Blight Prevention Ordinance

1. Declaration and Purpose

It is hereby found and declared that there may exist within the Town of Cheshire certain real properties which are in a blighted condition and whose continued existence in such condition adversely affects the economic well-being of the Town of Cheshire, contributes to the decline of neighborhoods, and jeopardizes the health, safety, welfare, and/or quality of life of persons within the Town of Cheshire. It is further found that many of the properties which exist in a blighted condition can be rehabilitated and that rehabilitation would eliminate, remedy, and prevent the adverse effects previously described. This ordinance is enacted pursuant to § 7-148(c)(7)(H)(xv) of the Municipal Powers Act of the State of Connecticut General Statutes and seeks to encourage rehabilitation of blighted premises.

2. Scope of Provisions

This Ordinance shall apply uniformly to the maintenance of all residential, nonresidential, and undeveloped premises now in existence or hereafter constructed, maintained, or modified but shall exclude Agricultural Lands as defined below, land dedicated as public or semipublic open space or preserved in its natural state through conservation easements; or areas designated as inland wetlands and watercourses.

3. Definitions

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

**Abandoned:** The owner(s) or occupant(s) have vacated the premises and, based upon readily ascertainable information, do not intend to return, which intention may be evidenced by the removal by the occupants or their agent of substantially all of their possessions and personal effects from the premises and either: (1) nonpayment of rent for more than two months, in the case of a rental property; or (2) an express statement by the occupants that they do not intend to occupy the premises as of or after a specified date.

**Agricultural Lands:** Any land suitable with reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors, for the cultivation of plants, for the production of human food and fiber or other useful and valuable plant products and for the production of animals, livestock and poultry useful to man and the environment and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas. Agricultural lands do not include any building, equipment or structure thereon in a state of disrepair or becoming dilapidated or containing debris thereon. Notwithstanding anything contained herein, the conditions described in J. and O. in the definition of “State of Disrepair or
Becoming Dilapidated” shall also apply to Agricultural Lands.

**Blighted Premises:** Real property, including any occupied, vacant, or abandoned buildings or structures located thereon, which is and continues to be in a state of disrepair or is becoming dilapidated as defined below.

**Blight Prevention Officer:** The Town of Cheshire official to serve as the Blight Prevention Officer shall be designated by the Town Manager.

**Blight Hearing Officer:** An individual(s) appointed by the Town Manager to conduct hearings.

**Building or Structure:** An edifice of any kind or any piece of work artificially built or composed of parts joined together in some form which is built or constructed on any real property. The words “building” or “structure” shall be construed as if followed by the words "or part(s) thereof." Accessory buildings or structures, canopies, awnings, marquees, and each and every type of portable equipment shall be considered "building" or "structures" within the meaning of this definition.

**Debris:** 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 or machinery such as automobiles, boats, and recreational vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair; parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, and garbage which are in the public view.

**State of Disrepair or Becoming Dilapidated:** In a physically deteriorating condition which, if left unabated, would cause an unsightly, unsafe, or unsanitary condition or a nuisance to the general public which may be evidenced by one or more of the following conditions:

- A. Multiple missing, broken or boarded up windows and/or doors;

- B. Damaged or missing siding;

- C. Collapsing or missing walls, roofing materials or flooring;

- D. Exterior walls which contain holes, breaks, loose or rotted materials;

- E. Foundation walls which contain open cracks and breaks;

- F. Overhang extensions, including but not limited to canopies, marquees, signs, awnings, gutters, stairways, fire escapes, standpipes and exhaust ducts which contain rust or other decay;

- G. Chimneys and similar appurtenances which are in a state of disrepair;
H. Insect screens which contain tears or ragged edges;

I. Infestation by rodents or other pests;

J. Excessive amounts of “garbage”, “refuse”, “rubbish” (as those terms are defined in Section 7-3 of the Town’s Ordinance) or debris;

K. Not more than one inoperative or unregistered motor vehicles or visibly inoperative boats parked, kept, or stored on the property unless garaged in a permanent structure on the property;

