

SEC. 180 ANTI-BLIGHT ORDINANCE

Be it ordained by the Board of Selectmen of the Town of Winchester, Connecticut,

A. Declaration of Policy

This ordinance is authorized pursuant to Connecticut General Statutes 7-148 ~~(c)~~ (7) (H) (XV). It is hereby found and declared that there exists within the Town of Winchester, a number of taxable and tax-exempt real properties containing vacant, blighted buildings and that the existence of such vacant and blighted buildings contributes to the decline of neighborhoods. It is further found that the existence of vacant and blighted buildings adversely affects the economic well-being of the Town and is inimical to the health, safety and welfare of the residents of the Town. It is further found that many of the vacant and blighted buildings can be rehabilitated, reconstructed and reused so as to provide decent, safe and sanitary housing and ancillary commercial facilities, and that such rehabilitation, reconstruction and reuse would eliminate, remedy and prevent the adverse conditions described above.

B. Declaration of Purpose

The purpose of this ordinance is to protect the public health, safety and welfare as follows:

1. By establishing minimum standards governing the maintenance, appearance and condition of residential and non-residential premises.
2. By authorizing and establishing procedures for enforcement, inspection and penalties, including a means by which the record owner of real property used as a dwelling may obtain relief from enforcement upon a showing of good faith efforts to take corrective measures or upon a showing that a certain hardship exists.

C. Definitions

For the purposes of this section, the following words and terms shall have meanings respectively described as follows:

1. Abandoned Property. Any real property on which there is a vacant structure on which:
 - (a) Real property taxes have been delinquent for one year or more;
 - (b) The owner has declared it abandoned in writing to the ~~Building~~ Blight Official.
2. Blighted Premises. Any building ~~or~~ structure or ~~exterior any parcel of land in~~ which at least one of the following conditions exists ~~shall be considered blighted~~:
 - (a) It is ~~not being maintained. The following factors may be considered in determining whether a structure or building is not being maintained: missing or boarded windows or doors; collapsing or missing walls, roof or floor; siding that is seriously damaged or missing; fire damage; foundation that is structurally faulty; garbage or trash situated on the premises; overgrown grass or weeds at least one foot in length becoming dilapidated as defined herein.~~
 - (b) ~~The building or structure is deteriorating. It is not being maintained as defined herein.~~
 - (c) ~~The building is becoming dilapidated. It is a fire hazard as determined by the Fire Marshal or documented by the Fire Department or the Building Department.~~
 - (d) ~~The property is attracting illegal activity. It is unsanitary as determined by report of the Department of Health that existing conditions constitute a life-threatening hazard or a hazard that puts at risk the health or safety of the citizens of the Town.~~

- (e) ~~The property is a fire hazard.~~ It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the neighborhood.
- (f) ~~The property is seriously depreciating property values in the neighborhood.~~ It is a substantial factor causing serious depreciation of the property values in the neighborhood.
- (g) ~~The property is creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the building or premises or within the neighborhood.~~ There exists at the property conditions promoting rodent harborage and/or infestation.
- (h) There exist at the property overgrown shrubs, brush or weeds.
- (i) Parking lots/areas are left in a state of disrepair or abandonment and/or are used to store abandoned or unregistered vehicles.
- (j) Chimneys and similar appurtenances are in a state of disrepair.
- (k) Overhanging extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes, and exhaust ducts, contain rust or other decay.
- (l) It is a factor creating the cancellation of insurance on proximate properties.
- (m) Graffiti exists at the premises.
- (n) Garbage on the property is not stored in standard container and/or scattered throughout the yard.
- (o) The property contains dead, decayed, diseased, or damaged trees that constitute a hazard or danger or are objectionable to adjacent premises or the occupants thereof to public property or persons lawfully there.
- (p) Noxious plants such as poison ivy, poison sumac, poison oak, or ragweed are allowed to grow unchecked on the property.
- (q) There exists on the property stagnant or unsanitary water in which mosquitoes may breed; garbage, sewage, excrement, manure, or other foul, decayed, putrid, unwholesome, deleterious or offensive thing or substance; animal carcasses or parts thereof; or trash, rubbish, rubble, tires, brush, used materials or discharged items of little or no value.
- (r) Refuse or filth is discharged from the property into a stream, well, spring, brook, ditch, pond, river, or other inland waters within the Town, or such substances are placed on the property in such position that high water or natural seepage will carry the same such waters.
- 3. Blight Official. The person designated by the Town Manager to enforce this Ordinance.
- 4. Citation. A written statement of the relevant conditions and facts giving rise to the specified violation, including a reference to the specific section of the ordinance which has been violated and the amount prescribed as a fine for the violation(s).
- 5. Debris. Material which is incapable of immediately performing the function for which it was designed, including but not limited to abandoned, discarded, or unused objects, junk or collections of equipment such as automobiles, boats and recreation vehicles which are missing parts, not complete in appearance and in an obvious state of disrepair; and parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, and garbage.
- (g) 6. Decay. A wasting or wearing away; a gradual decline in strength, soundness or quality; to become decomposed or rotten.

