

Chapter 13

**OFFENSES AND MISCELLANEOUS PROVISIONS\***

- Sec. 13-1. Noisemaking devices.
- Sec. 13-2. Loitering.
- Sec. 13-3. Littering highways.
- Sec. 13-4. Discharging liquid substances onto highways.
- Sec. 13-5. Anti-blight ordinance.

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\*Cross reference—General penalty for Code violations, § 1-11.

**Sec. 13-1. Noisemaking devices.**

(a) The use of noisemaking devices is hereby prohibited within all areas of the town other than those areas classified under the zoning ordinance of the town as rural zones.

(b) The penalty for the violation of this section shall be a fine of not more than twenty-five dollars (\$25.00), and each day on which a violation occurs shall be considered a separate offense. (Ord. of 11-20-72)

**State law reference**—Municipal noise regulation programs, G.S. § 22a-73.

**Sec. 13-2. Loitering.**

(a) It shall be unlawful for any person to loiter upon any public or quasipublic property.

(b) For the purposes of this section, the following definitions shall apply:

*Loiter* shall encompass one (1) or more of the following acts committed on public or quasipublic property within the town:

- a. Obstruction of the free, unhampered passage of pedestrians or vehicles.
- b. Obstructing, annoying or interfering with any person lawfully upon any public or quasipublic property.
- c. Refusing to move on when so requested by a police officer, or other officer having the power of arrest, provided such officer has exercised his discretion reasonably under the circumstances, in order to preserve or promote public peace and order.

*Quasipublic property* shall include any enclosed or open area of any business property to which the public is invited, including any parking or sidewalk area adjacent thereto.

(c) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with section 1-11.

(Ord. of 6-15-70, §§ 1—3)

**State law reference**—Municipal authority to regulate loitering and trespassing, G.S. § 7-148(c)(7)(F).

**Sec. 13-3. Littering highways.**

(a) *Definitions.* As used in this chapter, the following terms shall have the meanings indicated:

*Litter.* Any discarded, used or consumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper or other material or synthetic material or combination thereof, including, but not limited to, any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden wastes, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material which has not been deposited in a litter receptacle.

*Litter receptacle.* A receptacle suitable for the depositing of litter.

*Park.* Park, reservation, playground, beach, recreation center or any other public area in the town, owned or used by the town and devoted to active or passive recreation.

*Private premises.* Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox belonging or appurtenant to such dwelling, house, building or other structure.

*Public place.* Any area that is used or is held out for use by the public whether owned or operated by public or private interests.

*Town.* The Town of Madison.

(b) *Litter in public places; use of public receptacles.* No person shall deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in an authorized private receptacle for collection; provided, however, that said public receptacles shall not be used by persons owning or occupying property in the vicinity of said public receptacles for the deposit of domestic or commercial litter arising from the conduct of activities on such property.

(c) *Sweeping litter into streets.* No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

(d) *Sidewalk maintenance.* Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(e) *Merchants to keep sidewalks free of litter.* No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the town any accumulation of litter, and all persons owning or occupying places of business within the town shall keep the sidewalk in front of their premises free of litter.

(f) *Litter from vehicles.* No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the town or upon private property. The operator of said vehicle shall be deemed, prima facie, to have committed such offense.

(g) *Debris and litter from trucks.* No person shall drive or move any truck or other vehicle within the town unless such vehicle is constructed or loaded as to prevent load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind, excluding any public road construction.

(h) *Parks.* No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

(i) *Bodies of water.* No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the territorial waters of the town.

(j) *Occupied private property.* No person shall throw or deposit litter on any occupied private property within the town, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that the litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(k) *Duty to maintain premises free of litter.* The owner or persons in control of any private premises or public place shall use reasonable efforts to maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection.

(l) *Littering on vacant property.* No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

(m) *Throwing or distributing handbills.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, utility pole or other public place within the town.

(n) *Handbills on vehicles.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

[(o)] *Penalties for offenses.*

- (1) Any person who shall violate provisions of this chapter shall be deemed to have committed an infraction and be subject to a fine of thirty-five dollars (\$35.00).
- (2) Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be fined as such.
- (3) Any owner of a parking area who violates the provisions of this article shall be liable to the town for the reasonable costs and expenses of the town in removing the

litter, and such owner shall also be subject to a fine of not more than one hundred ninety-nine dollars (\$199.00) for each day during which such violation continues.

[(p)] *Enforcement.* The first selectman may appoint and authorize any other person to issue a citation to any person who commits a violation.

