

**TOWN OF WEST WARWICK**

**ORDINANCE**

**OF THE**

**TOWN COUNCIL**

**ORDINANCE NO. 2014-4**

**AN ORDINANCE AMENDING THE TOWN OF WEST WARWICK CODE OF ORDINANCES BY ADDING "CHAPTER 21: REDEVELOPMENT AGENCY"**

**WHEREAS**, in 2012 the Town of West Warwick commissioned a study of the current conditions of the Arctic Village area and of possible approaches for revitalizing the area;

**WHEREAS**, the July 2012 study "Arctic Village Redevelopment Strategy," a copy of which is on file with Town Planner, recommended that the Town establish a redevelopment agency and designate the Arctic Village area as a redevelopment area in accordance with the Redevelopment Act of 1956, Title 45, Chapters 31—33 of the Rhode Island General Laws (the "Redevelopment Act");

**WHEREAS**, pursuant to Section 45-32-4 of the Redevelopment Act, the Town Council has the authority to designate one or more areas within the Town of West Warwick as a redevelopment area or redevelopment areas;

**WHEREAS**, The Cecil Group, Inc. prepared for the Town of West Warwick a report, "Documentation Report for the Designation of the Arctic Village Redevelopment Area," dated December 2013 (the "Documentation Report"), that contains a technical evaluation and documentation of blighted and substandard conditions in the Arctic Village area and recommends that the Town Council designate the blighted and substandard area as a redevelopment area (the "Arctic Village Redevelopment Area") pursuant to the Redevelopment Act;

**WHEREAS**, on January 6, 2014 the Planning Board of the Town of West Warwick reviewed the Documentation Report and the boundaries proposed in that report for the designation of the Arctic Village Redevelopment Area, and forwarded its recommendation to the Town Council that the Town Council designate the Arctic Village Redevelopment Area as a redevelopment area pursuant to the Redevelopment Act;

**WHEREAS**, on March 4, 2014 the Town Council will hold a first reading and public hearing on the ordinance designating the Arctic Village Redevelopment Area and considered the recommendations of the Planning Board in accordance with Section 45-32-4 of the Redevelopment Act;

**WHEREAS**, on March 18, 2014, based upon the information in the Documentation Report and the recommendations of the Planning Board, the Town Council will determine that the Arctic Village Redevelopment Area, as described in the Documentation Report, is an "arrested blighted area" and a "deteriorated blighted area" as those terms are defined in Section 45-31-8 of the Redevelopment Act and that, because the Arctic Village Redevelopment Area is an "arrested blighted area" and a "deteriorated blighted area," the Arctic Village Redevelopment Area is a "blighted and substandard area" as that term is defined in Section 45-31-8 of the Redevelopment Act;

**WHEREAS**, on March 18, 2014 the Town Council will adopt Ordinance No. 2014-3, establishing the Arctic Village Redevelopment Area;

**WHEREAS**, the Redevelopment Act authorizes the establishment of a redevelopment agency for the purposes of the "elimination and prevention of blighted and substandard areas and their replacement through redevelopment by well-planned, integrated, stable, safe, and healthful neighborhoods in the manner and by the means provided" in the Redevelopment Act;

**WHEREAS**, on November 19, 2013 the Town Council declared by the passage of Resolution No. 2013-215 that there is a need for a redevelopment agency to function in the Town of West Warwick;

**WHEREAS**, the Town Council desires to establish a redevelopment agency to effectuate the purposes of the Redevelopment Act;

**NOW, THEREFORE, IT IS HEREBY ORDAINED** that the Town Council of the Town of West Warwick hereby establishes that:

## **CHAPTER 21          REDEVELOPMENT AGENCY**

### **21-1. Declaration of Purpose**

The purpose of the Agency is to carry out the purposes of the Redevelopment Act.

### **21-2. Definitions**

The following words, terms and phrases, when used in this chapter, shall have the following meanings:

"Agency" means the redevelopment agency created by this chapter and authorized by the Redevelopment Act.

