

Proposed  
OLD LYME BLIGHT ORDINANCE

**Section 1: Authority**

This Town of Old Lyme Blight Ordinance (“**Blight Ordinance**”) is enacted under authority of, inter alia, Connecticut General Statutes (“**CGS**”) §§ 7-148(c)(7)(E), 7-148(c)(7)(H)(xv), 7-152c, 7-148aa, 7-148gg, 7-148ii, and 7-148jj.

**Section 2: Purpose**

It is hereby found and declared that a number of **Blighted Premises** (term is defined below) may exist from time to time within the Town of Old Lyme (“**Town**”) the existence of which may contribute to the decline of **Neighborhoods** (term is defined below) and adversely affect the economic well-being of the **Town** and cause harm to the health, safety, and welfare of its residents and property owners. It is further found that many **Blighted Premises** can be rehabilitated, reconstructed, or reused so as to provide decent, safe and sanitary residential, commercial and industrial buildings, structures and facilities, and that such rehabilitation, reconstruction, or reuse would eliminate, remedy and prevent the adverse conditions described above. This **Blight Ordinance** is intended to authorize the **Town** to identify and eliminate blight in a manner that shall at all times be sensitive to the rights and shall give due consideration to the personal circumstances of owners and occupants of real property.

**Section 3: Definitions**

The following words, terms and phrases shall have the following meanings, unless the context and/or another section of this **Blight Ordinance** clearly indicates otherwise:

- a) **Blight Enforcement Officer (“BEO”)**. A person(s) appointed by the Board of Selectmen who shall have the powers hereinafter described to enforce this **Blight Ordinance**. No **BEO** shall at the same time be a **Citation Hearing Officer** (term is defined below). The **BEO** may act on his own observations and/or on credible information received from other sources, including without limitation citizen complaints.
- b) **Citation Hearing Officer**. A person(s), who may not be a **Town** peace officer or **BEO**, appointed by the First Selectman to conduct the hearings and perform the other functions to be performed by a citation hearing officer under **CGS** § 7-152c and this **Blight Ordinance**.
- c) **Blighted Premises**. A lot(s) or parcel(s) of land, whether vacant or occupied in whole or in part, and/or structures and/or personal property thereon, to include properties devoted to and/or on which residential

(“**Housing Blight**”), commercial, and/or industrial uses may be undertaken, at which at least one of the following conditions exists:

- i) A condition that the **BEO** and/or the Ledge Light Health District, acting through its Health Code Enforcement officer(s), has declared to be a serious or immediate threat to the health, safety or general welfare of the **Town** and /or the **Neighborhood**;
- ii) Missing, broken or inadequately secured windows or doors;
- iii) Exterior walls and/or roofs that are collapsing, missing and/or in which there are hole(s);
- iv) Structural defects resulting in unsafe conditions;
- v) Fire or water damage left unrepaired for an unreasonable amount of time;
- vi) Substantially damaged or missing siding and/or shingles and/or peeling paint;
- vii) Garbage or trash outside of securely and completely sealed trash or refuse containers for an unreasonable amount of time;
- viii) The existence for an unreasonable amount of time **In Public View** of inoperable, abandoned, discarded, and/or unused motorized and/or non-motorized vehicle(s) such as automobile(s), bicycles, trucks, trailers, recreational vehicles, campers, motorcycles, boats, mowers, farming and construction equipment, and/or parts of any thereof in a state of disrepair or major disassembly or in the process of being stripped or dismantled, including but not limited to a vehicle(s) having missing doors and/or windows, holes, rust, and/or other obvious physical decay, and/or that is being used for storage, provided that nothing in this **Blight Ordinance** shall prohibit the owner or legal occupant of a property, for one continuous time period not to exceed three (3) months in duration, from engaging on-site in the repair and/or restoration of a single vehicle or watercraft owned by the owner and/or legal occupant of the property;
- ix) Accumulated debris not being used for its intended purposes or otherwise strewn about a property, including plastics, glass, packaging material, papers, junk, furniture, appliances, scrap metal, tires, batteries, containers or garbage, and/or building materials;
- x) The keeping of pets or other animals so as to create an offensive, unsightly, or unsanitary condition and/or accumulated putrescible animal and vegetable waste resulting from cooking and food consumption;
- xi) Collapsing masonry;
- xii) Graffiti;