[(q)] *Hearing procedure for citations.* The town, acting by its board of selectmen pursuant to article X, section 10.1.1.A of the Town Charter, hereby adopts the provisions of G.S. § 22a-250, which section establishes a hearing procedure for littering violations as set forth in said statute. (Ord. of 5/7/49, §§ 1-5; Ord. of 11-8-10)

**State law reference**—Littering or dumping prohibited, G.S. § 22a-250.

#### **Sec. 13-4. Discharging liquid substances onto highways.**

(a) Between December 1 and April 1 of any year it shall be unlawful for any person to discharge or allow to be discharged upon any public highway within the town any liquid substance, including water and septic tank effluents, in such manner as to create a dangerous and hazardous condition upon the highway.

(b) The superintendent of public works, upon learning of such unlawful discharge, is authorized to issue a cease and desist order to the person responsible for the unlawful discharge. Failure to comply with such order shall constitute an infraction punishable in accordance with section 1-11. (Ord. of 6-21-76, § 2)

**Cross reference**—Streets and sidewalks, Ch. 19.

#### **Sec. 13-5. Anti-blight ordinance.**

(a) *Purpose.* It is hereby recognized that the existence of significantly dilapidated, damaged, unrepaired, unmaintained and/or litter strewn properties (commonly referred to as "blighted") can adversely affect the property values of abutting properties, of those in the immediate neighborhood and, in some cases, have a negative impact on an entire community. Further, blighted properties can threaten the health, safety, and welfare of area residents and business operations. The purpose of this section is (1) to define, prohibit and abate blighted premises; (2) to protect,

preserve and promote public health, safety and welfare; and (3) to preserve and protect property values within the Town of Madison. The ordinance from which this section is derived is adopted pursuant to the authority granted by G.S. §§ 7-148(c)(7), 7-148(c)(7)(H)(xv), 7-148(aa), and 7-152(c).

(b) *Definitions.* For the purposes of this section, the following words, terms and phrases shall have the following meanings, unless the context clearly indicates otherwise:

*Blight appeals committee* shall be a five (5) member committee comprised of electors of the Town of Madison appointed by the board of selectmen and charged with hearing appeals from actions or decisions of the blight enforcement committee.

*Blight enforcement committee* shall be a three (3) member committee designated to enforce the provisions of this section to be composed of the building official, director of health, and zoning enforcement officer.

*Blighted premises* means any building, structure or parcel of land, including without limitation, single family or multi-family residential or commercial, whether occupied or vacant in which at least one of the following conditions exists:

- (1) It is deemed an unsafe structure or designated as unfit for human habitation by the building official.
- (2) It is a fire hazard as determined by the fire marshal or as documented by the fire department.
- (3) It is determined by the director of health that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community.
- (4) It is not being adequately maintained and is visible from either the street or from adjacent property. The following factors shall be considered in determining whether it is not being adequately maintained:
  - a. Multiple missing, broken or boarded windows or doors.

- b. Collapsing, seriously damaged, or missing walls, roof, siding or other exterior features including but not necessarily limited to stairs, porches, railings, hatchways, chimneys or floors.
- c. Persistent accumulation of excessive amounts of garbage or trash on the premises.
- d. Chronically neglected and/or inoperable motor vehicles, camper trailers, or boats being stored on the premises, unless garaged, for a period of time in excess of sixty (60) days. This restriction shall not apply to off-season storage of recreational vehicles and boats.
- e. Outside storage, for a period of time in excess of sixty (60) days, of material or equipment which is incapable of performing the function for which it is designed, including, but not limited to, parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, etc.
- f. Rodent harborage and/or infestation.
- g. Chronically overgrown grass, weeds, or similar vegetation that is allowed to reach and remain at a height of twelve (12) inches or greater. Cultivated gardens and areas maintained in their naturally wooded, field, or shoreline state are specifically excluded from the height requirement so stated.
- h. Commercial parking areas left in a state of disrepair or abandoned.

*Owner/occupant* means all individuals, firms, partnerships, corporations, limited liability corporations or other entities or authorities which own, lease, rent, possess, or are responsible for property within the Town.

*Premises* means a lot or parcel and all buildings, structures, or uses located thereon.

*Special circumstances* shall mean a personal or economic hardship which renders the owner/occupant incapable of complying with an order of the blight enforcement committee. Such special circumstances may be considered by the blight appeals committee as grounds to provide additional flexibility in complying with an order of the blight enforcement committee.

(c) *Prohibition.* It shall be prohibited for any owner/occupant of any premises within the Town of Madison to allow such premises to become blighted or to fail to correct a pre-existing blighted condition.

(d) *Reporting a suspected violation.* Any resident within the Town of Madison may report a suspected violation of this section. Written complaints shall be submitted on a form prescribed by the blight enforcement committee. In the absence of a written complaint, any member of the blight enforcement committee may initiate an investigation of a possible violation of this section.

