

NOTICE OF PUBLIC HEARING
TOWN OF BETHEL, CONNECTICUT



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TOWN OF BETHEL
TOWN CLERK

The Board of Selectmen of the Town of Bethel, Connecticut will hold a Public Hearing on Tuesday, January 15, 2013 at 7:00 p.m. in Meeting Room "A" of the CJH Municipal Center, 1 School Street, Bethel, CT 06801 for the following purposes, to wit:

I. PROPOSAL TO ENACT CHAPTER 64 OF THE CODE OF THE TOWN OF BETHEL ENTITLED "ANTI-BLIGHT ORDINANCE" AS HEREINAFTER SET FORTH:

Sec. 64-1. Purpose

This ordinance is enacted pursuant to the Municipal Powers Act, § 7-148 (c) (7) (H) (xv) and § 7-148aa of the State of Connecticut General Statutes. It is hereby found and declared that there may exist within the Town of Bethel a number of residential/housing real properties, which are vacant and/or in a blighted condition, and that the continued existence of such properties contributes to the decline of neighborhoods and constitutes nuisances. It is further found that the existence of such properties adversely affects the economic well being of the town and is inimical to the health, safety, and welfare of its residents. It is further found that many of the properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe and sanitary housing, and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and prevent the adverse conditions described above.

Sec. 64-2. Creation or maintenance of the blighted premises prohibited.

No owner of real property located in the Town of Bethel shall allow, create, maintain, or cause to be created or maintained, any blighted residential premises. This chapter shall not apply to real property dedicated to public open space and preserved in its natural state through conservation easements and/or restrictive covenants; or areas designated as inland wetlands and watercourses as defined by the Ordinances/ Code of the Town of Bethel and state statutes.

Sec. 64-3. Definitions.

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

Antique vehicle means a passenger car or truck that is at least twenty-five (25) years old.

Blighted premises shall mean any residential and/or housing structures and out buildings or parcels of land in a residential neighborhood in which at least one of the following conditions exist:

A. It is determined by the anti-blight officer, building inspector, zoning enforcement officer, fire marshal, fire departments, police department or health officer of the Town of Bethel that the structure or parcel of land is in a condition which poses a serious threat to the safety, health and general welfare of the community.

B. It is attracting illegal activity as documented by the police department.

C. In the opinion of and documented by the fire marshal or by the local fire department, it is a fire hazard.

D. Other such applicable conditions:

1. Structures that are dilapidated.
2. Structures with missing or damaged or boarded windows or doors; collapsing or missing walls, roofs or parts of walls or roofs that need repair.
3. Structures with seriously damaged or missing siding totaling sixteen (16) square feet or more.
4. Existing gutters, which are damaged or missing.
5. A structurally faulty foundation, porches or other attached structure/building that needs repair. This also applies to all out buildings on the property, which includes garages.
6. Fencing which is not maintained and in good condition.
7. Garbage and trash that is not contained and covered.
8. Overgrown brush including weeds and grass which exceeds ten (10) inches in height or greater for a period of fourteen (14) days or longer.
9. Landscaping including but not limited to, trees, shrubs, hedges, grass, and plants, which physically hinder or interfere with the lawful use of abutting premises or block or interfere with the use of any public sidewalk, public street, public right of way, public road sign and/or private street or private right-of-way.
10. Structures including out buildings needing painting or sealing. The anti-blight officer will request the owner do their best to correct the appearance. If not corrected within six (6) months a second request will be given.
11. One (1) or more abandoned or unregistered motor vehicles situated on the premises. (Unless the premises is a junk yard legally licensed by the State of Connecticut.) See "Exceptions".
12. One (1) or more pieces of non-operational mechanical equipment stored on the premises. See "Exceptions".
13. Premises containing accumulated debris.
14. Graffiti on any structure that is visible from ordinary public view.

Capable individual shall mean a household member of an owner occupied residence that can be reasonably expected to perform maintenance and yard work around the property or premises. This shall include children above sixteen (16) years of age, without a physical or mental disability as defined herein.

Debris shall mean material which is incapable of immediately performing the function for which it was designed, including, but not limited to, abandoned, discarded, or unused objects; junk comprised of equipment such as one or more motor vehicles, automobiles, one or more boats, and one or more recreation vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair; parts of automobiles, unused indoor furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, and garbage which are in the ordinary public view.

Dilapidated shall mean any building or structure or swimming pool or any part thereof, that would not qualify for a certificate of compliance/ occupancy, or which is deemed an unsafe structure, and any dwelling or unit which is designated as unfit for habitation as defined in the State Basic Building Code and the Ordinances/Code of the Town of Bethel.

