days as set forth in the Notice of Violation issued per Section 6 herein, the Blight Enforcement Officer may issue a citation to the owner and occupant, and may issue a citation to any other person responsible for the violation in accordance with this Ordinance. The citation shall state the penalty amount in accordance with Section 7, and date (15 days plus 3 business days) by which the uncontested payment of fines, penalties, costs or fees shall be made. The Blight Citation shall be mailed by both certified mail, return receipt requested, and regular mail to the owner of the property at the last known address on file in the tax collector's records and to any other person responsible at their last known address. In addition, the Blight Enforcement Officer shall make reasonable efforts to send a copy by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(c) Any person/entity issued a citation pursuant to this Ordinance shall be entitled to a hearing to contest the citation pursuant to the provisions of C. G.S. § 7-152c.

(d) At any time within twelve months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees set by a citation issued pursuant to this Ordinance, the Town shall send notice to the person or persons or entity cited to inform the person or persons : (1) of the allegations against him/her/it and the amount of the fines, penalties, costs or fees due; (2) that he/she/it may contest liability before a Citation Hearing Officer by delivering in person or by mail written notice to the office of the First Selectman, 108 Pennsylvania Avenue, Niantic, Connecticut 06357, within ten days of the date thereof; (3) that if he/she/it does not demand such a hearing, an assessment and judgment shall be entered against him/her/it; and (4) that such judgment may issue without further notice.

(i) For purposes of this Section 8, notice shall be presumed to have been properly sent if such notice was mailed to such person's last-known address on file with the tax collector. If the person to whom notice is issued is a registrant, the Town may deliver the notice in accordance with C.G.S. § 7-148ii, provided nothing in this section shall preclude the Town from providing notice in another manner permitted by applicable law. The Notice shall also be sent by first class mail to any lienholder's current or last known address pursuant to C.G.S. §7-148gg.

(e) If the person to whom notice is sent pursuant to this section wishes to admit liability, he/she/it may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by the Town.

(f) Any person to whom notice is sent who does not deliver or mail written demand for a hearing within 15 days plus 3 business days of the date of the first notice provided for by subsection 8(b) of this Ordinance shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The Citation Hearing Officer shall thereupon enter and assess the fine, penalties, costs or fees provided for by this Ordinance and shall follow the procedures for obtaining a judgment from the Superior Court set forth in C.G.S. § 152c(f).

(g) A person who makes a timely request for a hearing shall be given written notice of the date, time and place of the hearing. The hearing shall be held at a time and conducted in the manner provided by C.G.S. § 7-152c(e).

(i) The Citation Hearing Officer shall issue a written decision within 30 days of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by this Ordinance and issue a Notice of Assessment by first class mail to the person found liable and to any lienholders pursuant to C.G.S. §7-148gg. The property owner and the entity liable has 30 days from the Notice of Assessment to pay the fine.

(ii) If the person responsible fails to pay the fine, not less than thirty days nor more than twelve months after such mailing of the Notice of Assessment, the Citation Hearing Officer shall file a certified copy of the notice of assessment and an entry fee with the clerk of a Superior Court facility designated by the Chief Court Administrator.

(iii) The person against whom an assessment has been entered by the Citation Hearing Officer pursuant to this section is entitled to judicial review by way of appeal pursuant to the provisions and requirements of C.G.S. § 7-152c(g).

Section 9. Recording of Lien

Any unpaid fine imposed shall constitute a lien upon the real estate in accordance with C.G.S. §7-148aa. Each such lien shall be continued, recorded and released as provided for in C.G.S. §7-148aa and the General Statutes. Each lien shall be mailed to lienholders pursuant to C.G.S. §7-148gg.

Section 10. Municipal Performance to Correct; Costs

(a) In the event any owner, occupant, agent, tenant or person in control of real estate shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant, or person in control of real estate to appeal from the issuance of said citation, or by such appeal being sustained, the Town of East Lyme, acting through its Blight Enforcement Officer, may cause or take such action as is necessary to correct such violation. The cost to take such action shall be a civil claim by the Town against such owner, agent, tenant, or person responsible for such property and the Town may bring an action to recover all such costs and expenses incurred.

(b) The owner of a Blighted Premises may choose to cooperate with the Blight Enforcement Officer and permit the Town of East Lyme to cure the Blight, provided said owner shall secure the payment of the Town's expenses of remediation by way of a lien on the property, or such other document satisfactory to the Town Attorney.

Section 11. Exceptions and Pending Approvals

Any Blighted Premises for which any land use or building permit application for improvements to the Blighted Premises is pending, or which has been sold to a bona fide purchaser, shall be exempt from the provisions of this Ordinance for a period of 90 days from the date of submittal of a complete application to the Town or from the date of sale.

Section 12. Conflict and Separability

(a) The provisions of this Ordinance shall not be construed to prevent the enforcement of other statutes, codes, ordinances or regulations which prescribe standards other than are provided in this Ordinance.

(b) If a court of competent jurisdiction finds any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this ordinance shall continue to be separately and fully effective. If any other ordinance or parts of ordinances are in conflict herewith, the more restrictive provision shall apply.

Section 13. Effective Date

This Ordinance shall be effective ten days after its publication of notice of its adoption in accordance with the East Lyme Town Charter.

To: Board of Selectmen

My name is John Bialowans, Jr. of 61 Walnut Hill Road. I think the blight ordinance is a good idea for this Town – it's been a long time coming. Many Towns or Cities have it now and their towns or cities benefit from it in so many way:

1. Help increase the value of surrounding property owners homes
2. The community looks better when the public drives around different neighborhoods.
3. It poses a threat to the health, drinking water and aquifer if not clean, and near a watercourse.
4. It poses a threat of rats, wild animals looking for food, and neighbors' cats and dogs from these animals looking for food.
5. It poses a threat to surrounding owners for diseases, smell and safety.
6. It poses a threat for a fire because of the oil, gas, propane, etc. on the property.
7. Helps the tax base increase – more people would move here if they see a clean town everywhere (in Town and rural areas).
8. For the general welfare, appearance and welfare of the community and surrounding homes.

There's only one thing that should not be exempt from this blight ordinance – that is farms. If a farm is out of sight from the road and kept up nice it would fit in the surrounding homes and the area. Most farms in Town fit that scenario. But, for farms that sit closer to 200 ft. from the Town road, it should be considered a blight.

Attachment - Submitted - 3/7/16 BOS PH

No-body should have to look at their unkempt property grounds – including the equipment, vehicles, etc., all around the property. If a farm is owned by a disabled, elderly person it doesn't make sense to own a farm that they can't do the work and upkeep. Hire someone to do the work on the farm and keep the neighborhood clean and presentable.

In a lot of Towns in this State, houses that surround a farm that's been there for a long time were made to shut down. Keep the whole Town clean and presentable. That includes houses and farms in neighborhoods that have been an eyesore to other homeowners and taxpayers for a while.

Thank you,

John Bialowans, Jr.