L. Commercial parking lots left in a state of disrepair or abandonment (e.g., excessive potholes, pavement cracks and weeds);

M. Overgrown brush, overgrown grass, weeds and/or similar vegetation of at least one foot in height, excluding the following: ornamental grass as part of a landscaped property, flowers, fruits, and vegetables, and areas maintained in their original naturally wooded state, or a natural field state provided that the surrounding area on the property is properly maintained and not in a state of disrepair or becoming dilapidated;

N. Graffiti;

O. It is determined by the Blight Prevention Officer, Building Official or Director of Health that the building, structure or parcel of land is in a condition which poses a serious threat to the safety, health, morals and general welfare of the community;

P. It is determined by the Blight Prevention Officer that any building, structure or parcel of land is a factor causing serious depreciation of property values in the neighborhood; or

Q. It is determined by the Blight Prevention Officer that any building, structure or parcel of land substantially and unreasonably interferes with the reasonable and lawful use and enjoyment of other premises in the neighborhood.

R. Any other evidence that reasonably demonstrates that a property would cause an unsightly, unsafe, or unsanitary condition or a nuisance to the general public.

4. Prohibition Against Blighted Premises.

No owner of real property located in the Town of Cheshire shall allow, create, maintain, or cause to be created or maintained, a Blighted Premises.

5. Minimum Standards

(1) The provisions in 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.
(2) If a provision of this Ordinance is found to be in conflict with a provision of any building, fire, zoning, safety, or health ordinance, regulation, or other law of the Town or State of Connecticut and such provision of this Ordinance establishes a higher standard for the promotion and protection of the health and safety and property values, this Ordinance shall prevail unless otherwise prohibited by law.

(3) This Ordinance shall not affect violations of any other ordinances, codes or regulations existing prior to the effective date of this Ordinance, and any such violations may be governed and continue to be punishable under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

6. Responsibility for Compliance

The owner, lessee, or occupant of premises subject to this Ordinance, including the agents thereof, shall be jointly and severally liable and obligated to comply with the provisions of this Ordinance. Whenever the person, as herein defined, is a corporation or other legal entity, the officers or members thereof shall be jointly and severally responsible with that corporation or other legal entity for compliance herewith.

7. Administration and enforcement.

A. Upon the observation of the Blight Prevention Officer and/or upon receiving a written complaint of a possible violation of this Ordinance signed by the complainant in his/her legal name, the Blight Prevention Officer shall initiate an investigation.

If, after completing an investigation, the Blight Prevention Officer determines that a violation of this Ordinance exists, he/she shall issue a written warning to the owner/occupier at the time such determination has been made if the violation does not pose an imminent threat to public health or safety. Such a warning from the Blight Prevention Officer shall be issued prior to issuing a citation. Such written warning shall include: (1) The address of the real property on which the violation exists; (2) A due date for the performance of any act required to remedy the violation and what action needs to be taken to remedy the violation; (3) The allegations against the property owner(s), including the conditions existing on the real property which evidence the violation; (4) The amount of fines, penalties, costs, or fees due or that may be due pursuant to Section 8 herein. The owner/occupier may not contest a warning before a Blight Hearing Officer. The delivery of a written warning to the owner/occupier shall be accomplished by leaving a copy of such written warning with the owner(s) of the real property on which the violation exists or by affixing the notice of
violation to the blighted premises. The Blight Prevention Officer shall also send a copy of the written warning by both first-class mail and certified mail, return receipt requested, to the last known address of the owner(s) and mortgagees. The Blight Prevention Officer shall not be required to issue a written warning under this section in matters involving an imminent threat to the safety, health, morals and general welfare of the public.

B. If a written warning is issued pursuant to Paragraph A and the violation is not remedied within the time prescribed therein, the Blight Prevention Officer shall issue a notice of violation by leaving a copy of such notice of violation with the owner(s) of the real property on which the violation exists or by affixing the notice of violation to the blighted premises. The Blight Prevention Officer shall also send a copy of the notice of violation by both first-class mail and certified mail, return receipt requested, to the last known address of the owner(s) and mortgagees.