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 any other household member as a capable individuals to provide the necessary maintenance.

Elderly individual shall mean an individual over the age of sixty-five (65) or older of an owner occupied residence, who does not have any other household member as a capable individual to provide the necessary maintenance.

Legal occupancy shall mean human habitation which is legal by virtue of compliance with State Building, State Fire Safety, State Health, Local Zoning, Local Housing, Local Health, Local Fire Safety and all other pertinent codes, and which shall further be demonstrated by the proof of occupancy evidenced through a bona fide lease agreement, rent receipt or utility statement.

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 at the time of the December 31st prior to the violation, below the highest level/ income established by the State of Connecticut's Elderly Tax Relief Program. This level is the upper limit of step 5 as set forth in the Connecticut General Statutes § 12-170aa as supplemented and established by the State of Connecticut, Office of Policy and Management and filed in the office of the Bethel Assessor and effective at the time of the violation. Reference to C.G.S. § 12-170aa is for income purposes only for this chapter, it is immaterial that a person is not elderly or disabled as set forth in C.G.S. § 12-170aa.

Mechanical equipment shall be any apparatus designed to be operated by an internal combustion engine, electric and/or pneumatic equipment or designed to be towed by any apparatus propelled by an internal combustion engine, electric and/or pneumatic equipment.

Motor vehicle shall be a vehicle that is required to be registered and/or inspected by the State of Connecticut, Department of Motor Vehicles in order to be allowed to be driven or occupy the public roads in the State of Connecticut.

Motor vehicle collector means a person who:

- A. Owns one or more antique or special interest motor vehicle; and
- B. Acquires, collects, or disposes of an antique or special interest motor vehicles or motor vehicle parts for personal use to restore and preserve an antique or special interest motor vehicle of any age and because of its historic interest, is being preserved by a hobbyist.

Neighborhood shall mean an area of the town comprising premises or parcels of land any part of which is within a contiguous radius of fifteen hundred (1,500) feet of any other parcel within the town.

Ordinary public view shall mean the view from private or public property or from the street or public right of way or private right of way, from average grade surrounding the property.

Structure is any building, dwelling, fence, swimming pool, or similarly constructed object.

Vacant shall mean a period of sixty (60) days or longer during which space subject to this chapter is not legally occupied.

Sec. 64-4. Enforcement. The anti-blight officer charged with the enforcement of this chapter shall be the zoning enforcement officer of the Town of Bethel or his designee with assistance requested from including but not limited to the town's building official, the health director, the public works director, the inland wetlands officer, the police, the fire marshal and or the fire departments.

Sec. 64-5. Complaints on blight. All complaints must be submitted on the blight complaint form to the zoning office at the Hurgin Municipal Center. The blight complaint form can be located on the Town of Bethel web site and can also be obtained at the zoning office at the Hurgin Municipal Center. Only the violations cited on the complaint form as submitted will be investigated.

Sec. 64-6. Special consideration for owner occupied residences. Special consideration shall be given to residential owner occupied individuals that are elderly or disabled in the town's effort to correct blighted conditions. If an individual can not maintain a reasonable level of upkeep of the owner occupied residence because the individual is elderly or disabled and no capable person resides in the residence, the anti-blight officer shall give the person adequate time to correct the problem. Except, as noted below, where the residential owner occupied resident is a low income individual and owns and occupies a residence that is designated as blighted, the anti-blight officer shall give special consideration to the person by providing adequate time to correct the problem. If the items designated as blighted have to do with lawn and shrub

maintenance, keeping the grounds free from garbage and trash, the anti-blight officer will not provide additional time to correct the problem.

Sec. 64-7. Notice of violation.

A. Warning and Notice.

Step 1.

