

# **REPRESENTATIVE TOWN MEETING**

**Darien, Connecticut**

**Town Government Structure and Administration (TGS&A) Committee**

**A Special Meeting of the TGS&A Committee will be held on  
Wednesday September 28, 2016 at 7:30 pm in Room 119, Town Hall.**

## **Agenda:**

- 1. Review and discussion of the draft “Blight Ordinance” (attached) that is being prepared for consideration by the RTM.**
- 2. Public comment concerning the draft ordinance.**
- 2. Adjournment**

## **NOTES:**

The public is invited to this meeting, as is the case for all meetings of the Standing Committees of the RTM.

There will be a brief presentation of the features and operation of the draft ordinance, followed by an opportunity for public comment and recommendations.

It should be noted that at a Special Meeting, only the topics that have been listed on the agenda may be discussed.

No votes are anticipated.

Frank Kemp, Chairman

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## **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, to date, in the period 2015-2016.

Also enclosed are copies of explanatory materials that may be referenced in relation to the text of the Ordinance.

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

### 1.1 WORKING DRAFT – As approved by TGS&A on 09-06-16 for release to Rules Committee for review

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 Director of Darien Department of Human Services as part of the process of issuing any Warnings or Citations under this ordinance.

#### Section 2. General Definitions.

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 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
- Zoning Board of Appeals
- Human Services Commission
- Environmental Protection Commission

## Architectural Review Board

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 and the Planning and Zoning Director shall be ex-officio members of the 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.

### Darien DHS

The Department of Human Services of the Town of Darien.

### 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 a designated property of Darien Land Trust or 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, etc.;
- 12) infestation 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, a Blighted Premises.

#### Section 5. Complaints - 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 DHS of the addresss involved. If the property which is the subject of a Complaint involves a client of the Darien DHS, the Darien DHS will advise the Blight Prevention Officer so that the investigation and further enforcement activities shall include appropriate coordination and involvement with the Darien DHS.

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 DHS, 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, unusual conditions such as severe weather, 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

#### NOTE: THIS SECTION IS UNDER REVIEW AT THIS TIME - TO DETERMINE THE ADMINISTRATIVE PROCEDURES FOR IMPLEMENTATION OF STATE PENALTIES

In addition to the foregoing, and upon the recommendation of the Blight Review Board, any person who, after receiving a notice of violation, and after a reasonable opportunity to remediate the blighted premises, willfully violates the provisions of this Ordinance with respect to housing blight, shall be fined by the State of Connecticut not more than \$250.00, or the maximum allowed by C.G.S. § 7-148o, as the same may be amended from time to time, for each day for which it can be shown, based on actual inspection of the property on each such day, that the blighted premises continue to exist after written notice to the owner/occupant as provided herein and the expiration of the time to remediate.

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 To Darien Department Of Human Services

Payments for violations of this Ordinance shall be credited to a separate account to be used as deemed appropriate by the Darien DHS for financial aid to families in need of assistance in resolving potential blight conditions.

#### Section 11. Recording of Lien

Any unpaid citation for a fine imposed hereunder shall constitute a lien upon the real estate in accordance with C.G.S. 7-148aa. Each such lien shall be continued, recorded, enforced and released as provided for in C.G.S. 7-148aa. Such lien shall be recorded in the office maintaining real estate records of the Town of Darien against any real estate upon which a fine imposed hereunder remains unpaid for 30 days or more.

