

**CT HEALTH AND SAFETY LAWS IN
HOARDING CASES**



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LEGAL DISCLAIMER



This presentation includes important general principles of law regarding building and safety code administration and enforcement. It is not intended to be used as legal advice, nor is it exhaustive in the areas referenced. Questions on legal remedies, administration or enforcement in your jurisdiction should be directed to your legal counsel.

CT HEALTH AND SAFETY LAWS IN HOARDING CASES

CURRENT LAW & BEST PRACTICES

Objective:

To identify and review important sections of existing CT state law applicable to hoarding hazard response by state or local officials (police, fire, health, building, housing and blight), and in cases of rental property, by landlords and tenants.

Who may get called about a hoarding complaint?

- Fire Department/ Marshal's Office
- Health Department
- Police Department
- Building/Housing Department
- Animal Control Officer
- Human Services
- Landlord



TEAM APPROACH WORKS!



The best and longest lasting response to severe hoarding behaviors is a coordinated team approach, with referral as needed for mental health evaluation, treatment and human services.

THE MOST SUCCESSFUL HOARDING HAZARD RESPONSES INCLUDE ALL



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A Two-Tiered Response

Severe hoarding responses are two-tiered: **Initial** (sometimes emergency) response and **Follow-up** response (referrals).

Safety hazard responses necessarily come first. However, from the start make the necessary **referrals** including mental health and mandated reporting to safeguard persons or animals.

CONSIDER FIRST RESPONDER SAFETY



Duties: The Basics Discretionary vs. Ministerial

- When the law requires that an official perform any certain action, failure to perform is a violation of duty. This is the case particularly where the acts are **ministerial** in nature, rather than **discretionary**.

Duties: The Basics
Discretionary vs. **Ministerial**

- When is an act "**discretionary**?"
- When a law, policy or directive includes some act or omission, and the decision of how to perform the act or whether to act at all requires or allows for professional judgment. These are referred to as "**discretionary acts.**"
- Terms often used are "may," "can" and "is authorized."

Duties: The Basics
Discretionary vs. **Ministerial**

- When is an act "**ministerial**?"
- When a law, policy or directive clearly establishes that an act **must** be performed, the relevant officials are not free to exercise their own judgment in determining whether to perform the act. These are called "**ministerial acts.**"
- Terms often used are "shall," "must" or "will."

**CT HOARDING HAZARDS:
 APPLICABLE INSPECTION AND
 ENFORCEMENT LAWS**

- FIRE
- HEALTH
- ANIMAL CONTROL
- BUILDING
- BLIGHT
- HOUSING
- ZONING



**GOVERNMENTAL
RIGHT OF ENTRY
VS.**



Know the extent of your inspection and enforcement requirements and the rights of the individual for privacy. Governmental officials, which includes code officials, should be prepared to answer questions about your authority in a respectful and professional manner.

**For Constitutional Law
Purposes...**



There is NO DIFFERENCE!!!

**The Three Most Important
Exceptions For Code Officials To
The Warrant Requirement:**

- **Consent**
- **Plain View**
- **Exigency**

GOVERNMENTAL INSPECTION WHERE ENTRY REFUSED



When cooperation ceases and access to the property is denied, a court order, such as an **administrative search warrant** is required before entry can be accomplished, unless other lawful conditions for entry exist.

ADMINISTRATIVE SEARCH WARRANT PROCESS UPHOLD

State v. Saturno (2016, CT Supreme Court), State v. Burke (1990, CT App. Court), Camara v. Municipal Court (1967, U.S. Supreme Court):

"Probable cause to issue a warrant to inspect for safety code violation exists if reasonable legislative or administrative standards for conducting an area inspection are satisfied."

FIRE



CT General Statute §29-306(a) – INCLUDES ONE AND TWO FAMILY

Fire Marshal shall issues orders in any premises with:

- (1) combustible or explosive matter, dangerous accumulation of rubbish or any flammable material especially liable to fire, that is so situated as to endanger life or property,
- (2) obstructions or conditions that present a fire hazard to the occupants or interfere with their egress in case of fire,
- (3) a condition in violation of the statutes relating to fire prevention or safety, or any regulation made pursuant thereto...

CGS §29-306(b) Notification, Referral and Civil Actions

- The local fire marshal shall notify the prosecuting attorney and the state fire marshal if the owner or occupant fail to abate a hazard as reasonably ordered by the local fire marshal.
- The local fire marshal may ask the municipality's attorney to seek an additional remedy of a civil injunction to close or restrict the use of the building through a civil court order.