C. The notice of violation shall inform the owner(s) of the real property on which the violation exists of the following:

1. The address of the real property on which the violation exists;
2. The allegations against the property owner(s), including the conditions existing on the real property which evidence the violation;
3. The amount of fines, penalties, costs, or fees due or that may be due pursuant to Section 8 herein;
4. That the property owner(s) must remedy the violation(s) of this ordinance within 30 calendar days of the notice of violation or such longer period as permitted by the Blight Prevention Officer in his/her discretion;
5. That the property owner(s) may contest liability before the Blight Hearing Officer by delivering in person or by mail written notice of such request to the Blight Prevention Officer within 10 calendar days of the notice of violation;
6. That, if the property owner(s) does not demand such a hearing or remedy the violation(s), an assessment and judgment shall be entered against the property owner(s);
7. That the judgment may issue without further notice.

D. As permitted by the hearing procedure for citations set forth in Connecticut General Statutes § 7-152c, which the Town of Cheshire specifically adopts herein, the Town Manager shall appoint, with the approval of the Town Council, a Blight Hearing Officer. No Hearing Officer shall be a police officer, employee of the Town of Cheshire, or a person who issues citations. Subsequent to the initial appointment of a Blight Hearing Officer upon the passage of this Ordinance, all Blight Hearing Officers shall be appointed for terms not to exceed two years and shall take office on the first business day in January
following a general Town election. The powers, duties, and responsibilities of the Blight Hearing Officer shall be those set forth for citation hearing officers in Connecticut General Statutes § 7-152c and this Ordinance.

E. If the person who is sent notice pursuant to Subsection C of this section wishes to admit liability for any alleged violation, he/she 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 Manager. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment.

F. If (1) no hearing has been requested within 10 calendar days of the notice of violation and (2) the violation has not been remedied within 30 calendar days of the notice of violation or such longer period as permitted by the Blight Prevention Officer, the property owner(s)' of the real property on which the violation exists shall be deemed to have admitted liability and the Blight Prevention Officer shall certify such property owner(’s) failure to respond to the notice of violation to the Blight Hearing Officer. The Blight Hearing Officer shall thereupon issue a citation by delivering same to the property owner(s) in the same manner prescribed above for the initial notice of violation and assess the fines, penalties, costs, or fees provided for in Section 9 of this Ordinance unless, pursuant to its discretion afforded below, it determines that certain circumstances exist which warrant a delay in citation or assessment. The date of the citation shall commence the daily fine established in Section 8.

G. If the property owner(s) who has/have been issued a notice of violation request(s) a hearing within 10 calendar days of the notice of violation in the manner required above, a hearing will be scheduled and conducted before the Blight Hearing Officer in accordance with the requirements contained Connecticut General Statutes § 7-152c(e). As noted therein, the Blight Hearing Officer shall announce his/her decision at the end of the hearing. If the Blight Hearing Officer determines that the property owner(s) is/are not liable, the Blight Hearing Officer shall dismiss the matter and enter the determination in writing. If the Blight Hearing Officer determines that the property owner(s) is/are liable for the violation, he/she shall forthwith enter and assess the fines, penalties, costs, or fees against such person as provided in this Ordinance unless, pursuant to its discretion afforded below, he/she determines that certain circumstances exist which warrant a delay in citation or assessment.

H. Whenever a noticed violation is not corrected by the date specified in said notice, in addition to all other legal remedies authorized by law and this Ordinance, the Blight Enforcement Officer or his/her designee(s) are further authorized to enter the Blighted Premises during normal business hours for the purpose of remediating blighted conditions at the sole cost and expense of the property owner, provided that neither the Blight
Enforcement Officer nor his or her designees shall enter any occupied dwelling house or other structure so existing on the blighted premises without proper authorization. Such cost and expense shall constitute a lien on the property and may be foreclosed by the Town of Cheshire.

