

Mary Ann Jacob, Chair  
James S. Belden  
A. Jeffrey Capeci  
George T. Ferguson  
Robert Merola  
Dan Wiedemann



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## TOWN OF NEWTOWN

### Minutes of the Legislative Council Ordinance Committee DRAFT-DRAFT-DRAFT

The Ordinance Committee met on September 21, 2011 in the Council Chambers of the Newtown Municipal Center at 6:30 pm. Chairman Jacob called the meeting to order at 6:32pm.

Present: Ms Jacob, Mr. Belden, Mr. Capeci, Mr. Ferguson, Mr. Merola and Mr. Wiedemann.

Others: First Selectman, Llodra, Borough Warden, James Gaston, one member of the public, one member of the press.

**PUBLIC PARTICIPATION:** None noted.

**APPROVAL OF MEETING MINUTES:** Mr. Capeci made a motion to approve the minutes of the July 13, 2011 meeting. The motion was seconded by Mr. Merola, all in favor.

**ORDINANCE TO CONTROL FELINES:** None noted.

**ANTI BLIGHT ORDINANCE:** Mr. Gaston Distributed a package (see attachments) containing the following:

1. Draft Anti-Blight Ordinance.
2. OLR And CT Senate Research on Municipal Blight Ordinances.
3. CT Trust for Historic Preservation Blight Ordinance Information.
4. Relevant excerpts from chapters 98 & 847 of CT General Statutes.
5. Blight Ordinances from various CT municipalities.

Mr. Gaston described the contents of the package he distributed then went through what he described as a template for a possible Newtown ordinance. He attempted to keep the language "narrow" to limit the interpretation. He said he is not necessarily recommending an ordinance, which may be premature at this point. The major differences between the various municipalities he looked at and the choices the Ordinance Committee will have to weigh are in the definitions with regard too how "broad" or "tight" they should be. Another point of discussion surrounded whether the ordinance allows for one enforcement officer of a group of enforcement officers; if the officers work as a group acting upon consensus decisions. And a similar discussion ensued with regard to hearing officer(s). Mr. Ferguson expressed concern with regard to abating taxes as an incentive for property owners to comply with the ordinance.

**AMENDING ORDINANCE §79 TAX ABATEMENT FOR VOLUNTEER FIRE  
AND RESCUE PERSONNEL TO INCLUDE NEWTOWN UNDERWATER**

**SEARCH AND RESCUE (NUSAR) VOLUNTEERS:** Mr. Merola detailed the changes to the Ordinance he proposed (see mark-up in attachment).

**DISCUSSION OF FUTURE MEETING DATES:** Next Meeting will be held on September 27 at 7:00pm

**VOTER COMMENT:** None noted.

A motion to adjourn was made by Mr. Capeci and seconded by Mr. Belden, all in favor. Chairman Jacob adjourned the meeting at 7:25pm.

Respectfully Submitted,  
Jeff Capeci

**TOWN OF NEWTOWN**  
**Blight Ordinance**

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**Sec. 1. Purpose:** The Purpose of this ordinance, adopted pursuant to Connecticut General Statutes Section 7-148(c) , is to define, prohibit, and provide for the abatement of blight and nuisances and to protect , preserve, and promote public health, safety, and welfare, and to preserve and protect property values in the Town of Newtown.

**Sec. 2. Scope:** This Ordinance shall apply to the maintenance of all business, industrial and residentially zoned, premises now in existence or hereafter constructed, maintained, or modified but shall exclude: agricultural lands as defined in Section 22-3(b) of the Connecticut General Statutes; land dedicated as public or semi-public open space or preserved in its natural state through conservation easements; or areas designated as inland wetlands and watercourses.

**Sec. 3. Definitions:** The following definitions apply in the interpretation and enforcement of this ordinance:

- A. **Blight or Blighted.** Includes any of the following:
- i) any structure or parcel of land in which at least one of the following conditions exist:
    - a) a condition which poses a serious threat to the safety, health, and general welfare of the community as determined by the Director of Health, Zoning Enforcement Officer, Fire Marshall or Building Inspector;
    - b) It is attracting illegal activity as documented by the Police Department;
    - c) It is not being properly maintained as evidenced by the existence of the following conditions: it is open to the elements, or has collapsed or missing walls, roofs, windows, doors or is unable to provide shelter, or serve the purpose for which it was constructed due to significant damage,

dilapidation, decay, or severe animal, rodent vermin, or insect infestation; or the property in the public view is chronologically neglected or abandoned.