"Arrested blighted area" means any area which, by reason of the existence of physical conditions including, but not by way of limitation, the existence of unsuitable soil conditions, the existence of dumping or other unsanitary or unsafe conditions, the

existence of ledge or rock, the necessity of unduly expensive excavation, fill or grading, or the necessity of undertaking unduly expensive measures for the drainage of the area or for the prevention of flooding or for making the area appropriate for sound development, or by reason of obsolete, inappropriate, or otherwise faulty platting or subdivision, deterioration of site improvements, inadequacy of utilities, diversity of ownership of plots, or tax delinquencies, or by reason of any combination of any of the foregoing conditions, is unduly costly to develop soundly through the ordinary operations of private enterprise and impairs the sound growth of the community.

“Blighted and substandard area” includes a “slum blighted area,” a “deteriorated blighted area,” or an “arrested blighted area,” or any combination of these areas. “Blighted and substandard area” shall also include those areas where the presence of hazardous materials, as defined in R.I.G.L. § 23-19.14-2, impairs the use, reuse, or redevelopment of impacted sites.

“Bonds of agency” means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to R.I.G.L. §§ 45-33-5 through 45-33-15.

“Community” means the Town of West Warwick, Rhode Island.

“Comprehensive plan” means the Town of West Warwick Comprehensive Plan.

“Deteriorated blighted area” means any area in which there exist buildings or improvements, either used or intended to be used for living, commercial, industrial, or other purposes, or any combination of these uses, which by reason of:

- (i) Dilapidation, deterioration, age, or obsolescence;
- (ii) Inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities;
- (iii) High density of population and overcrowding,
- (iv) Defective design or unsanitary or unsafe character or conditions of physical construction;
- (v) Defective or inadequate street and lot layout; and
- (vi) Mixed character, shifting, or deterioration of uses to which they are put,

or any combination of these factors and characteristics, are conducive to the further deterioration and decline of the area to the point where it may become a slum blighted area as defined in this chapter, and are detrimental to the public health, safety, morals, and welfare of the inhabitants of the community and of the state generally. A deteriorated blighted area need not be restricted to, or consist entirely of, lands, buildings, or improvements which of themselves are detrimental or inimical to the public health, safety, morals, or welfare, but may consist of an area in which these conditions exist and injuriously affect the entire area.

“Federal government” means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

**“Planning Board”** means the planning board established under Article XVI of the West Warwick Home Rule Charter.

**“Project area”** means all or any portion of a redevelopment area. A project area may include lands, buildings, or improvements which of themselves are not detrimental or inimical to the public health, safety, morals, or welfare, but whose inclusion is necessary, with or without change in their conditions or ownership, for the effective redevelopment of the area of which they are a part.

**“Public hearing”** means a hearing before the Town Council or before any committee of the Town Council to which the matter to be heard has been referred.

**“Real property”** means lands, including lands underwater and waterfront property, buildings, structures, fixtures, and improvements to the lands, and every estate, interest, privilege, easement, franchise and right, legal or equitable, including rights of way, terms for years and liens, charges or encumbrances by way of judgment, attachment, mortgage, or otherwise, and the indebtedness secured by liens.

**“Redevelopment”** means the elimination and prevention of the spread of blighted and substandard areas. Redevelopment may include the planning, replanning, acquisition, rehabilitation, improvement, clearance, sale, lease, or other disposition, or any combination of these, of land, buildings, or other improvements for residential, recreational, commercial, industrial, institutional, public, or other purposes, including the provision of streets, utilities, recreational areas, and other open spaces consistent with the needs of sound community growth in accordance with the Comprehensive Plan and carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements.

**“Redevelopment Act”** means the Redevelopment Act of 1956, Title 45, Chapters 31—33 of the Rhode Island General Laws, as may be amended from time to time.

**“Redevelopment area”** means the Arctic Village Redevelopment Area and any other area of the community which the Town Council, upon recommendation of the Planning Board, finds is a blighted and substandard area whose redevelopment is necessary to effectuate the public purposes declared in the Redevelopment Act.

**“Redevelopment plan”** means a plan, as it exists from time to time, for a redevelopment project, which: (i) conforms to the Comprehensive Plan for the community as a whole; and (ii) is sufficiently complete to indicate land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the project area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan’s relationship to definite local objectives, respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

"Redevelopment project" means any work or undertaking of the Agency pursuant to the Redevelopment Act and this chapter.

