

A BY-LAW TO MANAGE AND CONTROL BLIGHTED PROPERTIES IN THE  
TOWN OF SOUTHBRIDGE

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WHEREAS, The Town of Southbridge believes that the Town should adopt a by-law to control Blighted Properties; and

WHEREAS, The Town of Southbridge believes it is in its best interest to have all the tools at its disposal to control Blighted Properties; and

WHEREAS The Town of Southbridge believes it is in the best interests of the citizens of the Town of Southbridge for their health, safety and wellbeing to control Blighted Properties.

NOW THEREFORE, THE Town of Southbridge, acting by and through the TOWN COUNCIL, hereby Takes the following action:

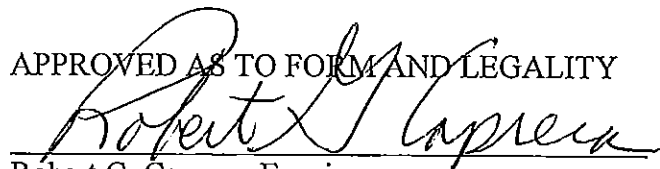
The Town Council of the Town of Southbridge in the exercise of power conferred on it by Section 8 of Article LXXXIX of the amendments to the state constitution and by its own home rule charter does hereby adopt and enact the following addition to the "Code of By-laws, Town of Southbridge, Commonwealth of Massachusetts" to be indexed as "Chapter 9 Section 301" and to be known as "Control of Blighted Properties":

DATED THIS 12 of September, 2016

PER ORDER OF THE TOWN OF SOUTHBRIDGE

  
\_\_\_\_\_  
Ron San Angelo, Town Manager

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Robert G. Caprera, Esquire  
Attorney for the Town of Southbridge

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Section 9-301: PURPOSE

- A. It is hereby found and declared that there exists within the Town of Southbridge numerous real properties which are in a blighted condition. Many of these properties are essentially abandoned. Some are in violation of multiple aspects of state and local building and sanitary codes. These code violations may include, but are not limited to unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unsecured houses, un-shoveled snow and foliage rendering sidewalks impassable,
- B. The existence of such blight, contributes to the decline of Town neighborhoods. It is further found that the existence of such blighted properties encourages temporary occupancy, if abandoned, by transients, drug users and persons engaged in criminal activity; adversely affecting the economic well being of the Town of Southbridge and the health, safety and wellbeing of Southbridge's residents and creates significant costs to Southbridge by virtue of the need for constant monitoring and frequent boarding and securing.
- C. It is further found that many of the blighted properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe, sanitary housing or commercial facilities, and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and/ or prevent the adverse conditions described above.
- D. It is the intent of this article to protect and preserve public health, safety, security and wellbeing of occupants, abutters and neighborhoods by:
  1. Requiring all residential, commercial and industrial property owners, to properly maintain properties free from blighted conditions, and
  2. Regulating the maintenance of residential, commercial and industrial properties to prevent blighted and unsecured properties.

Section 9-302 DEFINITIONS

When used in this chapter, unless a contrary intention clearly appears, the following terms shall have the following meanings:

- A. "Blighted Premises" or "Blighted Property(ies)" or the condition of "blight" involving real property in the Town of Southbridge shall mean any building, structure, parcel of land, or any part of a building or structure that is a separate unit, whether commercial or residential, whether occupied or unoccupied, in which at least one (1) of the following conditions exist:
  1. The property is not being adequately maintained and secured as documented by the Enforcement Officer (as the term is defined herein) based upon, without limitation, the following factors or similar factors: missing or boarded windows or doors; collapsing or missing walls, roofs or floors; siding that is seriously damaged or missing; fire damage; a foundation that is structurally faulty; other structural deficiencies that contribute to blight as determined by the Enforcement Officer or his/her agents; the accumulation

outside of interior furniture, garbage, trash, and/or junk; and/or the existence of inoperable/ neglected motor vehicles, boats, motorcycles or other inoperable machinery or other refuse (unless otherwise licensed to do so).

2. The property or its owner(s) has/have been cited for violations as documented by an Enforcement Officer or his/her designated agents, and said violations have not been corrected.
  3. The property is a fire hazard as documented by the Fire Department.
  4. Because of fire, wind or other natural disaster, or because of physical deterioration, the property is no longer habitable as a dwelling or useful for the purpose for which the completed structure was originally intended;
  5. The property is a vacant building as defined hereunder; or
  6. It is determined by an Enforcement Officer or his/her designated agents, that the building, structure or parcel of land is in a condition which poses a serious nuisance or serious threat to safety, health, , and/or wellbeing of the Town of Southbridge.
- B. "Board of Health" shall mean the Board as defined and designated by the Town's governance documents.
- C. "Building" shall mean a structure having a roof supported by columns or walls, resting on its own foundations and designed for shelter, housing or enclosure of persons, animals or property of any kind.
- D. "Costs" shall mean any and all expenses paid or incurred by the Town for work done or efforts expended in furtherance of carrying out the intent and directives of this By-Law including but not limited to all technical, administrative, and/or professional fees, and all court costs and attorney fees for all efforts to carry out this By-Law.
- E. "inoperable/ Neglected motor vehicle" shall mean a motor vehicle, whether registered or not, that remains in condition of disrepair or partially dismantled with no progress toward restoration or; a vehicle showing neglect by invasion of foliage, rodent nesting, or progressive deterioration or other condition attributable to neglect
- F. "Inspector of Buildings" shall mean the Director of the Inspections Department as well as the Electrical Inspector, the Plumbing Inspector, and/or the Gas Inspector, whether they are permanent or temporary in their service.
- G. "Enforcement Officer" shall mean the, Inspector of Buildings, Director of Public Health, Police Chief, Fire Chief and/or their designated agents.
- H. "Local Agent" shall mean an agent located within thirty (30) driving miles distance of the property in question.