#### 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 responsible for such 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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End  
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<b>Municipality</b>	<b>Population</b>	<b>households</b>	<b>Year</b>
<a href="#"><u>Bridgeport</u></a>	144,229	51,255	2007
<a href="#"><u>Stamford</u></a>	122,643	47,357	2012
<a href="#"><u>Norwalk</u></a>	85,603	33,217	2013
<a href="#"><u>Danbury</u></a>	80,893	28,907	2012
<a href="#"><u>Greenwich</u></a>	61,171	23,076	
<a href="#"><u>Fairfield</u></a>	59,404	20,457	2005
<a href="#"><u>Stratford</u></a>	51,384	20,095	2010
<a href="#"><u>Shelton</u></a>	39,559	15,325	2010
<a href="#"><u>Trumbull</u></a>	36,018	12,725	2012
<a href="#"><u>Newtown</u></a>	27,560	9,459	2012
<a href="#"><u>Westport</u></a>	26,391	9,573	2013
<a href="#"><u>Ridgefield</u></a>	24,638	8,801	2014
<a href="#"><u>Darien</u></a>	<b>20,732</b>	<b>6,698</b>	
<a href="#"><u>New Canaan</u></a>	19,738	7,010	2006
<a href="#"><u>Monroe</u></a>	19,479	6,735	
<a href="#"><u>Bethel</u></a>	18,584	6,938	2013
<a href="#"><u>Wilton</u></a>	18,062	6,172	2008
<a href="#"><u>Brookfield</u></a>	16,452	6,129	2015
<a href="#"><u>New Fairfield</u></a>	13,881	4,802	
<a href="#"><u>Weston</u></a>	10,179	3,379	
<a href="#"><u>Redding</u></a>	9,158	3,470	
<a href="#"><u>Easton</u></a>	7,490	2,577	
<a href="#"><u>Sherman</u></a>	3,581	1,388	
<a href="#"><u>Newtown</u></a>	1,941	696	2012

# The TGS&A "CLOUD"

TGS&A has assembled the following research materials – stored in a “cloud,” accessible by everyone - linked to the Town web-site.

The materials include:

- Other municipalities’ blight ordinances – full text, more than 30
- Connecticut General Statutes that are relevant to this issue
- CT Legislature – Office Of Legislative Research Reports
- National Research Report on “The Multiple Meanings of Blight
- Over 35 Newspaper articles, pro and con, re: blight ordinances
- The Darien blight ordinance of 2007 – rejected by the Darien RTM

All of this information is available via PC, Laptop, Tablet or Smart-Phone.

To access the TGS&A “Cloud” of information concerning blight, go to:

Town Website: [dariencct.org](http://dariencct.org)

Click on: Government

Click on: Representative Town Meeting

Scroll down to: Town Government Structure and Administration

You will see:

Charter Review Commission Report 1999

Charter Review Commission Report 2008

**Committee Research Materials (the Blight project)**

Click on the bottom entry: Committee Research Materials

You are now ***“In The Cloud!”***

Questions, problems, contact:

Frank Kemp 203 656 1129 [fkemp@optonline.net](mailto:fkemp@optonline.net)

Differences between the Blight Ordinance that was not passed by the RTM in in 2007

And the Current Draft being prepared by the TGS&A Committee of the RTM

1. The Statement of Purpose is more inclusive
2. Recognizes role of Darien Department of Human Services (DHS) – from the issue of the “Warning” through the issue of a “Citation.”
3. Definitions of Blight are more carefully drawn – and may be initiated by Town Officials
4. Two examples of Blight are needed to trigger the designation of Blighted Property
5. The process, from initial inspection, through Warning, Citation, and penalties of up to \$100/day clearly outlined
6. Fines are assessed by Blight Review Board – a “Blue Ribbon Panel” of incumbent officials
7. The State fine of up to \$250/day for willful violation is included in the ordinance
8. Fines collected via this ordinance are to be earmarked for use by Darien DHS for resolving blight conditions

9/6/16

# HOW THE BLIGHT ORDINANCE WORKS: STEPS FROM INITIATION TO RESOLUTION

(Absent corrective action)

