PROPERTY MAINTENANCE ORDINANCE

SECTION 1. PURPOSE

(a) It is found and declared that properties with residential and nonresidential structures that are substandard with respect to structural integrity or maintenance; that vacant, blighted, dilapidated or disorderly homes, buildings and other real property, located within the Town of Middlebury, contribute to the decline of neighborhoods, that the existence of such homes, buildings or real property adversely affects the economic well-being of the Town, and is inimical to the health, safety and welfare of the residents and visitors of the Town.

(b) This Ordinance is enacted by the Town of Middlebury, pursuant to the authority granted it under Connecticut General Statutes §7-148 (c) (7) and Connecticut General Statutes § 29-253.

SECTION 2. DEFINITIONS

(a) "Blighted Property" - any building, structure or parcel of real property where at least one of the following conditions exists:

(1) It has been determined by the Town Building Official, Health Official, Sanitarian, Zoning Enforcement Officer or other appropriate official, acting within the scope of his or her authority, that a condition exists, which poses a serious or immediate threat to the health, safety or general welfare of the community.

(2) The Fire Marshal has determined that a building or structure is a fire hazard.

(3) The property is in a state of disrepair or is becoming dilapidated.

(4) The property is unfit for human habitation.

(5) The property has an unsafe structure or structures.

(6) The overall condition of the property causes an unreasonable impact on the enjoyment of, or value of, neighboring properties, as may be expressed by complaints from adjoining property owners, and citizens of the Town of Middlebury.

(7) The quality of life of others is significantly impacted by the state of disrepair or dilapidation of the property.

(b) "State of Disrepair" or "Becoming Dilapidated" – a physically deteriorating condition, causing unsafe or unsanitary conditions or one which has become unsightly or a nuisance to the General Public and is evidenced by one or more of the following conditions:

(1) Missing, broken or boarded up windows and doors.

(2) Collapsing or missing walls and roof.

(3) Seriously damaged or missing siding.

(4) Unrepaired fire, water or wind damage.

(5) Rodent or other infestation, having the potential to cause disease.

(6) Persistent accumulation(s) of garbage or trash in or on the property.

(7) Two or more inoperative or abandoned, unregistered vehicles; or inoperative marine vessels or unregistered trailers; kept or stored on the premises, unless garaged or the premises is properly permitted as a junk yard.

(8) Overgrown grass, weeds and other vegetation, that has an adverse impact on the enjoyment of, or value of, neighboring properties, and/or creates infestation having the potential to cause disease, except undeveloped or farming fields.

(9) Felled trees or parts thereof, visible from the road or neighboring properties, that present a safety situation and/or have an adverse impact on the enjoyment of, or value of, neighboring properties.

(10) Parking locations left in a state of disrepair or abandonment.

(11) Abandoned swimming pools or accumulations of stagnant water, which would promote the breeding of mosquitoes or other potentially harmful insects.

(12) Any other exterior condition reflecting a level of maintenance which is not in keeping with community standards or which constitutes a blighting factor for adjacent property owners or occupiers or which is an element leading to the progressive deterioration of the neighborhood.

(c) "Unfit for Human Habitation" – any home, building or other real property, which, by virtue of its blighted or dilapidated condition, poses a serious, immediate or long-term threat to the health, well-being, safety and/or welfare of its inhabitants.

(d) "Unsafe Structure" - A structure which becomes unsanitary or deficient because of inadequate means of egress, inadequate facilities, inadequate light or ventilation, or which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, or which involves illegal or improper occupancy or inadequate maintenance, or which is not secured against entry.

SECTION 3. PROHIBITION

No owner, agent, tenant or person in control of real property located within the Town of Middlebury shall allow, maintain or cause to be maintained a blighted property.

SECTION 4. NOTICE

(a) The Town of Middlebury, through its designated enforcement personnel, shall serve written notice to an owner, agent, tenant and/or person responsible, of a violation of this ordinance. This notice may be hand delivered or sent by certified mail, return receipt requested, to the last known address of the responsible person(s).