What if there is imminent danger? Order to Vacate

■ CGS §29-306(c)

- Allows a local fire marshal or police officer to order any building vacated, where such person determines that there exists in the building a risk of death or injury from one or more of the enumerated violations known as the "five deadly sins", which include:

cont. ...

CGS §29-306(c) Vacate Order “Five Deadly Sins”

1. **Blocked, insufficient or impeded egress**
2. Required fire protection or warning system shut off or maintenance failure
3. Unpermitted flammable or explosive material or in excess of permitted quantities
4. Unpermitted fireworks or pyrotechnics
5. Exceeding occupancy limit set by Fire Marshal

Vacate Order Review by State Fire Marshal

- CGS §29-306(c), cont.
 - If imminent hazards cannot be corrected within FOUR HOURS of the vacate order, §29-306(c) and State Fire Marshal’s Directive #10 require notification to the State Fire Marshal who reviews the matter and may either uphold, modify or reverse the order.
 - Directive # 10 may be found at:
<https://portal.ct.gov/DAS/Office-of-State-Fire-Marshall/Office-of-State-Fire-Marshall/Documents>

HEALTH



**CGS §19a-206.
DIRECTORS OF HEALTH**

■ (a) Town, city and borough directors of health or their authorized agents **shall**, within their respective jurisdictions, **examine all nuisances and sources of filth injurious to the public health, cause such nuisances to be abated and cause to be removed all filth which in their judgment may endanger the health of the inhabitants.**

**CGS §19a-206, cont.
Right of Entry for Health Official**

(a)...Any local director of health or his authorized agent or a sanitarian authorized **may enter all places within his jurisdiction where there is just cause to suspect any nuisance or source of filth exists by such director, and abate or cause to be abated such nuisance and remove or cause to be removed such filth.**

CGS 19a-206, cont.

(b) When any such nuisance or source of filth is found on private property, **such director of health shall order the owner or occupant of such property, or both, to remove or abate the same within such time as the director directs.**

CT PUBLIC HEALTH CODE
CGS §19a-36 - Conditions Specifically Declared To Constitute Public Nuisances

§19-13-B1 includes:

- Discharge or exposure of sewage, garbage or any other organic filth into or on any public place in such a way that transmission of infective material may result thereby
- Stagnant water likely to afford breeding places for mosquitoes within a residential district or within a distance of one thousand feet therefrom.
- Buildings or any part thereof which are in a dilapidated or filthy condition which may endanger the life or health of persons living in the vicinity.

CT PUBLIC HEALTH CODE –
Abatement of Nuisance

§19-13-B2. **Abatement of nuisance** (a) Any local director of health, upon information of the existence of a nuisance or any pollution occurring within his jurisdiction, or when any such nuisance or pollution comes to his attention, shall, within a reasonable time, investigate and, upon finding such nuisance or pollution exists, shall issue his order in writing for the abatement of the same.

(b) Such order shall specify the nature of such nuisance or pollution and shall designate the time within which such abatement or discontinuance shall be accomplished; and if such order is not complied with within the time specified, the facts shall be submitted to the prosecuting authority. Copies of all orders shall be kept on file by the director of health in his office and copies of the same shall be furnished the state commissioner of health on request.

ANIMAL CONTROL



Full Presentation from the State Animal Control Division:
<http://www.cahceo.com/wp-content/uploads/2019/03/2019-Animal-Hoarding-academy-program.pdf>

ANIMAL HOARDING CRITERIA:

- Possession of more than the typical number of companion animals;
- the inability to provide even minimal standards of nutrition, sanitation, shelter, and veterinary care; and
- denial of the inability to provide this minimum care;
- and the resultant impact of the failure on the animals, the household, and human occupants of the dwelling.

Why Call Animal Control?

- Hoarding of animals can be animal cruelty (CGS §53-247).
- Animal hoarding cases involve mass suffering of confined animals over long periods of time. The median number is 39.
- 60% of animal hoarders are found in possession of dead animals.
- 80% of animal hoarder homes contain sick or dead animals.

Human Elements

- 15% of animal hoarding cases involve dependent adults or minor children.
- 75% of animal hoarders' homes are overwhelmed with garbage and feces.
- Living with numerous sick or dead animals poses high health risks and creates unhealthy conditions for the humans in the hoarder's home; i.e. toxic ammonia.

Cruelty Seizure Upheld For Neglect In Animal Hoarding

■ Statute defining neglect as failing to provide necessary sustenance, proper care, wholesome air, and proper food and water was not unconstitutionally vague as applied to Koczur’s conduct which formed the basis for seizure by the animal control officer for neglect or cruelty. *State ex re. Gregan v. Koczur*, 287 Conn. 145 (2008).