~~3-7.~~ Deterioration. The condition of a building or part thereof characterized by substantial holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use as determined by the ~~Blight~~Building Official.

~~4-8.~~ Dilapidated. A building is considered dilapidated if any of the following conditions exist:

~~(a) For unoccupied buildings or structures, any dwelling unit or non-residential space or property in physically deteriorating condition causing unsafe, unsanitary conditions and a nuisance to the general public as determined by all applicable State and local codes, laws, ordinances and regulations. The structure is unable to provide shelter or to serve the purpose for which it was constructed due to poor conditions.~~

~~(b) Any walls, supports, floors, or foundations appear to be poorly maintained or in disrepair to the extent that presents a safety concern.~~

~~(c) Damage exists from fire, wind, or other causes so tht the building is unsightly and no longer provides shelter from the elements and has become dangerous to the life, safety, or general health and welfare of the occupants or the residents of the Town.~~

~~(d) There are missing, broken, or improperly boarded windows or doors.~~

~~(b) For partially unoccupied buildings or structures, any dwelling unit that does not meet minimum applicable Code standards and, in the case of non-residential space, space that does not conform to the standard as determined by this section of the Winchester Code of Ordinances.~~

~~5-9.~~ Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and/or eating. Said dwelling unit shall be maintained clean and free of debris and secured against entry. All openings to the first floor and cellar basement shall be secured. All upper floors shall comply with all State and local fire safety codes, laws, ordinances and regulations.

~~10.~~ Equivalent Amount of Non-Residential Space. Each increment of one thousand five hundred (1500) square feet or less shall be the equivalent of a dwelling unit for purposes of this section of the Winchester Code of Ordinances.

~~6-11.~~ Exempt Property. Land dedicated as public or semipublic open space, land preserved in its natural state through conservation easements, or areas designated as inland wetlands and watercourses shall be exempted from this chapter. Properties acquired by the Town of Winchester through foreclosure, etc., shall be exempted from this chapter for a period of nine months post acquisition.

~~12.~~ Legal Occupancy. The human habitation of the dwelling unit that is legal by virtue of compliance with State and local building and fire safety codes, local zoning, State and local housing codes and all other pertinent codes, laws, statutes and regulations and the supplying of proof of occupancy evidenced through a bonafide lease agreement, rent receipt or utilities statement.

~~7-13.~~ Litter. Any discarded, used, or unconsumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper, or other natural or synthetic material, or any combination thereof, including but not limited to any bottle, jar, or can or any top, cap, or detachable tab of any bottle, jar, or can; any unlighted cigarette, cigar, match, or any flaming or glowing material; or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic, or

paper containers or other packaging or construction material, which has not been deposited in a receptacle.

8-14. Exposed to Public View. Any premises or part thereof or any building or any part thereof which may be lawfully viewed by the public.

9-15. Exterior of the Premises. Open space on the premises outside of any building thereon.

10-16. Garbage. Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food, or the keeping of pets or other animals.

17. Neighborhood. An area of the Town of Winchester with characteristics that distinguish it from other areas of the Town of Winchester and which may include but not be limited to distinct ethnic and/or economic characteristics, schools and/or social clubs, and/or boundaries defined by physical barriers including but not limited to major highways and/or railroads and/or natural features including but not limited to rivers and/or streams.

18. Not being maintained. A structure is not being maintained if any of the following conditions apply:

(a) Siding, roofing, or gutters are damaged, missing, or show signs of disrepair.