(b) Such notice shall state: (1) the violation(s); (2) the corrective action(s) demanded; (3) the time frame for rectifying the noted violation(s), and (4) the amount of the fines, penalties, costs or fees that may be imposed for noncompliance. If the person(s) responsible fail to correct the violations the Town of Middlebury may issue an enforcement citation as specified hereafter.

SECTION 5. DESIGNATED ENFORCEMENT PERSONNEL

The Zoning Enforcement Officer, Building Official, Health Official, Fire Marshal or other individual designated by the Board of Selectmen is charged with the enforcement of this ordinance. Each of the above is specifically authorized to take such enforcement actions as delineated in this ordinance.

SECTION 6. PENALTIES FOR VIOLATIONS

Violations of the provisions of this ordinance shall be punishable by a fine of one hundred dollars ($100.00) for each day in which a violation exists and is allowed to continue.

SECTION 7. ENFORCEMENT CITATIONS

If any violation of this ordinance remains unabated after thirty (30) days, or as otherwise extended by action of enforcement personnel, any Police Officer, the Zoning Enforcement Officer, Building Official, Health Official or Fire Marshal, or other person authorized by the Board of Selectmen, as applicable, is hereby authorized to issue a citation to the violator, in accordance with this ordinance.

SECTION 8. CITATION PROCEDURES

(a) Procedures established in the existing Town Ordinance entitled: " Ordinance Establishing a Hearing Procedure for Citations" will apply to this Ordinance.

(b) The final period for uncontested payment of any citation under this Chapter shall be thirty (30) days after certified mailing return receipt or by hand delivery with proof of delivery.

SECTION 9. RECORDING OF LIEN

Any unpaid fine imposed under this ordinance shall constitute a lien upon the real property in question, in accordance with Connecticut General Statutes § 7-148aa. Each such lien shall be continued, recorded and released as provided in that Statute.

SECTION 10. MUNICIPAL PERFORMANCE

In the event any owner, agent, tenant or person in control of real property within the Town of Middlebury shall fail to abate or correct any violation specified in any notice, after issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant or person in control of real property to appeal from issuance of said citation, or by such appeal being sustained, the Town of Middlebury, acting through its designated enforcement officer, issuing such notice of violation, may cause or take such action as is necessary to correct such violation. The costs of taking such action shall constitute a civil claim by the town, against such owner, agent, tenant or person in control of such property and the Town may bring action to recover such costs and expenses incurred in the pursuit of such claim.

SECTION 11. EXCEPTIONS

(a) Any blighted property for which a special exception or site application for improvements to real property is pending shall be exempt from the provisions of this ordinance for a period of 90 days ,and any extensions as granted consistent with Connecticut law, from the date of submittal of a complete application to the Town Planning and Zoning Commission.

(b) Farms, open fields, open space, and forest land (all as defined, and provided for in Chapter 203 and related sections of the Connecticut General Statutes) are exempt from Section 2 (b) (8) of this Ordinance concerning overgrown vegetation, except if there is the presence of toxic materials.

SECTION 12. EMERGENCY

Whenever, in the judgment of the town's Health Official, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without hearing or appeal, directing the owner, agent, tenant or person in control of any blighted or dilapidated property to take such action as is appropriate to correct or abate the emergency situation. If circumstances warrant, the Health Official may immediately act to correct or abate the emergency.

SECTION 13. HIGHER STANDARD TO PREVAIL IN CASE OF CONFLICT WITH OTHER LAWS OR ORDINANCES, PREEMPTION BY THE STATE

In any case where the provisions of this ordinance impose a higher standard than set forth in any other Town ordinances or under the laws of the state or federal governments, then the standards as set forth herein shall prevail. If the provisions of this ordinance impose a lower standard than any other Town ordinance or under the laws of the state or federal governments, then the higher standard set forth therein shall prevail. The provisions of This Ordinance shall not apply to any case where the state has the exclusive right to bring an action to abate a public nuisance involving any real property or portion thereof for the purposes enumerated in Sections 19a-343 et seq. of the Connecticut General Statutes or any duly adopted amendments thereto.