

# ***Town of Franklin Ordinance on Anti-Blight Ordinance***

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## **Section 1: Authority and Purpose**

This Ordinance is enacted pursuant to the authority granted to the Town of Franklin under CGS § 7-148 (c ) (7)(H)(xv). The Town finds that blighted or unsafe buildings and other structures may pose a threat to the health, safety and general welfare of their occupants and other members of the public, and may reduce the value and unreasonably interfere with the use, enjoyment and function of properties in the vicinity of such premises. The Board of Selectmen also finds that building and structures within the Town of Franklin should not be allowed to become blighted or unsafe or to remain in such a condition.

This Ordinance prohibits any owner, agent, tenant or person in control of real property (hereinafter collectively and/or singularly referred to as the "Owner") located in the Town of Franklin from allowing, creating, maintaining or causing to be created or maintained any blighted premises. The Town of Franklin also establishes and enforces penalties for violation of this Ordinance.

The Town of Franklin reserves the right to use the following officials to assist in determinations for any service as deemed necessary: the Building Official, Zoning Enforcement Officer, Town Attorney(s), Fire Marshal, Director of Health, Sanitarian, Health Inspector or other official designated by the Town, acting within the scope of such official's authority. They may determine that the building, structure, or parcel of land is in a condition that poses a threat to the safety, health and/or general welfare of the community.

## **Section 2: Definitions**

The following definitions shall apply in the interpretation and enforcement of this ordinance:

**BLIGHTED PREMISES:** Any building or structure, or any part of a structure that is a separate unit, whether occupied or vacant, any parcel of land, including residential, commercial and industrial, in a seriously degraded condition which precludes, limits or restricts the intended use or uses, and that continues to exist if such property contributes to the decline of neighborhood, zone or area, or any building construction for which a building permit has been issued for more than 13 months without receiving a certificate of occupancy. At least one of the following conditions must exist:

- A. The Town Official determines that existing conditions pose a threat to the health and safety of persons in the Town;
- B. It is a fire hazard as determined by the Fire Marshall or as documented in the Fire Department records;
- C. It is a factor creating a substantial and unreasonable interference with the use and enjoyment of other premises within the surrounding areas as documented by neighborhood complaints, police reports, or other formal complaints;
- D. The premise is not being maintained or is becoming dilapidated and contributes to housing decay as evidenced by existence of one (1) or more of the following conditions:
  1. missing or boarded windows or doors;
  2. collapsing or missing walls, roof, or floor;
  3. exterior walls which contain holes, breaks, loose or rotting materials or which are not properly surface coated to prevent deterioration;
  4. structurally faulty foundation;
  5. seriously damaged or missing siding
  6. unrepaired fire or water damage
  7. Foundation walls which contain open cracks and breaks
  8. overhang extensions, including but not limited to canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhausts ducts which contain rust or other decay
  9. chimneys and similar appurtenances which are in a state of disrepair
  10. persistent garbage or trash leading to and resulting in vermin infestation
  11. abandoned vehicles, watercraft, campers or trailers of any kind on the premises (unless the premises is a junkyard licensed by the State of Connecticut)
  12. graffiti; or
  13. violation of provisions regarding outside storage under Zoning Regulations for the Town of Franklin.

**BUILDING OR STRUCTURE:** Any edifice of any kind or any piece of work artificially 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, canopies, awnings, marquees, and each and every type of portable equipment shall be considered "buildings" or "structures" within the meaning of this definition.

**BUILDING OFFICIAL:** Shall mean the building official as defined in Connecticut General Statutes Section 29-260.

**CAPABLE HOUSEHOLD MEMBER:** Shall mean a person that can be reasonably expected to perform maintenance and yard work around a property or premises. This shall include children above sixteen (16) years of age without physical or mental disability as defined herein.

**DILAPIDATED:** Shall mean a building or structure or part thereof that would not qualify for a Certificate of Occupancy if applied for, or which is deemed an unsafe structure as defined by the State Building Code, or any dwelling or unit that is designated as unfit for human habitation as defined in the State Building Code and/or the Ordinances of the Town of Franklin.

**DISABLED INDIVIDUAL:** Shall mean in the case of an owner-occupied residence, an individual who has a disability meeting the definitions for a mental or physical disability as defined under the Americans with Disabilities Act of 1990, and does not have other household members capable of providing the necessary maintenance.

**FIRE MARSHAL:** Shall mean an official who is trained and certified that is in charge of fire prevention and investigations.