(b) Windows or doors are missing or improperly boarded over.

(c) Garbage, trash, litter, rubbish, or debris are situated on the premises.

(d) Abandoned, wrecked, or junked motor vehicles are stored on the premises.

(e) Lawns, landscaping, or driveways are deteriorating or are unkempt.

(f) Trees, shrubs, hedges, grass, or plants block or interfere with any road sign or obstruct any walkway, driveway, or street.

19. Parcel. A unit of land.

20. Premises. Any parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure, and includes any such building, accessory structure, or other structure thereon, or any part thereof. The term "premises," where the context requires shall be deemed to include any buildings, dwellings, parcels of land, or structures contained within the scope of this chapter.

21. Public View. Visible from any public right-of-way or neighboring property.

22. Rubbish. Any nonputrescible waste materials, except ashes, including but not limited to paper, cardboard, tin cans, wood, glass, bedding, furniture, crockery, appliances, junk automobiles, demolition material, tree limbs, and industrial wastes.

23. Structure. Any building, dwelling, fence, swimming pool, or similarly constructed object.

11-24. Unit. Any space within a building that is or can be rented by or to a single person or entity for his or its sole use and is intended to be a single and distinct space.

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D. Prohibiting the Creation or Maintaining of Blighted Premises

1. No owner of any building or structure in the Town of Winchester shall cause blighted premises to be created or maintained.

E. Enforcement

1. Any individual affected by the action or inaction of an owner of a dwelling unit or other space subject to the provisions of this chapter, any civic organization, and any appropriate municipal agency may file, in writing, a complaint of violation of any of these sections with the Blight Chief Building Official.
2. If the Blight Chief Building Official has reason to believe that an owner has violated the provisions of this Ordinance, the Blight Chief Building Official shall serve a notice of

violation and an order to correct such violation on the owner of record of the property. The order shall require the owner to comply with the requirements of this article in the manner specified in said order within fourteen (14) days. A copy of the order shall be filed with the Town Clerk, and any subsequent purchaser of the property shall be subject to such order.

3. The ~~Blight~~Chief Building Official shall submit to the Town Manager a monthly report listing the notice of violations served in the previous month.
4. Any owner who is aggrieved as the result of being served with a notice of violation in accordance with this article may, within ten (10) days of receipt of the notice, appeal for revocation of the notice to the Board of Selectmen.
5. The Board shall submit its decision to the ~~Blight~~Chief Building Official within ten (10) days of the hearing held on the Notice of Violation and order to correct issued by the ~~Blight~~Chief Building Official.

F. Penalties

1. Violation of the provisions of this Article shall be punished by a penalty of not more than \$99.00 for each dwelling unit or for the equivalent amount of other space. Each day a dwelling unit or equivalent amount of other space is in violation of this Article shall constitute a separate offense.

2. Citation; lien on property.

- a. The provision of this chapter may be enforced by citation, in addition to other remedies, in accordance with § 7-152c of the Connecticut General Statutes. Town of Winchester code enforcement officials have authority to issue citations.

- ~~4-b.~~ Unpaid fine to constitute lien. Any unpaid fine imposed pursuant to the foregoing anti-blight citation hearing procedure shall constitute a lien upon the real property against which the fine was imposed from the date of such fine in accordance with § 7-148aa of the Connecticut General Statutes. Said lien shall be continued, recorded, released, and enforced as provided for in § 7-148aa of said statutes.

- ~~2-3.~~ If any violation remains unabated after ~~seven (7)~~ days, any police officer, the Zoning Enforcement Officer, ~~Blight Officials, building officials,~~ Fire Marshal or other person authorized by the Town Manager is hereby authorized to issue a citation to the violator in accordance with this chapter.

- ~~3-4.~~ A citation shall be in writing and include:

- (a) A description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
 - (b) Detailed information regarding the contents of the notice letter (which may be a copy of such notice letter) and the failure of the owner/occupier to take the corrective actions specified therein;
 - (c) The amount of the fines, penalties, costs or fees due for noncompliance; and
 - ~~(d)~~ A statement that the owner/occupier may contest his liability and request a hearing before the Citation Hearing Board by delivering in person or by mail written notice of objection within ~~ten (10)~~ days of the date of the citation.