- d) It has material which is incapable of performing the function for which it is designed including, but not limited to: abandoned, discarded, or unused objects; equipment such as automobiles, boats, and recreation vehicles which are unregistered and missing parts, not complete in appearance and in obvious state of disrepair; parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers and garbage that are in the public view. Notwithstanding the foregoing, the Blight Ordinance shall not include such temporary conditions not to exceed six (6) months in duration, as may be reasonably related to repair or restore building, boat or automobile repairs by property owner or tenant.
- e) It has overgrown brush, shrubs, weeds, or dead trees deemed hazardous to the public or to adjacent property.

**B. Dilapidation** Shall mean significant partial ruin, decay or disrepair of property such that it would not qualify for a certificate of use and occupancy, or which is deemed unsafe or which is designated as unfit for use or habitation by Health, Zoning Enforcement, Fire or Building Inspectors or Officers.

**C. Abandoned** Shall mean any property which is deserted.

**D. Neighborhood** Shall mean an area of the town comprising premises or parcels of land any part of which is contiguous with any other parcel with the town of Newtown.

**E. Public View** Shall mean visible from any public right-of-way or neighborhood.

F.           **Premises**                                Shall be deemed to include any buildings, dwellings, parcels of land or structures contained within the scope of this ordinance.

G.           **Blight Enforcement Officer** Shall mean the Director of Health, the Zoning Enforcement Officer, any Newtown Police Officer, any Newtown Building Inspector, and, any Newtown Fire Marshall or Inspector.

H.           **Infestation**                                Shall mean the presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.

I.           **Nuisance**                                Shall mean:

1) Any public nuisance as defined by statute or ordinance;

2) Any attractive nuisance – defined as the presence of any condition that may prove to be detrimental to the health or safety of children whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, the presence of abandoned wells, shafts, basements, excavations, refrigerators, vehicles, lumber, and garbage, refuses, rubbish, and any structurally unsound fences or other structures;

3) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist;

4) Whatever renders air, food or drink unwholesome or detrimental to the health of human beings;

5) Fire hazards. Any situation, process, material, blocked/obstructed egress, or condition that can cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or property as determined by the Town of Newtown fire marshal or his duly authorized agent.

**J. Operator** Shall mean any person who runs or manages a commercial or industrial establishment.

**K. Overgrown** Shall mean that property overrun with weeds, plants or grasses that have grown too large or thick and create a hazardous condition.

**L. Owner/Occupant** Shall mean any person, institution, foundation, entity or authority which owns, leases, rents, possesses, or is responsible for property with Newtown.

**M. Person** Shall mean any individual, corporation, partnership, Limited Liability Company.

**O. Structure** Shall mean any building, walls, dwelling, fence, swimming pool, or similarly constructed object.

**P. Vacant** Shall mean a period of sixty (60) days or longer from date of complaint, during which a building or structure or any part thereof, or land that is not legally occupied.

**Sec. 4. Special Considerations:**

Special Consideration may be given to individuals that are disabled, elderly, or low income in the Town's effort to correct housing blight. If an individual cannot maintain a reasonable level of upkeep of his owner-occupied residence because the individual is disabled, elderly or low income, and no capable person resides in the residence, the town may give the person a reasonable amount of time to correct the problem, the duration of which shall be in the discretion of the Blight Enforcement Officer(s). If needed, assistance in finding reasonable solutions to the blight may be offered by the Town.

- 1) Capable Individuals: 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 eighteen (18) years of age, without physical or mental disability as defined herein.

- 2) **Disable Individual:** shall mean, 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 capable of providing the necessary maintenance.
- 3) **Elderly Individual:** shall mean an individual over the age of sixty-five (65), who does not have a household member capable of providing the necessary maintenance.
- 4) **Low Income Individual:** shall mean, 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 Conn. General Statutes Section 12-170d(a)(3).

