

## **Executive Summary – Blight Prevention Ordinance**

Enclosed is the draft text of a new Ordinance concerning the prevention of blight.

This draft has been reviewed by the members of the Town Government Structure and Administration Committee of the RTM, and forwarded to the Rules Committee for further consideration by the RTM and members of the public.

The Board of Selectmen has requested that the RTM look into this matter, as the Town does not now have an effective means of dealing with this issue. The BOS believes that we need a blight ordinance to better facilitate the more timely remediation of properties that negatively affect neighborhood quality of living and property values.

There are several long-running, “chronic,” cases of blighted properties in the Town, with periodic complaints lodged with the Town administration concerning new instances of blighted properties.

Currently, when there is a complaint about a property, the Code Compliance Officer will investigate the property circumstances. There are no Town regulations identifying unacceptable property standards. There is no violation or nuisance that can be cited. There is no available fine process. As a result, many property owners will ignore the problem or only slightly address it. The blight often drags on indefinitely without proper resolution and may only end when the property is sold.

This ordinance will provide the town with an appropriate tool to address the problem of "troubled properties," providing relief to adjacent neighbors and improving the appearance of the general neighborhood.

Currently there are at least 20 to 25 properties that would be considered “blighted” under this ordinance. 15 to 20 of these are long-standing issues, and approximately five (5) have been identified by citizens’ complaints, in recent months.

The text of this draft of the “Blight Ordinance” has been reviewed by Town Counsel in regard to general correctness, prior to the process of gathering comments and suggestions from RTM Committee members, relevant Commissions and Boards, and the public. As such, another thorough review of the text of the draft Ordinance is anticipated, prior to consideration by the RTM.

## BLIGHT PREVENTION ORDINANCE

2.0 WORKING DRAFT – Approved by TGS&A on 09-29-19 for consideration by Rules on 10-03-16

The Code of the Town of Darien is hereby amended by adding thereto a new chapter, to be entitled "Blight Prevention," to read as follows:

### Section 1. Purpose

This article is enacted pursuant to the authority granted to the Town of Darien under Connecticut General Statutes 7-148(c)(7)(H)(xv) and shall be considered a Blight Ordinance. The purpose of this ordinance is to define, regulate, prohibit and abate housing blight in order to protect, preserve, and promote public health, safety and welfare; and to maintain and preserve the beauty of neighborhoods and the general appearance of the Town.

This ordinance prohibits any owner(s), or occupant(s) of real property located in the Town of Darien from allowing, creating, maintaining or causing the creation or maintenance of blighted premises. This ordinance also establishes penalties for violations.

This Ordinance shall apply to all residential properties and their buildings or structures now in existence or hereafter constructed, maintained, or modified. The interests of elderly, low-income or disabled individuals will be reviewed with the Darien Department of Human Services as part of the process of issuing any Warnings or Citations under this ordinance.

### Section 2. General Definitions.

"Where terms are not specifically defined in this ordinance, they shall have their ordinarily accepted meaning or such meaning as the context may imply." (PLACEHOLDER PHRASE – TO BE UPDATED)

For the purpose of this Ordinance, the following words, terms and phrases shall have the following meaning ascribed to them in this ordinance:

Building or Structure - An edifice of any kind or any piece of work built or composed of parts joined together in some form which is built or constructed on any real property. The words "building" and "structure" shall be construed as if followed by the words "or any part thereof." Accessory buildings or structures, canopy, awnings and marquees shall be considered "buildings" or "structures" within the meaning of this definition.

Blighted Premises – Residential real property, including any Building or Structure located thereon, which is and continues to be in a state of disrepair or is becoming dilapidated.

Blight Prevention Officer - The Town official designated by the First Selectman to act as Blight Prevention Officer, who is responsible for investigating complaints, issuing Warnings and, at the direction of the Blight Review Board, issuing Citations.

Blight Review Board - A five (5) member board appointed by the Board of Selectmen, with its membership subject to statutory representation rules, renewable every two (2) years. Appointees to the Blight Review Board shall be limited to individuals currently serving on the:

Planning and Zoning Commission

Human Services Commission  
Commission on Aging  
Board of Selectmen  
Representative Town Meeting

Appointees are expressly permitted to serve on the Blight Review Board in addition to serving on any board or commission listed above.

The Blight Review Board will function as a Citation hearing body and operate in accordance with C.G.S. § 7-152c.

The First Selectman, the Planning and Zoning Director, and the Director of the Department of Human Services shall be ex-officio members of the Blight Review Board.

Written Notices - all notices described in this ordinance (“Warnings” and “Citations”) are to be sent to the owner(s) and agent, tenant and/or person in control of the real property which is the subject of the notice. The notice may be hand delivered or mailed by certified mail, return receipt requested, to the last known address of the owner(s) and agent, tenant and/or person in control other than the legal owner(s). Copies of all notices (Warnings and Citations) shall be sent to the: Director of the Town’s Department of Human Services, and the Board of Selectmen.