- ~~4.~~ 5. Such penalty shall exist as a lien against the premises wherein said violation exists and may be recorded upon the land records of the Town of Winchester. Such lien shall be perfected and be in effect in accordance with the provisions of the Connecticut General Statutes as

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~~amended relating to the collection of taxes on real estate~~ Such lien shall be continued, recorded, released, and enforced as provided in C.G.S. §7-148aa of the Connecticut General Statutes as amended. Each lien shall take precedence over all other liens and encumbrances filed after September 1, 2012, except for taxes. Each lien may be enforced in the same manner as property tax liens, including, the foreclosure of the real property.

~~5.~~ 6. If after the Notice of Violation has been issued or a lien placed on the property, the property is transferred to a bonafide purchaser, the new owner of the premises shall have a period of thirty (30) days to bring the property into compliance with the Notice of Violation previously issued without penalty.

G. Citation Procedures

1. The procedures established in the ordinance entitled "Ordinance Establishing a Hearing Procedure for Citations" will apply to citations issued under this chapter, as well as the provisions of C.G.S. §7-152c.
2. The final period for the uncontested payment of any citation under this chapter shall be ten (10) days of the date of the citation.

H. Remediation

1. The Town Manager may, but shall not be required to, take such remedial action to secure and/or improve the premises to protect public health and safety and/or property values of the surrounding neighborhood remediation as permitted under Court order, other applicable law or this Ordinance.
2. The Town Manager may, but shall not be required to, remediate blighted properties, which entry shall only be commenced after the provisions of §E have been followed without remedial action having been taken and the appeal period under §E shall have expired.
3. Remediation shall only be authorized by the Town Manager if the estimated cost of such remediation is duly appropriated in the applicable fiscal year budget or by special appropriation.
4. If a right of entry is authorized by the Town Manager it shall give notice of such authorization to the owner. Notice to the owner(s) shall be sufficient if sent by both regular and certified mail return receipt requested to the last known address for the owner and/or posted in a conspicuous place in or about the dwelling effect by the notice. Such notice shall be set forth in writing and shall contain the following:
 - (i) A statement that the Town Manager has authorized designated agents of the Town to enter the Premises during reasonable hours for the purpose of remediating the Blighted Premises.
 - (ii) A date by which the violation(s) must be corrected in order to avoid entry by designated agents of the Town pursuant to this ordinance. Such compliance date shall not be less than ~~fifteen~~ (15) days from date of the notice.
 - (iii) A statement that the authorization may be appealed to the Board of Selectmen within ten (10) days from date of the notice.
5. No agent or agents of the Town shall enter any dwelling house or structure for the purposes of remediating blighted conditions. Entry and remediation shall only be during weekday daylight hours.
6. The owner of the blighted premises shall be liable for the costs of remedial actions taken pursuant to this section. Such costs shall exist as a lien against said premises and may be

recorded upon the land records of the Town of Winchester and may be enforced in the same manner as property tax liens.

I. Alternate Remedies

In addition to all other remedies and any fines imposed herein, the provisions of this ordinance may be enforced by civil proceedings in Superior Court including injunctive relief. The Town may recover from such owner/occupier or other responsible person any and all costs and fees, including reasonable attorneys' fees, expended by the Town in enforcing the provisions of this ordinance.

J. Severability

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

K. Minimum Standards

1. The provisions in this chapter shall not be construed to prevent the enforcement of the other statutes, codes, ordinances or regulations which prescribe standards other than are provided in this ordinance.
2. This ordinance is not intended to affect violations of any other ordinances, codes or regulations existing prior to the effective date of this code, and any such violations may be governed and continue to be punishable under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed as well as this ordinance.
3. In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance, regulation or other code of the Town or State, the provision which establishes the higher standard for the promotion and protection of the health and safety of the public and/or the property values in the Town of Winchester shall prevail.

OPERATIVE SEPTEMBER 25, 2001, EFFECTIVE OCTOBER 10, 2001; AMENDED OCTOBER 18, 2004, EFFECTIVE NOVEMBER 26, 2004; AMENDED AUGUST 20, 2012; PUBLISHED AUGUST 24, 2012 AND EFFECTIVE SEPTEMBER 17, 2012.