**Sec. 5.      Complaints, Warning Notice**

- (a) Any individual, civic organization, municipal agency, or Newtown employee affected by the action or inaction affected by the nuisance or blight of a property subject to the provisions of this ordinance may file a complaint of violation of this ordinance with a Blight Enforcement Officer. The Blight Enforcement Officer, upon his or her determination whether there is a violation of this ordinance, shall forward a Warning Notice to the owner, occupant, and any known lien holders of the property at the time the such determination such determination has been made.
- (b) Such a Warning Notice from a Blight Enforcement Officer shall be issued prior to issue a citation.
- (c) Such Warning Notice shall include:

- 1) A description of the real estate sufficient for identification, specifying the violation which is alleged to exist and the remedial action required;
  - 2) A period of not more than 60 days shall be allowed for the performance of any act required, unless exigent circumstances are determined by the Blight Enforcement Officer; and
  - 3) The amount of the fines, penalties, costs and fees that may be imposed for non-compliance shall apply for each infraction per day in the amount of \$100.00.
  - 4) Administration costs, including but limited to attorneys fees may be included, if permitted by law.
- (d) The owner/occupant may not contest before the Citation Hearing board a warning issued by a blight Enforcement Officer.
- (e) Delivery of a Warning Notice letter to the owner/occupant shall be by the following methods:
- 1) By personal delivery to the owner/occupant; or
  - 2) By certified mail, return receipt requested, addressed to the owner/occupant at his/her last known address with postage prepared thereon; or
  - 3) By posting and keeping posted for 24 hours a copy of the Warning Notice letter in placard form in a conspicuous place on the premises.

**Sec. 6. Enforcement**

- (a) If the corrective actions specified in the Warning Notice letter are not taken, the Blight Enforcement Officer shall issue a written Citation to the Owner/Occupant.
- (b) A Citation shall be in writing and include:



- 1) A description of the real estate and sufficient for identification, specifying the violation which is alleged to exist and the remedial required;
- 2) Detailed information regarding the contents of the initial Warning Notice (which may be a copy of such Warning Notice) and the failure of the owner/occupant to take the corrective actions specified therein within the time prescribed in the Warning Notice;
- 3) The amount of the fines, penalties, costs, or fees due for non-compliance: and
- 4) A statement that the owner/occupant may contest his liability and request a hearing before the Citation Hearing Board by delivering in person or by mail written notice of objection with 10 days of the date of the citation.

**Sec. 7.**

**Hearing**

- (a) An owner/occupant may request a hearing after receiving a citation. Said owner /occupant must make his request for hearing with 10 days of issuance of the citation. Said request shall be made in writing to the following: Citation Hearing Board, 7 Primrose Street Newtown, CT 06470.
- (b) The Citation Hearing Board is designated to conduct hearings in accordance with Connecticut General Statutes Section 7-152c, Subsections (a) through (f), when requested by an owner/occupant who has been cited under this ordinance.
- (c) Any cited person who wishes to admit liability without requesting a hearing may pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to the Blight Enforcement Officer – Zoning Enforcement Officer. Such payment shall be inadmissible in

any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 days of the citation shall be deemed to have admitted liability, and the Blight Enforcement or his/her designee shall certify such person's failure to respond. The Citation Hearing Board shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in Connecticut General Statutes, Section 7-152c(f).

- (d) Any person who requests a hearing shall be given written notice of the date, time and place for a hearing to be held within 30 calendar days from the date of the original request notice. The Citation Hearing Board may grant a postponement or continuance for good cause. An original or certified copy of the citation and notice shall be filed and retained by the Blight Enforcement Officer.
- (e) Pending the hearing before the Citation Hearing Board, no further enforcement activity as contemplated by Section 10-78(b) or (c) shall occur until either a hearing is held and the Citation Hearing Board assesses fines, penalties, costs, and/or fees or until the petitioner fails to appear for a scheduled hearing and the Citation Hearing Board assesses fines, penalties, costs and/or fees. This section shall not preclude the accrual of fines during the period from the issuance the notice until a hearing is held.