		<u>Estimated timing</u> <u>In days</u>
1. Complaint	Initiated by a resident or certain Public officials (PD, FD, Building, Healty Investigated by Blight Prevention Officer	15
2. Warning	by Blight Prevention Officer	5-10
3. Hearing	by Blight Review Board: sets timeline	30-60
4. Citation	a fine assigned, by Blight Review Board up to \$100/day	30-60
5. Willful Violation	State penalty, optional, by Blight Review Board, with fine up to \$250.day	90
6. Property Lien	unpaid citation constitutes a lien operating as per CT General Statutes	
7. Appeals	protests of fines from Blight Review Board may be appealed to State Superior Court	
8. Proceeds	to Darien Dept. of Human Services -for resolving potential blight conditions	

**The Process That Is Described In The DRAFT Ordinance**

Complaint      Initiated by a resident or certain public officials – Police/Fire Depts., Health, Building Officer  
Field visit by Blight Prevention Officer to determine if situation meets criteria  
Darien Department of Human Services check-point prior to field visit

Warning        Notice of probable violation of ordinance concerning blight  
                    - describes nature of the probable violation  
                    - describes the corrective action necessary  
                    - sets a time frame in which the probable violation is to be resolved  
Subject to coordination with DHS with extensions for special circumstances

Blight Review  
Board Hearing

Situation is referred to Blight Review Board. The Board, at its discretion, may:  
                    - issue notice of Hearing to determine if probable violation merits a Citation  
                    - conduct Hearing to determine date by which violations are to be abated  
If the violation is not abated a Citation may be issued  
Special considerations on timing may be taken into account

Citation        If unabated, the Blight Review Board will review and establish the amount of the fine  
The fine (civil penalty) may be up to \$100 per day, authorized by CT General Statutes  
The Board will instruct the Blight Prevention Officer to issue a Citation

Willful  
Violation        The Blight Review Board may recommend imposition of State penalty  
Owners may be fined by the State of Connecticut up to \$250 per day

Lien upon  
Real Estate     Any unpaid citation for a fine imposed shall constitute a lien upon the real estate  
Liens shall be continued, recorded, enforced and released as per CT General Statute

Appeal         Property owners may appeal decisions of the Blight Review Board to Superior Court  
Any appeal shall not suspend the running of any penalty imposed by the Board

Funds to Darien

Dept. Of Human Services

Payments for violations are credited to special account for use by Dept. Human Services  
Financial aid may be used for assistance to families for resolving potential blight issues  
Accounting is parallel to Fire and Police Departments' receipts of fines for false alarms

**Why are we considering this, at this time ?**

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.

**What happens now when there is a complaint, what difference will this ordinance make ?**

Currently, when there is a complaint about a property, the Code Compliance Officer (R. Woodside) will – investigate the property circumstances. The problem conditions are identified and an effort is made to work with the owner to improve them. If there are apparent health or safety hazards involved a request is made for assistance from other Town departments. Often the owner refuses or is unable to voluntarily correct the problems. Then persuasion and persistence is the enforcement effort with limited success. 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.

**How many properties are considered “blighted premises” at this time ?**

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, to date, in the period 2015-2016.

**How many other municipalities in Fairfield County have implemented blight ordinances ?**

Sixteen of the twenty four municipalities have enacted blight ordinances. Of the municipalities that have not adopted such an ordinance, all are smaller communities, with the exception of Greenwich: Monroe, New Fairfield, Weston, Redding, Easton, and Sherman.

Greenwich classifies blight problems as ‘nuisances’ and applies appropriate fines.

All neighboring and similar communities have enacted a blight ordinance: New Canaan, Westport, Fairfield, Wilton, and Ridgefield.

**Why was the prior ordinance rejected by the RTM in 2007 ?**

The minutes of the 9/24/07 RTM meeting show that there were concerns about the implementation plans: who would be responsible, who would be appointed, and the costs. Additional concerns were for seniors struggling to stay in town, as well as dealing with fire or water damage.

**Will the implementation of this Ordinance require additional staffing at Town Hall ?**

“No”. Confirmed by Jeremy Ginsberg, Jayme Stevenson, during a review of the draft ordinance.