(e) *Determination of violation.* If, after receipt of a complaint and a subsequent investigation, a probable violation of this section exists, the blight enforcement committee shall hold a meeting to review the subject complaints and discuss their investigative findings. These meetings shall be open to the public and both the owner/occupant and the complainant shall be notified of the time and date of the meeting at which the subject premises will be discussed; however, the absence of either the owner/occupant or the complainant shall not preclude the committee from holding the meeting and making a formal finding. The blight enforcement committee shall take a vote to determine whether the condition of the subject premises constitutes a violation of this section and shall also determine how the violation shall be abated. A majority vote shall establish the formal finding of the committee.

If the blight enforcement committee finds that the premises is not in violation of this section, the committee shall not be required to review additional complaints on the same premises for a period of six (6) months. However, if the blight enforcement committee believes that the condi-

tion of the premises has changed to warrant further review, the committee may entertain repeat complaints within a shorter time period.

(f) *Notice of violation.* Upon determination that a violation of this section exists, the blight enforcement committee shall serve a written notice of violation to the owner/occupant. The notice of violation shall state (i) the violation; (ii) the date upon which the violation shall be remedied; (iii) that the failure of the owner/occupant to remedy the violation within the prescribed time shall result in the issuance of a citation in accordance with subsection (j) of this section; (iv) the amount of the daily civil penalties and any other fines or penalties imposed under subsection (i); (v) that if the owner/occupant fails to remove or remedy the violation, the town may cause the remediation of the violation at the expense of the owner/occupant; and (vi) that the owner/occupant has a right to an appeal in accordance with subsection (h) of this section. The notice of violation shall also include a fact sheet compiled by the senior services commission outlining assistance that is available for property owners age sixty-five (65) or older.

Delivery of the notice of violation to the owner/occupant shall be by certified mail, return receipt requested and simultaneously by regular U.S. Postal Service mail, addressed to the owner/occupant and mailed to all known addresses for such individual. If such mailings are undeliverable, such notice shall be provided by delivery by state marshal to the premises.

(g) *Time period for abatement / extensions.* The blight enforcement committee shall provide an owner/occupant a minimum of sixty (60) days to abate a violation of this section; however, the blight enforcement committee may allow for a longer time period for abatement depending on the nature of the violation.

Requests for extension of the time period established for abatement shall be submitted in writing to the blight enforcement committee. Approval of an extension request shall require a majority vote of the blight enforcement committee. However, in accordance with G.S. § 7-148o(b), any person who is a new owner or new occupant shall, upon request, be granted a thirty-day ex-

tension of this time period. For the purposes of this section, "new owner" means any person or entity who has taken title to a property within thirty (30) days of the notice of violation, and "new occupant" means any person who has taken occupancy of a property within thirty (30) days of the notice of violation.

(h) *Appeals.* An owner/occupant may contest the issuance of a notice of violation through an appeal to the blight appeals committee. The blight appeals committee shall establish a set monthly meeting for the purpose of hearing such appeals.

Appeals must be submitted in writing within thirty (30) days from the date of issuance of a notice of violation. The appeal shall include a statement outlining the reasons for the appeal, a copy of the notice of violation upon which the appeal is based, and any evidence that the owner/occupant wishes to submit in support of their appeal.

At the appeal hearing, the owner/occupant shall present the grounds for their appeal. A representative of the blight enforcement committee shall be in attendance and be given an opportunity to speak before the blight appeals committee if desired. Additionally, any member of the public wishing to comment on the appeal shall be given the opportunity to do so.

Upon conclusion of the public hearing, the blight appeals committee shall, by majority vote, render a decision on the appeal by upholding, overturning, or modifying the decision of the blight enforcement committee.

(i) *Penalties.* Violations of the provisions of this section shall be punishable by a civil penalty of \$100.00 per day/per violation, or the maximum amount as authorized under G.S. § 7-148(c)(7)(H)(xv) as the same may be amended from time to time, for each day such violation(s) exist and continue beyond the date required for remediation set forth in the notice of violation issued under subsection (f) hereof.

Violators will also be responsible for all costs and expenses associated with enforcement and the collection of any civil penalties, which shall include, but shall not be limited to, attorney fees, court costs, mailing costs and filing fees.

Additionally, any owner/occupant who, after receiving notice of violation pursuant to subsection (f) and after a reasonable opportunity to remediate the blighted premises, willfully violates the provisions of this section with respect to housing blight, such owner/occupant shall be fined by the State of Connecticut not more than two hundred fifty dollars (\$250.00), or the maximum allowed by G.S. § 7-148(o), as the same may be amended from time to time, for each day for which it can be shown, based on actual inspection of the property on each such day, that the blighted premises continue to exist after written notice to the owner/occupant as provided herein and the expiration of the time to remediate.

(j) *Issuance of citations.* The blight enforcement committee shall issue a citation when a violation of this section continues beyond the time period established for abatement of the violation.