- xiii) **Dilapidation** (term is defined below), including **Dilapidation** which has materially contributed to a decline or diminution in property values on the subject and/or proximal properties;
- xiv) Tarpaulins used for weather protection (roof, door and/or window coverings) for periods exceeding 60 days in lieu of permanent approved materials, unless authorized by the Building and/or Health Code enforcement official(s);
- xv) Grass exceeding ten inches in height;
- xvi) Overgrown grass, trees, brush, shrubs, hedges, plants and/or other vegetation (“**Overgrowth**”), including but not limited to **Overgrowth** that is unsightly and/or which impedes the safe and ordinary use of public and private streets, sidewalks and other ways of passage by any person, provided that the keeping of a compost pile in a sanitary manner in a place that does not obstruct the use of any ways of passage and without the creation of odors, insects, and/or other undesirable effects shall not of itself cause a property to be deemed blighted;
- xvii) A condition(s) that creates a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within a **Neighborhood**;
- xviii) A discharge of refuse or filth from the property into a body of water or storm drain within the **Town**, or the placement of such substances such that high water or natural seepage will inevitably carry the same into such waters;
- xviii) Stagnant or unsanitary water in which mosquitoes may breed; garbage, sewage, excrement, manure or other foul, decayed, putrid, unwholesome, deleterious or offensive thing or substance; animal carcasses or parts thereof; and/or trash, rubbish, rubble, tires, brush, used materials or discarded items of little or no value;
- xx) The fire marshal has determined that a building, structure and/or other condition is a fire hazard.
- xxi) A building and/or structure is open to the elements, is missing and/or has holes in exterior walls and/or roofs, has missing and/or broken windows and/or doors, and/or for any other reason is not capable of providing shelter and/or serving the purpose for which it was constructed;
- xxii) The existence for an unreasonable amount of time of an object(s) left over from completed remodeling and/or repair activities and/or of furniture, appliances, cans, boxes, packaging materials, scrap metal, tires, batteries, containers, and/or refuse and garbage; and/or

- xxiii) Harborage(s) for insects, rodents and/or other animals.
- d) **Dilapidated.** Any building, structure, or parcel of land, or part thereof which would not qualify for a certificate of use and occupancy and/or which is deemed by the relevant Code enforcement official to be unsafe pursuant to the Building and/or the Connecticut Public Health Codes, as they may be amended from time to time, or any dwelling or dwelling unit which is designated by the Health Code enforcement official to be unfit for human habitation as defined by the Public Health Code including, but not limited to, a building, structure, or parcel of land that evidences disrepair, that presents a safety concern, or evidences conditions that are likely to cause sickness, disease, or injury to the health, safety or general welfare of the persons living therein or of the general public.
- e) **Neighborhood.** A lot(s) or parcel(s) of land or any part thereof contiguous with any other lot or parcel within the **Town**.
- f) **In Public view.** Visible from a public street, sidewalk and/or any other place the public has a right to be, and/or from an adjacent property.
- g) **Premises.** Buildings, structures, residences, fixtures, improvements, and/or parcels of land contained within the scope of this ordinance.
- h) **New Owner.** A person who takes title to and/or occupancy of a property fewer than thirty (30) days after the issuance of a notice of violation or of a citation.
- i) **Capable Individual.** An adult person who can be reasonably expected to perform maintenance and yard work around a property or premises.
- j) **Disabled Individual.** An individual who has a disability meeting as defined by the Americans with Disabilities Act (ADA) of 1990.
- k) **Elderly Individual.** An individual who is at least sixty-five (65) old.
- l) **Low Income Individual.** A person, or where more than one person resides in a premises, a family unit, that has an income below the highest level of "qualifying income" established by CGS Section 12-170d(a)(3).

#### **Section 4: Creation or maintenance of Blighted Premises prohibited/ Exemption of Certain Commercial Agricultural Activities.**

- a) No owner, agent, tenant, occupant, firm, corporation, association, and/or person responsible in whole or in part for the care, maintenance or condition of real property, taxable or tax exempt, shall cause or allow any **Blighted Premises**, as defined herein, to be created, maintained, continued, or suffered to exist.
- b) This **Blight Ordinance** shall not apply to a lot(s) or parcel(s) of land or any part thereof, including adjacent pastures, wooded land, natural drainage areas and other adjacent open areas, land preserved in its natural state through conservation easements, and/or areas designated as inland wetlands and watercourses, while it is legally being used for commercial agricultural purposes, such as the cultivation of plants for sale, the production of human food, and/or for the production of animals, livestock and poultry.

## **Section 5: BEO Discretion**

The **BEO** may take into account the particular circumstances of an owner and/or legal occupant of a **Blighted Premises** when determining the manner and time within which a violation of this **Ordinance** shall be abated and/or the time when he/she will issue a notice and a citation for a violation.