- I. "Owner" shall mean any individual, business entity, voluntary association or nonprofit organization, which alone or jointly or severally with others:
1. Has legal title to any building, structure, and property, or
  2. Has care, charge, or control of any such building, structure or property in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title, or
  3. Is a lessee under a written agreement, or
  4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of such building, structure or property.
- J. "Property" shall mean any real residential, commercial, or industrial property or portion thereof, located in the Town of Southbridge, including buildings or structures situated on the property. For purposes of this article, "property" does not include property owned or subject to the control of the Town of Southbridge or any of its governmental bodies. Discussion
- K. "Receiver" shall mean a court appointed individual who serves as a general contractor and whose duties and powers shall be specified by the court in accordance with the provisions of M.G.L. c. 111 §127I.
- L. "Securing measures" shall mean any actions that are taken to prevent unauthorized persons access to the property including but not limited to erecting fencing around the property, boarding up doors and windows and the like.
- M. "Town" shall mean the Town of Southbridge.
- N. "Vacant" shall mean either:
1. Any unoccupied real property which is empty or remains empty due to abandonment or is not continuously maintained or; which persistently or repeatedly becomes unprotected or unsecured; or which has become occupied by unauthorized persons or which displays conditions of blight
  2. Any unoccupied building, structure or property displaying conditions of blight.

Section 9-303: *BLIGHTED CONDITIONS*

- A. Creating a condition of blight:  
It shall be a violation of this by-law for any owner of a property, vacant or otherwise, in the Town of Southbridge, to allow or cause to be created intentionally or through neglect to take corrective action, any condition of blight on that property or condition of blight caused by that property on any abutting properties.
- B. Correction of Blighted conditions:  
The owner(s) of such blighted property shall correct any condition of blight on such property or its appurtenance(s).

Section 9-304: ADMINISTRATION

A. Inspection Authority-

In order to properly protect the health and well-being of the people and the emergency responders of the Town of Southbridge, enforcement officer(s) or their authorized agent(s) or representative(s), upon reasonable cause, are authorized to enter, examine, and/or survey at any reasonable time such places as they consider necessary.

B. Investigation-

The Enforcement Officer(s) may undertake an investigation of any alleged violation of this section upon their own initiative or shall, upon receipt of a complaint from any individual, civic organization or other governmental agency undertake an investigation of the alleged violation.

C. Orders to Take Corrective Action-

Upon a finding of a violation of the provisions of this section the enforcement officer shall serve notice of the violation and an order to correct such violation upon the owner(s) of the property by certified mail or by in hand service by a person authorized to do such. The order shall require the owner(s) to take one or more of the following actions to bring the property into compliance with the requirements of this bylaw:

1. To take any action that the Enforcement Officer deems necessary to correct the violations of this bylaw in order to assist the Town of Southbridge in protecting the public health, safety and the wellbeing.
2. To correct the violation within seven days or within such time as the Enforcement Officer deems reasonable and necessary, or
3. In instances where permits or other authorizations are required; to file a completed application and any required plans for said permit for repair or rehabilitation along with a schedule indicating a completion date for such work or its various phases. Such schedule shall be approved by the Enforcement Officer.

D. Right of the Town to affect repairs-

Whenever a property owner fails, neglects, or refuses to make repairs or take other corrective actions specified in the order, the Town Officials may undertake such repairs or actions or; the Town may seek a court appointed receiver to manage the property and bring said property into compliance with all applicable statutes, regulations and codes; or take other action the Town Official or Enforcement Officer determines is necessary when, in his or her judgment, a failure to make the necessary repairs or corrective actions will endanger the public health, safety and wellbeing.

E. Recovery of Costs-

Notice of the intention of the Town to make such repairs or other corrective actions shall be served on the owner(s) by certified mail or by service in hand by a person duly authorized to do such.