**HEALTH INSPECTOR:** Shall mean a person certified and trained as required by the Connecticut Department of Health.

**LEGAL OCCUPANCY:** Occupancy in accordance with state building, state fire, local zoning, local housing and all other pertinent codes.

**LOW INCOME INDIVIDUAL:** Shall mean in the case of an owner-occupied residence, an individual, or where more than one person resides on the premises, a family unit, that has an income below the highest level of income established by the State of Connecticut's Elderly Tax Relief Program. This level is in the upper limit of step 5 as set forth in the Connecticut General Statutes Section 12-170aa©). It is immaterial that a person is not elderly with regards to this Ordinance because the reference to Section 12-170aa©) is only for the purpose of providing a guideline for this Ordinance.

**OWNER:** Any person(s), firm(s), institution(s), partnership(s), corporation(s), foundation(s), agent(s), entity(s) or authority(s) shall be included but not limited to, including responsible tenant(s), who or which hold title to real property or any mortgage or other secured or equitable interest in such property, as appears in the Franklin land records.

**PROXIMATE PROPERTY:** Any premises or parcel of land or part thereof within 1,000 feet of a blighted premise.

**PUBLIC HEALTH DIRECTOR:** Shall mean an official person employed by the Town of Franklin as head of the town public health department.

**SANITARIAN:** Shall mean a public official employed by the Town of Franklin and licensed by State of Connecticut Department of Health.

**TOWN:** Shall mean the Town of Franklin, Connecticut.

**TOWN OFFICIAL:** Shall mean either the Building Official, Zoning Enforcement Official, Town Attorney(s), Fire Marshall, Director of Health, Sanitarian, Health Inspector or other official designated by the Town, acting within the scope of such official's official's authority.

**VACANT:** A continuous period of 60 days or longer during which a building or structure or part thereof is not legally occupied by human beings.

**VACANT PARCEL:** A parcel of land with no structure(s) thereon.

**ZONING ENFORCEMENT OFFICER:** Shall mean the official employed by the Town of Franklin pursuant to Connecticut General Statutes §8-12 .

**Section 3 Prohibition:** No Owner of real property located in the Town of Franklin shall allow, create, maintain or cause to be developed or allowed any blighted premises.

#### Section 3.1

**Enforcement Powers:** The appropriate Town Officials are granted the authority necessary to enforce the provisions of this Ordinance. They shall investigate premises known to be, or suspected of being, blighted or unsafe for the purpose of conducting inspections, citing violations, determining enforcement actions, assessing fines, filing liens, designating a building or structure as blighted or unsafe, ordering the demolition of unsafe buildings or structures, and initiating legal actions. Any unpaid fine imposed shall constitute a lien upon the real estate in accordance with Connecticut General Statutes § 7-148aa. Each such lien shall be continued, recorded and released as provided for in § 7-148aa.

#### Section 3.2

**Inspection and Designation of Blighted or Unsafe Buildings or Structures:** A Town Official shall inspect any buildings, structures or properties that appear to be blighted or unsafe based upon a written complaint or report from any other person who has reason to know such conditions exist. Upon such other evidence any building, structure or property that has been determined to be blighted or unsafe shall be so designated.

Section 3.3

**Notice and Enforcement:**

- A. Upon a building, structure or property being designated as blighted or unsafe, the Town Official shall issue to the owner(s) a written notice of blighted or unsafe premises and shall order the owner(s) to correct the blighted or unsafe condition within 60 days of the date of notice. The notice shall be sent to the owner(s) by certified mail and shall include:
- a. The facts upon which the designation is based
  - b. The date by which the blighted or unsafe conditions must be corrected.
  - c. The fines, penalties, costs, fees and other enforcement actions that may be imposed by citation of the conditions are not corrected; and
  - d. The owner(s) right to contest the order before the Board of Selectmen. The First Selectman shall issue a written decision within 15 days after the conclusion of the hearing. If the Board of Selectmen determines that the subject property owner(s) or person(s) having lawful possession or control is not liable, the First Selectman shall dismiss the matter and enter the determination, in writing, accordingly. If the Board of Selectmen determines that the subject property or other person(s) having lawful possession or control is liable, it shall enter the determination, in writing, accordingly, and assess the relevant fines, penalties, costs or fees that are provided for in this Ordinance.

In the event that the relevant building or structure or portion of a building or structure is known to be occupied by or under the legal control or possession of a person(s) other than the owner(s), the Town Official may direct a similar notice and order to any such person(s) whom he or she may reasonably believe to be fully or partially responsible for creating or maintaining the blighted or unsafe condition. Each person(s) receiving such a notice and order shall be deemed to be jointly and severally liable for correcting the blighted or unsafe conditions.