**Sec. 8. Appointment of Citation Hearing Board**

The Board of Selectmen shall appoint three residents to serve as the Citation Hearing Board for a two year term. Proceedings of the Citation Hearing Board shall be conducted in accordance with the laws of the State of Connecticut and any

provisions of the Charter or ordinances of the Town of Newtown generally applicable to its boards and commissions.

**Sec. 9. Penalties for Offenses: Prejudgment Lien**

- (a) The owner/occupant of premises where a violation of any of the provisions of this ordinance shall exist or who shall maintain any building or premises in which such violations exist may:
  - 1) Be fined not more than \$100 for each violation. Each day that a violation exist after a citation as described in Section 10-75 is given to the owner/occupant shall constitute a new violation, and a fine may be imposed for each such violation; and/or
  - 2) Be required to abate the violation at the owner/occupant expense.
- (b) A prejudgment lien on real estate may be imposed where the fine for violation of the blighted premises provisions of this ordinance not paid within 30 days, despite proper notice to the person found liable. Any unpaid fine imposed by a municipality pursuant to the provisions of an ordinance regulating blight, adopted pursuant to the Connecticut general Statutes, Section 7-148(c)(7)(H)(xv), shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. Each such lien may be continued recorded and release and the manner provided by the general statutes for continuing, recording and releasing property tax liens, Each such lien shall take precedence over all other liens and encumbrances filed after July 1, 1997, except for taxes. Each such lien may be enforced in the same manner as property tax liens, including foreclosure of the real property.

- (c) In addition to all other remedies and any fines imposed herein, the provisions of this code may be enforced by injunctive proceedings in Superior Court. The Town of Newtown 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.

**Sec. 10      Appeals; Special Consideration**

- (a) Any person aggrieved by any order, requirement or decision of the Citation Hearing Board may take an appeal in accordance with Connecticut General Statutes, Section 7-152c(g).
- (b) Notwithstanding anything herein to the contrary, special consideration may be given to individuals who are elderly, disabled or under extreme financial distress, and who demonstrate that the violation results from an inability to maintain an owner-occupied residence.
- (c) Such special consideration shall be limited to the reduction or elimination of fines and/or agreement that the Town or its agents may perform the necessary work and place a lien against the premises for the cost thereof in accordance with the provisions of this and ordinance and the laws of the State of Connecticut.

**Sec. 11      Assessor Authorized to Freeze Assessment of Rehabilitated Buildings**

To better achieve the rehabilitation of blighted property the Town assessor is authorized to freeze the assessment of any building that was the object of an enforcement action by the Citation Hearing Board,

and has been substantially rehabilitated. Upon recommendation by the Citation Hearing Board, blight Enforcement Officer, Zoning Enforcement Officer and approval by the Legislative Council, the Town shall freeze the assessment of any building that has been substantially rehabilitated to reflect the value of the structure prior to rehabilitation and shall be applicable for a period of five (5) years. No property owner shall receive this benefit if it was determined that the property owner caused any condition or violation of any code or regulation that required enforcement. If, however the property becomes the object of an enforcement action by a member of the Citation Hearing Board during the five-year period, the adjusted assessment may be revoked by the Town assessor.

**Sec. 12**     **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.

**Sec. 13**     **Contractual of Terms and Provisions**

- (a)     Where terms are specifically defined or the meaning of such terms are clearly indicated by their context, that meaning is to be used in the interpretation of this code.
- (b)     Where terms are not specifically defined and such terms are defined in this ordinance or Town Charter, such terms shall have the same meaning for the interpretation and enforcement of this ordinance.
- (c)     Where terms are not specifically defined in this ordinance, they shall have their ordinarily accepted meaning or such meaning as the context may imply.

- (d) The provisions of this ordinance shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Town.
- (e) 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 provision of the Charter, Town Code, or State of Connecticut law, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of Newtown shall prevail.

This Ordinance shall become effective on the \_\_\_\_\_ day, of \_\_\_\_\_, 2011, upon action by the Legislative Council and notice of publication in a local newspaper.

SIGNED ON \_\_\_\_\_ day, this \_\_\_\_\_ month of 2011:

BY \_\_\_\_\_  
\_\_\_\_\_, First Selectman

BY \_\_\_\_\_  
\_\_\_\_\_, Chairperson, Legislative Council