Disabled Individual

In the case of an owner-occupied residence, an individual who has a disability meeting the definitions for the mental or physical disability as defined under the Americans with Disabilities Act of 1990, and does not have a household member who meets the definition of a Capable Individual.

Elderly Individual

An individual over the age of 65, who does not have a household member who meets the definition of a Capable Individual.

Low-income Individual

In the case of an owner-occupied residence, an individual, or where more than one person resides in the premises, a family unit, that has an income below the highest level of qualifying income established by C.G.S. § 12-170d(a)(3).

Capable Individual

A household member of an owner occupied residence that can be reasonably expected to perform maintenance and yard work around the property or premises. This shall include children above sixteen (16) years of age, without a physical or mental disability as defined under the Americans with Disabilities Act of 1990.

Public View

Visible from any right-of-way or the first or ground floor of any other property.

Section 3. – Definition of State of Disrepair or Becoming Dilapidated-

A property may be determined to be a Blighted Premises if any of the following apply:

- It is attracting illegal activity as documented by the Police Department.
- It is a fire hazard as documented by the Fire Marshal or by a local fire department.
- It is, or is becoming, dilapidated or unsafe, as determined by the Town Building Official.
- It constitutes a threat to the general health, safety or welfare as determined by the Director of Health.

A property may be also determined to be a Blighted Premises if it contains two or more of the following conditions in the Public View:

- 1) missing, broken or boarded up windows or doors;
- 2) collapsing of walls or roof;
- 3) seriously damaged, missing or loose: siding, gutters, leaders, shingles or roofing;
- 4) significant fire or water damage that has not been repaired;
- 5) persistent and excessive amounts of garbage, trash, or construction debris on the property;
- 6) inoperative or unregistered motor vehicles, boats, trailers or mechanical equipment parked, kept or stored on the premises unless garaged or appropriately covered;
- 7) vacant buildings or structures left unsecured or unguarded against unauthorized entry;
- 8) unsightly or excessive amounts of debris, fallen trees (except within six (6) months of storm damage), refuse, or excavated material unless incidental to activity pursuant to a lawful building permit;
- 9) collapsing or dilapidated structures on property;
- 10) overgrown brush and/or overgrown grass or weeds of at least one foot in height covering a significant portion of a property's front yard (excluding ornamental grass as part of a landscaped property), unless identified as Inland Wetlands;
- 11) structures that are significantly covered with invasive non-ornamental weeds and/or vines, including but not limited to poison ivy, sumac, burning bush, bittersweet, or similar invasive plants;
- 12) overrun by rodents or other pests;
- 13) any other condition which alone or in combination with another of the above substantially interferes with the reasonable and lawful use and enjoyment of other space within a building, structure, other premises or rights of way within the neighborhood.

#### Section 4. Prohibition

No owner, agent, tenant or person in control of real property located in the Town of Darien shall allow, maintain, or cause to be maintained, Blighted Premises.

#### Section 5. Determination of Violation

Complaints may be submitted by any resident or property owner, the Building Official, the Chief of Police, the Fire Marshal, the Director of Health, or the Director of Planning and Zoning to the Blight Prevention Officer.

Prior to investigating a Complaint, the Blight Prevention Officer shall inform the Darien Department of Human Services of the address involved. If the property which is the subject of a Complaint involves a client of the Darien Department of Human Services, the Darien Department of Human Services will advise the Blight Prevention Officer so that the investigation and further enforcement activities shall include appropriate coordination and involvement with the Darien Department of Human Services.

After receiving a Complaint of a possible violation, the Blight Prevention Officer shall make an investigation of the Complaint.

#### Section 6. Warnings – Issued by the Blight Prevention Officer

If, after investigating a Complaint, a probable violation is found to exist, the Blight Prevention Officer shall issue a Warning, describing the nature of the probable violation, the corrective action necessary, and a timeframe adequate in the circumstances within which the probable violation is to be resolved. The Warning will be distributed following the procedures defined for Written Notices.

Special consideration shall be given to Disabled Individuals, Elderly Individuals, and/or Low-income Individuals. In such cases, the Blight Prevention Officer shall give such individuals adequate time to correct the blight issue, and, in coordination with the Darien Department of Human Services, provide information on possible resources for assistance, together with each Warning or Citation.

The Blight Prevention Officer may grant extensions to the timeframe for resolution of the probable violation as described in the Warning. Such extensions may be related to the performance of vendors, the extent of work, unusual conditions such as severe weather, insurance claims, or structural damage associated with storms or fire or the like, or other factors beyond the control of the property owner. Notice of any extension of a Warning shall be distributed following the procedures defined for Written Notices.

#### Section 7. Consideration by the Blight Review Board

If the probable violation is not resolved within the time frame cited in the Warning, or any extensions of the Warning, the matter will be referred to the Blight Review Board.

At its discretion, the Blight Review Board, within six (6) months of the matter's referral, may issue a notice to the recipient(s) of the Warning, stating the probable violation(s), the conditions evidencing such probable violation(s), and requiring attendance at a Hearing to determine whether the probable violation, as described in the Warning, merits the issuance of a Citation.