I. Notwithstanding other provisions of the Town of Cheshire’s Ordinances, the Town of Cheshire’s Building Department shall be permitted to issue building permits to property owners for purposes of the remediation of Blighted Premises when delinquent property taxes exist with respect to such property, provided that all other requirements for the issuance of any such permits are satisfied.

J. Prior to issuing a citation or assessing fines under this ordinance, the Blight Hearing Officer may give special consideration to property owner(s) who are disabled, elderly, or low income who cannot maintain a reasonable level of upkeep of the real property at which they reside. In such circumstances, the Blight Hearing Officer may allow the property owner(s) a reasonable amount of time to remedy the violation, the duration of which shall be in the discretion of the Blight Hearing Officer but shall not exceed six months from the hearing date or from the date of the notice of violation where a hearing is not requested. In order to exercise his/her discretion, the Blight Hearing Officer shall require either testimony or a written affidavit from each affected property owner (if they are truly unable to appear in person before the Blight Hearing Officer for a hearing) attesting that no person resides at the real property who can perform the necessary maintenance, yard work, etc., to remedy the violation and the property owner is unable to afford to hire the services of a third-party contractor to perform the remedial services. For purposes of this Ordinance:

(1) A property owner shall be considered disabled if he/she has a mental or physical disability as defined under the American with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008.

(2) A property owner shall be considered elderly if he/she is over the age of 65 years old.

(3) A property owner shall be considered low income if his/her household gross annual income for the previous calendar year was equal to or less than 150% of the poverty level, according to the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

K. The Blight Prevention Officer is authorized to initiate legal proceedings in the Connecticut Superior Court for the immediate correction of the violation(s), collection of any penalties,
and the recovery of all costs and the reasonable attorneys’ fees incurred by the Town of Cheshire to enforce this ordinance.

L. All fines, Court costs, costs of remedial action, and attorney’s fees, as ordered by the Court, shall constitute a lien on the subject premises, provided the owner of said premises has been notified of the violations as herein provided and was made a party to the enforcement proceedings in Superior Court.

8. Violations and penalties.

A violation(s) of the provisions of this ordinance shall be subject to a fine of $100.00 per day for each day a violation continues to exist. The date the citation was issued by the Blight Hearing Officer shall be the commencement date for the fine.

9. Right to appeal.

A property owner against whom a citation or assessment has been entered under this ordinance may appeal the decision of the Blight Hearing Officer as provided in Connecticut General Statutes.

10. Superior Court judgment.

The failure to pay the citation or assessment of any fine(s) by the Blight Prevention Officer may result in the entry of judgment by the Superior Court as provided by Connecticut General Statutes §7-152c(f).

11. Recording of lien.

Pursuant to Connecticut General Statutes §7-148aa, any unpaid fine imposed pursuant to the provisions of this Ordinance shall constitute a lien upon the real property against which the fine was imposed from the date of such fine. Each such lien may be continued, recorded, and released in the manner provided by Connecticut General Statutes for continuing, recording, and releasing municipal real property tax liens. Each such lien shall take precedence over all other liens and encumbrances filed after July 1, 1997, except real property taxes assessed by the Town of Cheshire and may be enforced in the same manner as property tax liens.

12. Nuisance claims.
Nothing in this Ordinance shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance. Furthermore, if a property owner(s) remedies blighted premises in response to a notice of violation or citation issued under this Ordinance, any such remedy shall not bar a nuisance claim against the property owner by any person. A violation of any portion of this Ordinance shall not be deemed to create a nuisance per se.

13. **Severability.**

If any provision of this Ordinance, or the application thereof to any person or circumstances, is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of any other part of this Ordinance which can be given effect without the invalid provisions or application; and to this end, the provisions of this Ordinance and the various applications thereof are declared to be severable.

14. **Effective Date.**

This ordinance shall be effective upon passage.