"Slum blighted area" means any area in which there is a predominance of buildings or improvements, either used or intended to be used for living, commercial, industrial, or other purposes, or any combination of these uses, which by reason of:

- (i) dilapidation, deterioration, age, or obsolescence;
- (ii) inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities;
- (iii) high density of population and overcrowding;
- (iv) defective design or unsanitary or unsafe character or condition of physical construction;
- (v) defective or inadequate street and lot layout; and
- (vi) mixed character or shifting of uses to which they are put,

or any combination of these factors and characteristics, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; injuriously affect the entire area and constitute a menace to the public health, safety, morals, and welfare of the inhabitants of the community and of the state generally. A slum blighted area need not be restricted to, or consist entirely of, lands, buildings, or improvements which of themselves are detrimental or inimical to the public health, safety, morals, or welfare, but may consist of an area in which these conditions predominate and injuriously affect the entire area.

"State government" means the state of Rhode Island, or any agency or instrumentality of the state, corporate or otherwise.

"State public body" means the state, or any city or town or any other subdivision or public body of the state or of any city or town.

### **21-3. Agency Membership and Appointment.**

- (a) The appointment of members and rules governing the tenure and officers of the Agency shall be those as stated in R.I.G.L. §§ 45-31-12 through 45-31-15.
- (b) Appointment of Agency Members. The president of the Town Council shall appoint five (5) resident electors of the community as members of the Agency subject to the approval of the Town Council. No member of the Agency may be an elected officer or an employee of the community. The powers of the Agency shall be vested in the members of the Agency then in office.
- (c) Compensation of Agency Members. Members shall receive their actual and necessary expenses, including travel expenses, and may receive other compensation as the Town Council may prescribe.
- (d) Tenure of Agency Members. The members who are first appointed shall be

designated to serve for terms of one, two, three, four, and five years respectively. Thereafter members shall be appointed for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term. A member holds office until his or her successor has been appointed and has qualified.

- (e) Officers of the Agency. The Agency shall elect a chairperson and vice chairperson from among its members. The Agency shall elect or appoint a secretary who need not be a member of the Agency. The term of office of the chairperson, vice chairperson, and secretary, unless otherwise prescribed by the Town Council, shall be for the calendar year, or for that portion remaining after each officer is designated or elected.
- (f) Qualifications of Agency Members. Members of the Agency shall possess qualifications in fields that are beneficial to carrying out the purposes of the Agency. Without limitation, such qualifications may include expertise in law, architecture, engineering, real estate, finance, construction, planning, and the environment.

#### **21-4. Quorum and Voting.**

- (a) Quorum. Three (3) members of the Agency shall constitute a quorum for the transaction of business. At least forty-eight (48) hours' notice shall be given to all members prior to the holding of an Agency meeting.
- (b) Voting. The affirmative vote of a majority of a quorum shall be required for any official action of the Agency. The vote by roll call may be taken upon the request of any Agency member.

#### **21-5. Interest of Officers and Employees in Project Area Properties.**

No officer or employee of the community or of the Agency who in the course of his or her duties is required to participate in the formulation of plans or policies for the redevelopment of a project area, or to approve those plans or policies, shall acquire any interest in any property included within a project area within the community. If the officer or employee owns or has any financial interest, direct or indirect, in any property included within a project area, he or she shall immediately disclose, in writing, the interest to the Town Council, and the disclosure shall be entered in the minutes of the Agency and of the Town Council. Failure to disclose the interest constitutes misconduct in office. No payment shall be made to any member or officer of an Agency for any property or interest in property acquired by the Agency from the member or officer, unless the amount of the payment is fixed by court order in eminent domain proceedings, or unless the payment is unanimously approved by the Town Council.

#### **21-6. Suspension and Removal of Agency Members.**

For inefficiency, neglect of duty, or misconduct in office, a member of the Agency may be suspended by Town Council. A member of the Agency may be removed by the Town Council only after he or she has been given a copy of the charges against him or her, which copy shall be served on him or her at least ten (10) days prior to a public hearing, and after he or she has had an opportunity to be heard in person or by counsel, at the hearing to be held within thirty (30) days after the date of the suspension.

#### **21-7. Resident Attorney.**

The Agency shall appoint, in writing, some competent person or persons resident in this state as its resident attorney or attorneys with authority to accept service of process against the Agency in this state, and upon any of whom all process against the Agency in this state may be served. The power of attorney shall be filed in the office of the secretary of state and state the name and address of the resident attorney. If the resident attorney dies, resigns, or moves from the state, the Agency shall immediately make a new appointment as prescribed and immediately file the power of attorney in the office of the secretary of state. No power of attorney shall be revoked until after a like power has been given to some other competent attorney resident in this state and filed as prescribed. Service of process upon the resident attorney is deemed sufficient service upon the Agency.