1. The anti-blight officer assigned to the complaint will make every effort to contact the property owner alleged to be in violation of this chapter in person or by phone. The anti-blight officer shall explain the alleged violation and request it be corrected. The anti-blight officer will give a verbal warning at that time for corrective action citing the violation and a reasonable time limit to have it corrected and shall follow up within three (3) business days with a written notice of the alleged violation to the owner and the occupant, if the owner and occupant are not one in the same, along with the reasonable time limit to correct the violation. The written notice shall be by first class mail and certified mail, return receipt.
2. If no contact by phone or person has been made by the anti-blight officer with the owner within a reasonable time not to exceed fourteen (14) days, the anti-blight officer shall issue a written notice of the alleged violation to the owner and the occupant, if the owner and occupant are not one in the same, along with the reasonable time limit to correct the violation by first class mail and certified mail, return receipt.
3. If the anti-blight officer contacts the property owner as set forth in sub-paragraph 1. and/or sub-paragraph 2. as set forth above and the property owner fails to comply within the time limit to correct the violation, the anti-blight officer shall issue a notice of violation as set forth in sub-section B hereinafter containing the information as set forth in Step 2.
4. Any new owner, upon request, will be granted a thirty day extension of time to remediate those conditions as set forth in sub-paragraph 1. and/or sub-paragraph 2. as set forth above by the anti-blight officer, provided, the "new owner" took ownership of the property within thirty days of the written notice issued by the anti-blight officer.
5. If no blight is found, the blight report will be closed.
6. A blight complaint form for the same issue(s) at the same real property will not be accepted for six (6) months after the last complaint form has been filed.

Step 2. A notice of violation form shall contain the following information:

1. A description of the effected property along with the town assessor's Lot, Block and Lot number.
2. The exact nature of the violation.
3. A copy of Section 1-6. of this chapter - Special consideration for owner occupied residences.

4. The time allowed for corrective action (not to exceed sixty (60) days unless additional time is approved by the anti-blight officer or hearing officer or committee) except for grass, weeds, garbage and trash which must be completed within ten (10) days.
5. The penalty for continued violation of this chapter.
6. The procedure to appeal this violation.
7. The name and business telephone number of the anti-blight officer finding such violation.
8. A copy of the ordinance establishing the hearing procedure for town citations and civil penalties and/or fines.

B. Violation. The anti-blight officer shall provide the real property owner with notice of a violation under this article by leaving a copy of such violation notice form as hereinbefore set forth in Step 2 with the real property owner or affixed to the entryway of the effected building/premises. He shall also send a copy of the form by certified mail, return receipt requested and first class mail to the address of the real property owner as set forth in the town's most recent assessment records. If the real property owner should fail to respond within ten (10) days of the date of the certified mail, it shall be deemed that the real property owner was duly notified.

C. Civil Penalties and/or Fines. The penalty for continuous violation of this chapter shall be not less than ten dollars (\$10.00) up to and not greater than one hundred dollars (\$100.00) on a per diem basis beyond the time allocated by the anti-blight officer to correct the violation. All civil penalties and/or fines will be consistent with the violation. The violator shall also be responsible for all costs associated with enforcement and the violation and the collection of any civil penalties/fines, which shall include, but not be limited to attorney fees, court costs, mailing costs, and filing fees.

D. Appeals procedure. The property owner may appeal the action of the anti-blight officer within fifteen (15) days of his receipt of the notice form in accordance with Section 1-7.A. of this chapter. The appeal shall be made in compliance with the town ordinance known as the HEARING PROCEDURE FOR TOWN CITATIONS AND CIVIL PENALTIES AND/OR FINES which establishes a hearing procedure. Any subsequent fine or civil penalty imposed by this chapter may be appealed in the manner provided by said appeal ordinance.

E. Anti-blight lien. In the event that the real property owner does not appeal the action of the anti-blight officer within the time set by this chapter and in the event that no action has been taken by the real property owner to cure the violation within ninety (90) days of the date that the real property owner was to abate the violation as set forth in the notice of the violation issued by the anti-blight officer, then the civil penalties and/or fines and costs associated with the same shall constitute a lien of the Town of Bethel on said real property where such blight exists effective from the date of such civil penalties and/or fines which lien may be continued, recorded and released in the manner provided by the general statutes of Connecticut for the 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. Said lien shall

remain an encumbrance upon the subject property until such time as the blight condition shall be abated and all civil penalties and/or fines and costs assessed have been paid.

Sec. 64-8. Town regulations.

Nothing in this ordinance shall limit the power and authority of the Town of Bethel's officials including but not limited to the building official, zoning officer, zoning enforcement officer, inland wetlands officer, health officer, public works director, fire marshal, police department, fire departments or any commission or board associated with these positions i.e. the planning and zoning commission, zoning board of appeals, inland wetlands, etc. to enforce their respective regulations. The penalties and power of this chapter shall be in addition to and not in lieu of any other enforcement regulation or procedure exercised by any of the Town of Bethel officers, departments, commissions and boards.

Sec. 64-9. Exceptions.

A. This chapter shall not apply to any condition that is in compliance with the current regulations and ordinances of the Town of Bethel, including but not limited to zoning, health, fire, public works, inland wetlands, etc.