- B. Prior to the expiration of the 60 day period specified in the notice of blighted property or unsafe building or structure, the owner(s) or person(s) receiving a notice and order pursuant to subsection A may apply to the Town Official for an extension of the repair period. The Town Official may grant one or more extensions of the repair period, none of which may be longer than 60 days, if he/she determines that the owner(s) or person(s) is diligently working to remedy the blighted or unsafe condition and that under the facts and circumstances an extension is reasonable.
- C. If the blighted property or unsafe building or structure is not corrected to the satisfaction of Town Official by the conclusion of the 60 day period and any extensions thereof granted, the Town Official shall issue a citation and impose a fine of \$100 for each day the property, building or structure remains in an unsafe or blighted condition. Each day that the property is in violation of this Ordinance shall constitute a separate offense. The citation will be sent by registered mail.
- D. Such notice shall inform the person(s) cited:
1. Of the allegations against him/her and the amount of fines, penalties, costs or fees due;
  2. That he/she may contest his/her liability before the Board of Selectmen by delivery, in person or mail, of written notice within 10 days of the date of the notice;
  3. That if he/she does not demand a hearing, an assessment and judgment shall be entered against him/her; and
  4. That such judgment may issue without further notice.

All notices and hearings related to such citations shall be given and held, respectively, in accordance with the citation hearing procedures set forth in State law.

- E. Any property owner(s) or person(s) who receives a citation pursuant to this Ordinance has the right to request a hearing before the Board of Selectmen by delivering, by hand delivery or mail, written notice of such request within 10 days of the date of the notice of blighted or unsafe premises. If the property owner(s) or responsible person(s) request a hearing, the Town Official shall send written notice, by

certified mail, of the date, time and place of the hearing. Such hearing shall be held 15 to 30 days from the date of the mailing of the notice of such hearing.

- F. The Board of Selectmen shall conduct the hearing in the form and with the methods of proof as it deems fair and reasonable, in accordance with the hearing procedures for citations specified in State law. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.
- G. The First Selectman shall issue a written decision within 15 days after the conclusion of the hearing. If he/she determines that the subject property owner(s) or person(s) having lawful possession or control is not liable, the First Selectman shall dismiss the matter and enter the determination, in writing, accordingly. If the Board of Selectmen determines that the subject property or other person(s) having lawful possession or control owner(s) is liable, it shall enter the determination, in writing, accordingly, and assess the relevant fines, penalties, costs or fees that are provided for in this Ordinance.
- H. Any fines which are unpaid 30 days after being imposed shall constitute a lien upon the property which the fine was imposed from the original date of imposition.
- I. Any unpaid fine imposed shall constitute a lien upon the property in accordance with Connecticut General Statutes Section 7-148aa. Each such lien shall be continued, recorded and released as provided for in Section 7-148aa.
- J. In the event any owner, agent, tenant or person in control of the 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 the property to appeal from the issuance of said citation, or by the citation of violation(s) being upheld, the Town of Franklin, acting through the Board of Selectmen, shall take civil action.
- K. Any blighted premises for which a special permit or site plan application for improvements to any blighted premises is pending shall be exempt from the provisions of this Ordinance for a period of ninety (90) days from the date of submission of a complete application to the Town Plan and Zoning Commission provided no more than one application may be submitted within a twelve (12) month period.
- L. Special consideration shall be given to individuals that are elderly or disabled if such individual cannot maintain a reasonable level of upkeep of the owner-occupied residence because the individual is elderly or disabled as defined under this Ordinance and no capable household member resides in the residence. In such cases, the Town Official shall give such elderly or disabled individual reasonably adequate time to correct the violation(s).
- M. Where the Owner of any blighted property is found to be a low income individual under this Ordinance, the Town Official shall give special consideration to the person(s) by providing reasonably adequate time to correct the cited violation(s). If the cited violation(s) concern a lawn, brush, weeds or shrub maintenance or keeping the grounds free from rubbish and debris, the Town Official will not provide additional time to correct the violation.

#### Section 4

If any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, clauses, sentences or phrases of the Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand, notwithstanding the validity of any part and shall be remain valid and enforceable to the fullest extent permitted by law.

This Ordinance shall be effective fifteen days following the date of its publication.

*Published Date: June 24, 2010*  
*Effective Date: July 8, 2010*