The citation shall state:

- (1) A description of the violation.
- (2) The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such other fines, penalties, costs and/or fees due.
- (3) That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within thirty (30) days of the date of the citation.
- (4) That the owner/occupant may contest his liability before a citation hearing officer by delivering in person or by mail within thirty (30) days of the date of the citation a written demand for a hearing.
- (5) That if the owner/occupant does not demand a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.
- (6) That the town shall file a lien against the real estate in accordance with G.S. § 7-148aa for the amount of any unpaid civil penalties or other fines imposed by the town in accordance with this section.

Delivery of the citation shall be by the manner provided in subsection (f) hereof.

(k) *Uncontested payment; time period.* Any owner/occupant receiving a citation shall be allowed a period of thirty (30) days from the date of the citation to make an uncontested payment of the civil penalties, fines, costs and/or fees specified in the citation. All amounts shall be made payable to the town.

(l) *Payment of civil penalties.* If the owner/occupant who has been issued a citation pursuant to this section wishes to admit liability for any alleged violation, the owner/occupant may, without requesting a hearing, pay the full amount of the civil penalties, fines, costs and/or fees to the town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such owner/occupant or other person making the payment.

Any owner/occupant who does not deliver or mail written demand for a hearing within thirty (30) days of the date of the citation, shall be deemed to have admitted liability, and the blight enforcement committee shall certify to the hearing officer that such owner/occupant has failed to respond. The hearing officer shall thereupon enter and assess the civil penalties, fines, costs and/or fees provided for by this section and shall follow the procedures set forth in subsection (m).

(m) *Hearing procedure for citations.*

- (1) The first selectman shall appoint one (1) or more citation hearing officers. The first selectman shall not appoint a member of the blight enforcement committee, a member of the blight appeals committee, or any elected official or employee of the Town of Madison as the hearing officer.
- (2) An owner/occupant who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of mailing of the notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for post-

ponement or continuance. An original or certified copy of the citation issued by the blight enforcement committee shall be filed with and retained by the town and shall be deemed to be a business record within the scope of G.S. § 52-180 and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of a member of the blight enforcement committee shall be required at the hearing. A designated town official other than the hearing officer may present evidence on behalf of the town. An owner/occupant wishing to contest liability shall appear at the hearing and may present evidence on his behalf. If the owner/occupant who received the citation 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 and this section. The hearing officer may accept from such owner/occupant copies of any relevant investigatory and citation reports, and/or any other official documents by mail and may determine thereby that the appearance of such person is unnecessary.

- (3) The hearing officer shall conduct the hearing in the order and form, and with such methods of proof, as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If the hearing officer determines that the owner/occupant is not liable, the hearing officer shall dismiss the matter and enter that determination in writing accordingly. If the hearing officer determines that the owner/occupant is liable for the violation, the hearing officer shall forthwith enter and assess the civil penalties, fines, costs and/or fees against the person as provided by this section.
- (4) If the hearing officer's assessment is not paid on the date of its entry, the hearing

officer shall send by first class mail a notice of assessment to the owner/occupant 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 facility designated by the chief court administrator together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessment against the same owner/occupant may be accrued and filed as one (1) record of assessment. The clerk shall enter judgment, in the amount of the hearing officer's record of assessment as well as court costs, against such person(s) in favor of the town. The hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution of such judgment may issue without further notice to the owner/occupant.

- (5) A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal in accordance with G.S. § 7-152c(g).

(n) *Recording of lien.* Any unpaid civil penalty or other fine imposed pursuant to the provisions of this section, and any and all costs and expenses incurred by the town for the enforcement of this section, shall constitute a lien upon the real estate against which the civil penalty or other fine was imposed from the date of such civil penalty or fine. Each such lien may be continued, recorded and released in the manner provided for in G.S. § 7-148aa. Each such lien shall take precedence over all other liens and encumbrances, except taxes, and may be enforced in the same manner as property taxes.

(o) *Municipal performance.* In the event that any owner/occupant 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/occupant to appeal from the issuance of said citation, or by such appeal being sustained, the town may cause or take such action

as necessary to correct such violation. All costs and expenses of such corrective action shall be a lien upon the real estate. A certificate of lien shall be recorded in the town clerk's office within sixty (60) days after completion of such corrective action if all costs and expenses thereof are not reimbursed in full.

(p) *Other remedies.* The provisions of this section are in addition to, and not in lieu of, any other remedies available to the town under the Connecticut General Statutes, Connecticut State Building Code, Fire Code, Public Health Code, Zoning Regulations, or other sections of the Town Code.

(q) *Exemption for pending applications.* Any blighted premises for which an application is pending before the planning and zoning commission, the zoning board of appeals, or the inland wetlands agency shall be exempted from the enforcement provisions of this section until a decision is reached on such application. However, this exemption shall only apply when the application proposes improvements to the premises which would eliminate the blighted condition(s). The maximum duration of exemption for a blighted premises shall be one hundred eighty (180) days. (Ord. of 6-23-14)