BUILDING



CGS §29-393

Building Official Right of Entry

■ On receipt of information from the local fire marshal or from any other authentic source that any building in his jurisdiction, due to lack of exit facilities, fire, deterioration, catastrophe or other cause, is in such condition as to be a hazard to any person or persons, the building inspector shall immediately make an inspection by himself or by his assistant,...

CGS §29-393 Right of Entry, cont.

...and **may make orders** for additional exit facilities or the repair or alteration of the building if the same is susceptible to repair or both or for the removal of such building or any portion thereof if any such order is necessary in the interests of public safety.

CT State Building Code (SBC) §116: Unsafe Structures And Equipment

- The Building Official **shall** deem structures or equipment an unsafe condition which are or become:
 - Unsafe
 - Insanitary
 - Deficient because of inadequate means of egress, inadequate light and ventilation

SBC §116: Unsafe Structures And Equipment, cont.

- Constitute a fire hazard
- Or are otherwise dangerous to human life or public welfare
- Or that involve illegal or improper occupancy or inadequate maintenance.
- The Building Official **shall** cause a report to be filed on an unsafe condition. SBC §116.2

SBC §116: Unsafe Structures And Equipment, cont.

- The unsafe structure **shall** be taken down and removed or made safe, as the Building Official deems necessary.

SBC §117 Emergency Measures

- **Imminent danger of failure or collapse** of a building or structure or any part thereof which endangers human life, or
- **Has fallen and human life is endangered** by the occupation.
- Building Official **may** order and require the occupants to **vacate** forthwith.

HOUSING

(CT HAS NO STATE PROPERTY MAINTENANCE CODE!)



International Property Maintenance Code (IPMC) Section §305: Interior Structure

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

IPMC Section 308: Rubbish & Garbage

308.1 Accumulation of rubbish or garbage. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

308.2 Disposal of rubbish. Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

RELOCATION



RELOCATION - CGS §8-266

Uniform Relocation Act applies in:

- circumstances involving removal of persons from use or occupancy of buildings by officials.
- Affixes to shut down of a premises under relevant CT General Statutes.
- **Requires** referral to Uniform Relocation Act administrator for your town, city or district for assistance to affected occupants.

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ZONING



CGS §8-12 Enforcement of Zoning

- Enforced by the local zoning officer or official board or authority designated therein.
- Written orders for the remedying of any condition found to exist in violation of any provision of the zoning regulations.
- May cite owner or tenant, among others.
- Criminal penalty: \$10-\$100 for each day that such violation continues; if willful, \$100-\$250 for each day, or 10-30 days imprisonment or both.
- Civil penalty: up to \$2500

BLIGHT



BLIGHT – CIVIL REMEDIES

From the Municipal Powers Act see CGS §7-148(c)(7)(H)(xv):

- "Make and enforce regulations for the prevention and remediation of housing blight, including regulations reducing assessments and authorizing designated agents of the municipality to enter property during reasonable hours for the purpose of remediating blighted conditions, provided such regulations define housing blight and require such municipality to give **written notice** of any violation to the owner and occupant of the property and **provide a reasonable opportunity for the owner and occupant to remediate** the blighted conditions prior to any enforcement action being taken, and further provided such regulations **shall not authorize such municipality or its designated agents to enter any dwelling house or structure on such property**, and including regulations establishing a duty to maintain property and specifying standards to determine if there is neglect; prescribe civil penalties for the violation of such regulations of not less than ten or more than one hundred dollars for each day that a violation continues and, if such civil penalties are prescribed, such municipality shall adopt a citation hearing procedure in accordance with section 7-152c;"

BLIGHT – CRIMINAL COURT REMEDIES

- **CCS Sec. 7-148o.** Willful violation of ordinances concerning prevention and remediation of housing blight. Penalties. (a) Except as provided in subsection (b) of this section, any person who, **after written notice and a reasonable opportunity to remediate** blighted conditions, willfully violates any regulation adopted pursuant to subparagraph (H)(xv) of subdivision (7) of subsection (c) of section 7-148 concerning the prevention and remediation of housing blight shall be **finned by the state not more than two hundred fifty dollars for each day** for which it can be shown, based on actual inspection of the property on each such day, that the blighted conditions continued to exist **after written notice to the owner or occupant** as provided in this section, and the expiration of a reasonable opportunity to remediate.
(b) Any person who is a new owner or new occupant shall, upon request, be granted a thirty-day extension of the notice and opportunity to remediate provided pursuant to subsection (a) of this section. For the purposes of this section, "new owner" means any person or entity who has taken title to a property within thirty days of the notice, and "new occupant" means any person who has taken occupancy of a property within thirty days of the notice.

Thank you.





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