B. This chapter shall not apply to any condition that is in compliance with state or federal statutes and/or regulations.

C. This chapter shall not apply to any condition for which there has been issued by any agency of the Town of Bethel a valid permit including but not limited to building, zoning, inland wetlands, public works, health, fire, etc.

D. Subject to the exceptions and requirements as hereinbefore set forth, this chapter shall not apply to the following:

1. To one operable unregistered motor vehicle owned by persons serving in the Armed Forces of the United States outside the state. Such persons shall be required to submit evidence satisfactory to the anti-blight officer or hearing officer or committee to qualify for the exception.

2. To a motor vehicle or motor vehicle part:

- (a) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

- (b) That is stored or parked in a lawful manner on private property in connection with the business of a licensed motor vehicle dealer or junkyard, or that is an antique or special interest motor vehicle stored by a motor vehicle collector on the collector's property, if the motor vehicle or parts in the outdoor storage area, if any are:

- (i) maintained in an orderly manner;
- (ii) not a health hazard; and
- (iii) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, shrubbery, car cover, or tarp; and, with
- (iv) no more than two (2) motor vehicles allowed under this exemption.

3. A motor vehicle that is stored or parked in a lawful manner on private property and is operational and being sold by the owner of said real property. Only one (1) such vehicle shall be allowed to be sold on said real property at any one time.

4. To mechanical equipment or equipment part:

- (a) That is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (b) That is stored or parked in a lawful manner on private property in connection with the business of a licensed dealer of the particular mechanical equipment, if the mechanical equipment or equipment part in the outdoor storage area, if any are:

- (i) maintained in an orderly manner;
- (ii) not a health hazard; and
- (iii) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, shrubbery, car cover, or tarp; and with,
- (iv) no more than two (2) pieces of mechanical equipment allowed under this exemption.

5. All firewood neatly stacked or neatly arranged on property in public view will not be a violation of this chapter.

Sections. 64-10. Reserved.

II. PROPOSAL TO ENACT CHAPTER 65 OF THE CODE OF THE TOWN OF BETHEL ENTITLED "HEARING PROCEDURE FOR TOWN CITATIONS AND CIVIL PENALTIES AND/OR FINES" AS HEREINAFTER SET FORTH:

WHEREAS, the Town of Bethel requires that its Town ordinances be adhered to by the public; and

WHEREAS, it is economical and efficient to provide for citations and the implementation of civil penalties and/or fines to insure compliance with the Town's ordinances; and

WHEREAS, Connecticut General Statute §7-152c requires that in order to effectuate enforcement of said citations, a municipality establish a citation hearing procedure.

NOW THEREFORE, the Town of Bethel establishes the following procedures for issuance of citations and appeal of civil penalties and/or fines established by town ordinances.

Sec. 65-1. Hearing officer.

The First Selectman shall appoint one or more hearing officers to conduct hearings authorized by state statute and this chapter in the manner as herein provided. The hearing officer shall serve for a term of two (2) years and shall be appointed in accordance with the applicable provisions of Article VII, C7-1, C7-2, C7-3 and C7-4 of the Town Charter. Town employees, police officers or persons authorized under ordinance or state statute to issue citations, civil penalties and/or fines shall not be eligible to serve as citation hearing officer.

Sec. 65-2. Notice to violator of citation.

At any time within twelve (12) months from the expiration of the final period for the uncontested payment of fines, civil penalties, costs or fees for any citation issued under any ordinance adopted pursuant to §7-148 of the Connecticut General Statutes for an alleged violation thereof, the Town of Bethel, office of First Selectman shall, upon the direction of its hearing officer, shall send a notice by certified mail, return receipt, and by first class mail to the person cited. This notice shall include the following information:

- A. The allegations against such person and the amount of the fine, civil penalties, costs of fees due;
- B. That such person may contest his liability before a citation hearing officer by delivering, by mail or in person, written notice of his intent to appeal within ten (10) days of the date of the notice;
- C. That if such person does not demand such a hearing, an assessment and judgment shall be entered against him; and
- D. That such judgment may issue without further notice.

Sec. 65-3. Admission of liability.

Any person sent notice pursuant to Section 2-2. of this chapter may admit liability for the alleged violation. He may pay in full, without requesting a hearing, by mail or in person, the full amount of the fines, civil penalties, costs or fees admitted to, directly to the personnel in the office of the First Selectman. Payment shall be made to the "Town of Bethel". The personnel in the office of the First Selectman shall provide such person with a receipt of payment for such fines, civil penalties, costs or fees. Such payment shall be inadmissible in any proceedings, civil or criminal, to establish the conduct of such person or other person making the payment.