## **Section 6: Notice of Violation**

- a) Before issuing a citation for a violation of this ordinance, the **BEO** shall give written notice of any violation(s) to the owner and occupant of the property at which he has determined a blighted condition exists. Such notice to the property owner may be hand delivered and/or mailed by certified mail, return receipt requested, to the address of the owner on file in the Tax Collector's office or, for a notice to a tenant or other occupant of the property, to the property address. In the case of an owner whose address is unknown, a copy of the notice may be published in a daily or weekly newspaper having a circulation in the **Town**.
- b) The notice of violation shall state the address of the property at which the violation(s) exist, specify the violation(s) of this ordinance existing at the property and when they first came to the attention of the **BEO**, identify the steps that shall be taken to remedy the violation(s), demand abatement within no more than sixty (60) calendar days after the receipt of the notice by the person to whom it is directed, and list the amount of fines that would be due and when uncontested payments can be made and accepted. If the owner or other responsible party fails to correct the violation(s) within the time provided, the **BEO** may issue an enforcement citation.
  - (i) The **BEO**, in his/her sole reasonable discretion under the circumstances, including the severity of the violation(s) its impact on the **Neighborhood** and the circumstances of the owner and/or occupant, including those defined in sections 3(a) through 3(l), may in the notice allow for a period of time longer than sixty days to complete the abatement, and/or if he/she determines that the owner and/or occupant is in good faith making reasonable progress to complete the necessary work, may extend the time provided by the notice.

## **Section 7: Enforcement citation/civil penalties**

If a violation of this **Blight Ordinance** is not abated to the satisfaction of the **BEO** by the end of the time provided for abatement in the notice of violation issued per section 5 above, the **BEO** may within his/her reasonable discretion issue a citation to the violator(s) identified in the notice of violation. The citation shall

state the amount of the civil penalties being assessed for the violation(s), which shall be in an amount not less than ten or more than one hundred dollars for each day that the violation(s) remains unabated, and shall state the date by and the Town official to which such payment must be made.

### **Section 8: Enforcement and Hearing Procedure for Citations**

- a) The Town hereby adopts the provisions of CGS §7-152c, as they may be amended from time to time, for the establishment of a citation appeals hearing procedure for alleged violations of this **Blight Ordinance**,
- b) The **BEO**, at any time within twelve months after the expiration of the final period for the uncontested payment of fines, civil penalties, costs or fees stated in any citation issued under this **Blight Ordinance** shall, in the manner provided by section 5(a) of this **Blight Ordinance**, send a notice to the person(s) cited informing such person(s): (1) of the allegations against him/her and the amount of the fines, civil penalties, costs or fees due; (2) that he/she may contest his/her liability before a **Citation Hearing Officer** by delivering to the First Selectman, in person or by mail, written notice to be received no later than ten days after the date of his/her receipt of said notice; (3) that if he/she does not demand such a hearing, an assessment and judgment shall be entered against him/her; and (4) that such judgment may issue without further notice. For purposes of this subsection, notice shall be presumed to have been received if given in the manner prescribed above.
- c) If a person to whom notice is sent pursuant to subsection (b) of this section wishes to admit liability for any alleged violation, he/she, within the time specified by said notice, without requesting a hearing, may pay the full amount of the fines, civil penalties, costs and/or fees due either in person or by mail to an **Town** official designated in the citation. No such payment shall be admissible 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 days of the date of his/her receipt of the first notice provided for in subsection (b) of this section shall be deemed to have admitted liability, and the **BEO** shall certify such person's failure to respond to the **Citation Hearing Officer**, who shall thereupon enter and assess the fines, civil penalties, costs and/or fees called for by the citation as provided for by this **Blight Ordinance** and shall then follow the procedures set forth in subsection (e) of this section.
- d) The **Citation Hearing Officer** shall, in the manner provided by section 5(a) of this **Blight Ordinance**, give any person(s) who requests a hearing ("**Appellant**") written notice of the date, time and place of the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days after the date the notice of hearing is sent to the **Appellant(s)**, provided that the **Citation Hearing Officer**, upon good cause shown, shall

grant a reasonable request by any interested party for postponement or continuance. For purposes of this subsection, the notice of hearing shall be presumed to have been received if it is given in the manner prescribed in section 8(a) hereof.

(i) An original or certified copy of the initial notice of violation and of the citation from which the appeal is taken shall be filed and retained by the **Town**, and for purposes of the appeal hearing shall be deemed to be a business record within the scope of **CGS** section 52-180 and admissible evidence of the facts contained therein. The presence of the **BEO** who issued the notice of violation and/or citation shall be required at the hearing if the appellant so requests. Except as provided below, each person appealing from a citation shall appear at the hearing and may present evidence in his/her behalf. The **BEO** and/or other **Town** officials, other than a currently appointed **Citation Hearing Officer**, may present evidence. Any person, including the **Appellant(s)** and the **BEO**, may be represented by legal counsel during the proceedings of the **Citation Hearing Officer**. If an **Appellant** fails to appear for a hearing and has not been excused by the **Citation Hearing Officer** as below, the **Citation Hearing Officer** may enter an assessment by default against him/her upon finding that the requirements of this **Ordinance** for giving notice of the hearing to the defaulting **Appellant(s)** had been met and, based on the contents of the notice of violation and of the citation as well as other evidence and circumstances he/she deems relevant, may find that liability for a violation(s) of this **Blight Ordinance** has been reasonably established. Unless the **BEO** insists on the **Appellant's** presence, the **Citation Hearing Officer** may, in his/her reasonable discretion, excuse an **Appellant(s)** from appearing at the hearing if he/she deems it unnecessary based on the **Appellant's** submission to the **Citation Hearing Officer**, no fewer than five days before the hearing, of documents such as police reports, investigatory and citation reports, and other official documents relevant to the appeal.