When the repairs are made or other corrective actions are taken by the Town of Southbridge, the cost of such repairs (which "costs" are understood to include all technical, administrative, and/or professional fees to accomplish these repairs and/or corrective actions) plus any and all court costs and attorney fees for administration, processing, and/or prosecution of the collection of these costs shall constitute a debt in favor of the Town against the owner(s) of the repaired property. In the event that the owner(s) fails, neglects or refuses to pay the Town the amount of the debt within thirty (30) days of the receipt of the notice of the debt, the Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

F. Multiple Remedies-

The enforcement remedies provided in this chapter are not intended to replace or supersede the following remedies already existing under current law but are to be available in addition to these existing remedies to better address and confront the dire community problem of blighted properties:

1. Receivership (MGL c. 111, sec 127I)
2. Municipal Charges Lien (MGL c.40, sec 58)
3. Noncriminal Disposition of By-Law Violation (MGL c. 40, sec 21D)
4. Removal and Abatement of Public Nuisances (MGL c. 111, sec 122-125)
5. Demolition Liens for Common Nuisances (MGL c. 139, sec 3A)
6. Remedies provided by State Sanitary Code and State Building Code.

Section 9-305: APPEALS

A. Right to Hearing:

Any person or persons upon whom any order has been served pursuant to any section of this bylaw, and who is aggrieved by said order may appeal to the Board of Health provided, such petition must be filed in writing within seven days after the day the order was served.

B. Hearing Notice:

Upon receipt of a petition the Board of Health shall in writing inform the petitioner and other affected parties (affected parties shall include the occupants of all affected premises if the petitioner is an owner, and the owner if the petitioner is an occupant) of the date, time and place of the hearing and of their right to inspect and copy the Enforcement Officer's file and other public records concerning the matter to be heard.

C. Appeal of Final Decisions:

Any person aggrieved by the final decision of the Board of Health with respect to any order issued under the provisions of this bylaw may seek relief there from in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

Section 9-306: REGISTRATION OF VACANT BUILDINGS REQUIRED

A. Registration-

1. Within thirty (30) days of a building becoming vacant, and each January 1st thereafter each owner of such vacant building shall register said property with the Town of Southbridge's Director of Building Inspections. All registrations must state the owner's name, mailing address, physical address if different, telephone number and email address if the individual has an email address.
2. If none of the owner(s) are at an address within the Commonwealth of Massachusetts, or within thirty (30) miles of Southbridge, the registration shall also include the name, address, phone number and email address of a responsible local agent for purposes of securing and maintaining the property, for the purposes of notification in the event of an emergency affecting the public health, safety and wellbeing, and for service of any and all notices issued pursuant to this ordinance.
3. The failure to timely register a vacant building shall be a violation of this ordinance. Within the context of this chapter, "timely" shall mean registration no later than thirty (30) days after a building becomes vacant.

B. Registration Fees-

1. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. The fee and registration are for the calendar year, or remaining portion of the calendar year in which the registration was initially required. Subsequent registration and fees are due on or prior to January 1<sup>st</sup> of each year.
2. Failure to timely register any vacant real property, shall be a violation of this bylaw and a fee shall be imposed as a municipal charges lien on the property in accordance with M.G.L. 40 §58.

C. Maintenance Requirements-

1. Properties subject to this section shall comply with the current edition of 780 CMR: The Massachusetts State Building Code and shall be maintained in accordance with all applicable State Sanitary Codes, Building Codes and local regulations;
2. The property must contain a posting with the name and 24-hour contact phone number of the local owner or local agent responsible for the maintenance. This sign must be posted at the front of the property and must be legible and clearly visible from the public way and/or street.

- D. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice of occupancy to the Director of Building Inspections.

Section 9-307: PENALTIES AND ENFORCEMENT

This section shall be enforced by the Enforcement Officer, the Director of Building Inspections, the Director of the Board of Health/Health Inspector, The Police Chief, The Fire Chief and/or their designated agents.

Upon failure to comply with any order issued under this section, the Town may, in addition to other penalties and actions:

- A. Bring civil or legal action against the owner to require compliance with the order including but not limited to seeking a court approved receiver for the property in violation.
- B. Issue fines whereby each separate offense of this section may be punishable by a fine of:
  1. First offense: \$100.00 daily for each day the violation exists,
  2. Second offense: \$150.00 daily for each day the violation exists,
  3. Third offense and each subsequent offense: \$200.00 daily for each day the violation exists.

Any fines issued in any action to enforce this bylaw shall be instituted and enforced in accordance with Massachusetts General Law (MGL) Ch.40 §21D.

- C. Undertake any other actions legally applicable in enforcing any other laws, codes, regulations or by-laws. The imposition of any enforcement of any section of this bylaw shall not be construed to prevent the enforcement of other laws upon the owner(s) and/or the premises nor prevent the initiation of other enforcement measures or penalties. Failure to pay any fine arising from the enforcement of this chapter shall constitute a debt in favor of the Town. The Town may place a lien on the property for such debt and/or initiate a civil action against the owner(s) in a court of competent jurisdiction to recover the debt. In addition to this debt amount, "costs" as defined in the Definition section of the chapter shall be added to the debt to comprise the total lien amount.

Section 9-308: SEVERABILITY:

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately.

All by-laws or parts of by-laws inconsistent herewith are hereby repealed.

This by-law shall take effect on the date of passage.  
Date: This 12<sup>th</sup> day of September, 2016  
Per Order of the Town of Southbridge Town Council