Sec. 65-4. Admission of liability for failure to respond.

Any person who fails to deliver or mail a written demand for a hearing within ten (10) days of the date of the first notice provided under Section 2-2. of this chapter shall be deemed to have

admitted liability, and the personnel of the Office of the First Selectman shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines, civil penalties, costs or fees provided for by applicable ordinances and shall follow the procedures set forth in Section 2-7. of this chapter.

Sec. 65-5. Hearing procedure.

Any person requesting a hearing under Section 2-2. of this chapter shall be given written notice of the date, time and place for the hearing. Such hearing shall be not less than fifteen (15) days, nor more than thirty (30) days from the date of the mailing of this notice, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for a postponement or continuance. Any person requesting a hearing under this chapter may be represented by an attorney at his own expense.

The procedure for the hearings will be in accordance with the following:

- A. An original or certified copy of the initial notice of violation issued by the issuing official or policeman shall be filed and retained with the personnel of the office of the First Selectman and shall be deemed to be a business record within the scope of §52-180 of the Connecticut General Statutes and evidence of the facts contained therein. Such original or certified copy shall be introduced as evidence before the hearing officer.
- B. The presence of the issuing official or policeman shall be required at the hearing if the person so requests.
- C. A person wishing to contest his liability shall appear at such hearing and may present evidence on his behalf. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances.
- D. The person may submit copies of police reports, investigatory and citation reports and any other official documents by mail to the hearing officer. The hearing officer may determine after reviewing these documents that the appearance of the person at the hearing is unnecessary.
- E. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality at any hearing held under this chapter.
- F. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer deems to be fair and appropriate. The rules regarding admissibility of evidence shall not be strictly applied but all testimony will be given under oath or affirmation.
- G. The entire hearing shall be recorded and such recording shall be retained by the Town for one (1) year, or longer if directed by Town Counsel.

Sec. 65-6. Hearing officer decision.

A. The hearing officer shall announce the decision at the end of the hearing. If the hearing officer determines that the person is not liable, the hearing officer shall dismiss the matter and enter his determination in writing accordingly.

B. If the hearing officer determines that the person is liable for the violation(s), the hearing officer shall forthwith enter and assess the fines, civil penalties, costs or fees against such person as provided by applicable ordinance.

C. All final decisions of the hearing officer shall be in writing and filed with the Town Clerk's Office within fourteen (14) days from the date of the final decision.

Sec. 65-7. Assessment and enforcement.

A. If the assessment of the hearing officer is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court designated by the Chief Court Administrator along with the entry fee as set forth in §7-152c. of the Connecticut General Statutes. Notwithstanding any other provisions of the Connecticut General Statutes, the hearing officer's assessment when so entered as a judgment, shall have the same effect as a civil money judgment and levy of execution on such judgment may issue without further notice to such person.

B. In the event that the civil penalties and/or fines imposed by the hearing officer are made pursuant to the provisions of an ordinance regulating blight, adopted pursuant § 7-148 (c) (7) (H) (xv) of the Connecticut General Statutes, and the civil penalties and/or fines and costs associated with the same under the blight ordinance are not paid on the date of the entry of the assessment, then the civil penalties and/or fines and costs shall constitute a lien of the Town of Bethel on the real property where said blight exists which lien may be continued, recorded and released in the manner provided by the general statutes of Connecticut for the 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. Said lien shall remain an encumbrance upon the subject property until such time as the blight condition shall be abated and all civil penalties and/or fines and costs assessed have been paid.

Sec. 65-8. Appeal of Assessment.

A person against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal, provided the appeal is instituted within thirty (30) days of the mailing of notice of such assessment by filing a petition to reopen the assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to §52-259 of the Connecticut General Statutes at a Superior Court designated by the Chief Court Administrator.

A copy of the Proposed Chapter 64 - Anti-Blight Ordinance and the Proposed Chapter 65 - Hearing Procedure For Town Citations And Civil Penalties And/Or Fines are also available for review in the office of the Bethel Town Clerk, Hurgin Municipal Center, 1 School Street, Bethel, CT and on the Town of Bethel, Connecticut website at www.bethel-ct.gov.

At such hearing the public shall have an opportunity to be heard thereon.

Dated at Bethel, Connecticut, this 4th day of December 2012.

BOARD OF SELECTMEN

Matthew S. Knickerbocker, First Selectman
Richard C. Straiton, Selectman
Paul R. Szatkowski, Selectman