If, based on evidence presented at the hearing, the Blight Review Board determines that a violation has occurred, it will then establish a date by which such violation shall be fully abated. The date by which such violation shall be fully abated shall not be less than thirty (30) days from the date the written determination is mailed or served. Should the violation not be remedied by the assigned date, a Citation may be issued, as described below.

Special consideration may be given to those who require it in order to correct a violation. Specifically, the Blight Review Board may grant an owner/occupant additional time to correct a violation where the owner/occupant, or a person acting on his/her behalf, establishes good cause.

## Section 8. Enforcement - Citations

If a violation remains unabated after the date established by the Blight Review Board under Section 7 (including any additional time allowed for good cause), the Blight Review Board will review the matter, establish the amount of the fine applicable until remediation of the violation, and direct the Blight Prevention Officer to issue a Citation. The final period for the uncontested payment of any Citation under this ordinance shall be 30 days after the mailing or serving the Citation, following the procedures defined for Written Notices.

Violations of the provisions of this ordinance shall be punishable by a civil penalty that does not exceed \$100.00 per day, or the maximum amount allowed by C.G.S. § 7-148(c)(7)(H)(xv), as the same may be amended from time to time, for so long as a violation exists and continues beyond the date required for remediation set forth in the notice of violation, based on actual inspection of the property on each such day.

## Section 9. Willful Violations - Penalties

A person who willfully violates the provisions of the ordinance may, at the recommendation of the Blight Review Board, be subject to State fines of up to \$250 per day, or the amount authorized by Connecticut General Statute 7-148o. Nothing in this ordinance shall preclude the Town of Darien from pursuing fines and penalties authorized by Connecticut General Statute 7-148o for failure to abate violations. Violators may 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.

## Section 10 - Funds received from penalty payments and lien settlements

- a. Funds received from penalty payments and lien settlements will be deposited in the Town's General Fund.
- b. Financial assistance will be available to homeowners that meet certain criteria as established by the Board of Selectmen or their designate(s) on a case by case basis.
- c. The Darien Building Official and/or the Darien Department of Human Services will have the responsibility to manage and propose financial assistance within the budgetary and financial limits established by the Town Administrator and/or the Board of Selectmen. Any amount in excess of those budgetary and financial limits will follow the Town's established budgetary and approval processes and procedures.

## Section 11. Recording of Lien – (Submitted 9/29/16 – K. Larkins, Tax-Collector, Darien )

Any fine imposed pursuant to the provisions of this ordinance which remains unpaid for a period of 30 days or more from the due date of the citation, shall constitute a lien upon the real estate against which the fine was imposed. Each such lien may be continued, recorded, enforced and released in the manner provided by the Connecticut General Statutes for continuing, recording, enforcing and releasing real

property tax liens. Each such lien shall take precedence over all other liens and encumbrances, except taxes, and may be enforced in the same manner as property tax liens. This section shall be construed in accordance with Connecticut General Statutes 7-148aa.

#### Section 12. Municipal Performance

In the event any owner, agent, tenant or person in control of real property 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, agent, tenant, or person in control of real property to appeal from the issuance of said citation, or by such appeal being sustained, the Town of Darien, acting through its Blight Prevention Officer, may cause or take such action as is necessary to correct such violation(s). The cost to take such action shall be a civil claim by the Town against such owner, agent, tenant, or person in control of real property and Town Counsel may bring an action to recover all such costs and expenses incurred.

#### Section 13. Pending Special Permit or Site Plan Exception

Any Blighted Premises for which a special permit or site plan application for improvements to the Blighted Premises is pending, shall be exempt from the provisions of this Ordinance for a period of not more than 120 days from the date of submittal of a complete application to the Planning and Zoning Commission. If a valid special permit or site plan exception is approved, the property shall be exempt from being deemed blighted for a period of one year from that approval.

#### Section 14. Appeal of Penalty Assessment to Superior Court

A person against whom an assessment has been entered arising out of a violation of this Ordinance is entitled to judicial review by way of appeal in accordance with the provisions of C.G. S. Section 7-152 (g). Penalties as provided in Section 8 may be abated if the court determines that the appeal was taken in good faith, with probable cause and not for purposes of delay. The penalties as of the date of any judgment of the Superior Court upholding them shall not be abatable.

#### Section 15. Annual Report

The Blight Prevention Officer shall submit an annual report to the Board of Selectmen as of January 1 of each year with respect to the preceding calendar year, including the number of: Complaints received, Warnings issued, Warnings forwarded to the Blight Review Board, Citations directed to be issued by the Blight Review Board, fines assessed, cases in which fines were paid, and fines collected.

#### Section 16. Severability

In the event that any part or portion of this Ordinance is declared invalid for any reason, all the other provisions of this Ordinance shall remain in full force and effect.

Section 17. Other Enforcement

Nothing in this chapter shall be deemed to prohibit or limit in any manner any enforcement action with respect to any zoning, building, public health, fire, inland wetlands or other statutes, code, regulation or laws relating to the use of real property.

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