(ii) The **Citation Hearing Officer** shall conduct the hearing in the order and form and with such methods of proof as he/she deems fair and appropriate. The rules of evidence shall apply but shall be liberally construed. All testimony shall be given under oath or affirmation. The **Citation Hearing Officer** shall announce his/her decision at the end of the hearing. If he/she determines that the appellant is not liable, he/she shall dismiss the matter and enter his/her determination in writing accordingly. If, however, the **Citation Hearing Officer** finds that the **Appellant(s)** is liable for the violation(s), or any of them, he/she shall forthwith in writing enter and assess the fines, civil penalties costs and/or fees against the **Appellant(s)** provided for by this **Blight Ordinance** under the circumstances.

- e) If an assessment made by the **Citation Hearing Officer** is not paid on the date of its entry, the **Citation Hearing Officer**, in the manner provided by section 5(a) hereof, shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of a superior court facility designated by the Chief Court Administrator together with any required entry fee. The certified copy of such notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provision of the general statutes to the contrary, the **Citation Hearing Officer's** assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.
- f) A person against whom an assessment has been entered pursuant to this **Blight Ordinance** is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment to him/her by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to section 52-259, at a superior court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

### **Section 9: Minimum Standards**

- a) Nothing in this **Blight Ordinance** is intended to or shall limit the power and authority of the **Town**, the state and/or any other governmental official, agency, board or commission to enforce the provisions of any other state and/or local law applicable to a **Blighted Premises**.
- b) If a provision of this **Blight Ordinance** is found to be in conflict with any other state and/or local law applicable to a **Blighted Premises**, and if such provision of the **Blight Ordinance** sets a stricter standard than the conflicting provisions, it shall be enforceable pursuant to the procedures established herein.

### **Section 10: Initiation of Legal Proceedings/Remediation by Town**

- a) The rights, remedies and enforcement procedures created by this **Blight Ordinance** are in addition to and not in derogation of the rights and the authority of the **Town** to exercise, seek and obtain all other available legal and equitable rights and remedies to abate and sanction conditions that constitute violations of this **Blight Ordinance**. In addition to the citation process described herein, the

**BEO** is authorized to initiate legal proceedings in the Superior Court for the immediate correction of the violation(s), the collection of any fines and penalties, and the recovery of all costs including attorney's fees and/or costs of remedial action(s) authorized by the court, and/or may cause and/or take other lawful actions he/she deems reasonably necessary to correct such violation(s).

- b) The costs of prosecuting any action under section 10(a) shall be a civil claim by the **Town** against the violator, including in all cases the property owner(s), for which the **Town** may seek all available legal and equitable relief.
- c) The **Town** and the owner of a **Blighted Premise** may agree in a writing to be recorded on the Land Records to allow the **Town** to enter the **Blighted Premises** to correct existing violations at the owner's partial or complete expense. The written agreement shall provide the **Town** all required rights to enter the property and to do the agreed-to work; set the amount to be paid to the **Town** by the owner for the work, to include without limitation court costs and expenses and attorney's fees, and the date by which payment is to be made in full; grant the **Town** a lien on the property to secure the payment, said lien to be prior to all other encumbrances other than tax and other municipal liens, unless the First Selectman and the Town Attorney determine that the **Town** may reasonably accept a lien of lesser priority; state that the **Town** will have sole discretion to determine that the work has been satisfactorily completed per the agreement; and any other rights and provisions the **Town** deems necessary to accomplish the abatement. Said writing shall be in form and content satisfactory to the Town Attorney and First Selectman. Said lien shall be in addition to all other lien rights granted the **Town** at law to abate blighted conditions.

### **Section 11: Recording of Lien**

Any unpaid assessment imposed hereunder shall constitute a lien upon the real property on which the violation(s) exist, in accordance with Connecticut General Statutes (CGS) 7-148aa. Each such lien shall be continued, recorded and released provided for in CGS section 7-148aa. Each lien shall be mailed to lienholders on the property pursuant to Connecticut General Statutes CGS section 7-148gg.

### **Section 12: Effective Date**

This Ordinance shall be effective in accordance CGS section 7-157 **(OR IF HAVE TOWN ORD RE EFFECTIVE DATES, THE DATE IT SETS)**.