#### **21-8. Administrative Appropriations.**

When the Agency becomes authorized to transact business and exercise its powers, the Town Council may at that time, and from time to time thereafter, make an estimate of the amount of money required for the administrative purposes of the Agency and may appropriate amounts to the Agency as it deems necessary.

#### **21-9. Budgetary Control of Agency.**

The Agency shall annually submit to the Town Council a proposed budget of its administrative expenses. The budget is subject to changes as the Town Council may prescribe, and its preparation and adoption, and the adoption of any changes in the budget, shall be subject to the same rules which are applicable to other agencies and departments of the community which are subject to budgetary control. No adoption is effective unless it is concurred in by the membership of the Town Council.

#### **21-10. Deactivation or Substitution of Agency.**

At any time after two (2) years after adopting a resolution declaring that there is need for an agency to function in the community, the Town Council, if the Agency has not redeveloped or acquired land for, or commenced the redevelopment of a project or entered into any contracts for redevelopment, may by resolution declare that there is no

further need for the Agency in the community. Thereupon, the offices of the members of the Agency shall be vacated and the capacity of the Agency to transact business or exercise any power shall be suspended and remain suspended until the Town Council adopts a resolution declaring the need for the Agency to function.

**21-11. Periodic Reports.**

The Agency shall file with the Town Council a detailed report of all its transactions, including a statement of all revenues and expenditures, at monthly, quarterly, or annual intervals as the Town Council may prescribe.

**21-12. Powers and Duties of Agency.**

- (a) The Agency constitutes a public body, corporate and politic, exercising public and essential governmental functions, and has all the powers necessary and convenient to carry out and effectuate the purposes and provisions of the Redevelopment Act, including the powers enumerated in this section:
- (1) To sue and be sued; to borrow money; to compromise and settle claims; to have a seal; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
  - (2) To make, and, from time to time, amend and repeal bylaws, rules, and regulations, consistent with the Redevelopment Act, to carry into effect the powers and purposes of the Redevelopment Act.
  - (3) To select and appoint officers, agents, counsel, and employees, permanent and temporary, as it may require, and determine their qualifications, duties, and compensation.
  - (4) Within the redevelopment area or for purposes of redevelopment: to purchase, lease, obtain an option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, or any estate or interest in it, together with any improvements on it; to rehabilitate or otherwise improve any or all substandard buildings, structures, or other improvements; to insure or provide for the insurance of any real or personal property or operations of the Agency against risk or hazard; and to rent, maintain, rehabilitate, improve, manage, operate, repair, and clear the property.
  - (5) To develop as a building site or sites any real property owned or acquired by the Agency.
  - (6) To cause streets and highways to be laid out and graded, and pavements or other road surfacing, sidewalks, and curbs, public utilities of every kind,

parks, playgrounds, and other recreational areas, off street parking areas and other public improvements to be constructed and installed.

- (7) To prepare or have prepared all plans necessary for the redevelopment of blighted and substandard areas; with the consent and approval of the Planning Board, to carry on and perform, for and on behalf of the commission, all or any part of the planning activities and functions within the community; to undertake and perform, for the community, industrial, commercial, and family relocation services; to obtain appraisals and title searches; to make investigations, studies, and surveys of physical, economic, and social conditions and trends pertaining to a community; to develop, test, and report methods and techniques and carry out research and other activities for the prevention and the elimination of blighted and substandard conditions and to apply for, accept, and utilize grants of funds from the federal government and other sources for those purposes; and to enter upon any building or property in any redevelopment area in order to make investigations, studies, and surveys, and, in the event entry is denied or resisted, the Agency may petition the Kent County Superior Court for an order for this purpose. Upon the filing of a petition, due notice of it shall be served on the person denying or resisting entry, and after a hearing on the petition, the court shall enter an order granting or denying the petition.
- (8) To undertake technical assistance to property owners and other private persons to encourage, implement, and facilitate voluntary improvement of real property.
- (9) To undertake and carry out code enforcement projects pursuant to the provisions of appropriate federal legislation.
- (10) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; and to purchase its bonds at a price not more than the principal amount and accrued interest, all bonds so purchased to be cancelled.
- (11) To lend money, and to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber (by mortgage, deed of trust, or otherwise), or otherwise dispose of any real or personal property or any estate or interest in it acquired under the provisions of the Redevelopment Act, to the United States, the state government, any state public body, or any private corporation, firm, or individual at its fair value for uses in accordance with the redevelopment plan, irrespective of the cost of acquiring and preparing the property for redevelopment. In determining the fair value of the property for uses in accordance with the redevelopment plan, the Agency

shall take into account, and give consideration to, the uses and purposes required by the plan, the restrictions upon, and the obligations assumed by the purchaser or lessee of the property, and the objectives of the redevelopment plan for the prevention of the recurrence of blighted and substandard conditions. Any lease or sale of the property may be made without public bidding provided, that no sale or lease is made until at least ten (10) days after the Town Council has received from the Agency a report concerning the proposed sale or lease.

- (12) To obligate the purchaser or lessee of any real or personal property or any estate or interest in it to:
- (i) Use the property only for the purpose and in the manner stated in the redevelopment plan;
  - (ii) Begin and complete the construction or rehabilitation of any structure or improvement within a period of time which the Agency fixes as reasonable; and
  - (iii) Comply with other conditions that in the opinion of the Agency are necessary to prevent the recurrence of blighted and substandard conditions and otherwise to carry out the purposes of the Redevelopment Act. The Agency, by contractual provisions, may make any of the purchasers' or lessees' obligations, covenants, or conditions running with the land, and may provide that, upon breach thereof, the fee reverts to the Agency.
- (13) To exercise all or any part or combination of the powers granted in this chapter.
- (b) Nothing contained in this chapter authorizes the Agency to construct any new buildings for residential, commercial, or industrial uses contemplated by the redevelopment plan.
  - (c) Nothing contained in this chapter authorizes the Agency to retain for a period in excess of five (5) years from the date of acquisition, or within another additional period of time that the Town Council fixes as reasonable, the fee or any estate or interest in it to any building, structure, or other improvement, not demolished or otherwise removed, which has been acquired by the Agency in accordance with the redevelopment plan.
  - (d) The powers enumerated in Subsections 21-12(4), (11), and (12) shall be exercised only in accordance with a redevelopment plan adopted by the Town Council pursuant to Section 45-32-13 of the Redevelopment Act.

**21-13. Property Acquisition by Eminent Domain – Town Council Approval Required.**

Within a redevelopment area, and only in accordance with a redevelopment plan adopted by the Town Council pursuant to Section 45-32-13 of the Redevelopment Act, the Agency shall have the power to acquire by the exercise of the power of eminent domain any real property or any estate or interest within a redevelopment area whenever it is decided by a majority vote of the Agency that the acquisition of the real property or any estate or interest is in the public interest and necessary for the public use; and to clear, demolish, or remove any and all buildings, structures, or other improvements from any real property so acquired. The Agency shall not exercise the power of eminent domain without the prior approval of the Town Council.

**21-14. Selection of Redevelopment Area(s) and Formulation of Redevelopment Plan(s).**

The Agency may of its own motion, or at the direction of the Town Council, select one or more project areas comprising all or a portion of a redevelopment area, and formulate a redevelopment plan for each project area. A redevelopment plan may be prepared by the Planning Board in the event the members of the Agency have not been appointed, or at the request of the Agency.

**21-15. Submission of Redevelopment Plans – Conformity.**

All redevelopment plans shall be submitted by the Agency to the Town Council. All redevelopment plans shall conform to the Redevelopment Act, this Chapter 21, and the Comprehensive Plan. The Agency shall consult with the Planning Board in formulating redevelopment plans before their submission to the Town Council. Whenever a redevelopment plan is submitted to the Town Council, a copy of the plan shall be submitted to Planning Board, which shall report to the Town Council within thirty (30) days on the redevelopment plan and its conformity to the Comprehensive Plan.

**POSTED: FEBRUARY 18, 2014**

**FIRST READING AT COUNCIL MEETING ON: MARCH 4, 2014**

**SECOND READING AT COUNCIL MEETING ON: MARCH 25, 2014**

**INTRODUCED AND SPONSORED BY: COUNCIL VICE PRESIDENT GIROUX**

**COUNCIL PRESIDENT:** David D. Cassella

**TOWN CLERK:** Marlene Kelly

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