

# TOWN OF BENNINGTON, VERMONT

## ARTICLE 6 - HOUSING, BUILDING AND LIFE SAFETY ORDINANCE

### 2007 AMENDMENTS\*

\*Amendments to the Bennington Housing, Building and Life Safety Ordinance were adopted by the Select Board of the Town of Bennington on the 13<sup>th</sup> day of August 2007 and took effect on October 12, 2007.

#### **A. Statement of Purpose:**

The purpose of the amendments to the Bennington Housing, Building and Life Safety Ordinance is to: 1) change the guard rail height from 42 inches to 36 inches for level surfaces over 30 inches from grade in single family owner occupied homes; 2) change the minimum fire-rated door requirement between a garage and a dwelling from 45 minutes to 20 minutes in single family owner occupied homes; and 3) change the minimum fire rated separation between a garage and a dwelling from one hour to 20 minutes in single family owner occupied homes.

#### **B. Text of Amendments:**

##### **GUARDS-SINGLE FAMILY OWNER OCCUPIED DWELLINGS - NEW CONSTRUCTION/RENOVATION**

Porches, balconies, ramps or raised floor surfaces located more than 30 inches above the floor or grade below shall have guards not less than 36 inches in height. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guards not less than 34 inches in height measured vertically from the nosing of the treads (International Residential Code - 2006 Section R312.1).

##### **GARAGES AND CARPORTS -SINGLE FAMILY OWNER OCCUPIED DWELLINGS NEW CONSTRUCTION/RENOVATION**

###### **Opening Protection**

Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches thick, or 20 minute fire-rated doors (International Residential Code - 2006 - Section R309.1).

###### **Separation Required**

The garage shall be separated from the residence and its attic area by not less than ½ inch gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than 5/8 Type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than ½ inch gypsum board or equivalent (International Residential Code - 2006 - Section R309.2).

**SINGLE FAMILY OWNER OCCUPIED DWELLINGS - CONFLICT BETWEEN CODES**

These sections shall supercede all conflicting provisions regarding single family, owner occupied dwellings contained in or referenced by the Bennington Housing, Building and Life Safety Ordinance.

## TOWN OF BENNINGTON, VERMONT

### ARTICLE 6 - HOUSING, BUILDING AND LIFE SAFETY ORDINANCE

#### ARTICLE 6-1. GENERAL PROVISIONS

A. Legislative Finding. It is hereby found that there exist and may in the future exist, within the Town of Bennington, premises and buildings, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy, affect or are likely to affect adversely the public health, (including the physical, mental, and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of building and environmental quality as will protect and promote public health, safety, and general welfare, it is further found that the establishment and enforcement of minimum housing, building and life safety standards are required.

B. Purposes. It is hereby declared that the purpose of this ordinance is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control incidence of communicable diseases, to establish standards for the construction, maintenance, repair and alteration of buildings, to regulate privately and publicly owned buildings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all buildings now in existence or hereafter constructed. It is hereby further declared that the purpose of this ordinance is to insure that the quality of housing is adequate for protection of public health, safety and general welfare, including: establishment of minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; determination of the responsibilities of owners, operators and occupants of dwellings; and provision for the administration and enforcement thereof.

C. Title. This ordinance shall be known and may be cited as the Town of Bennington Housing, Building and Life Safety Ordinance.

#### ARTICLE 6-2. AUTHORIZATION

A. By authority of Chapter 123 of Title 24 of the Vermont Statutes Annotated, enabling municipalities to adopt ordinances for the

establishment and enforcement of minimum standards for dwellings; and,

B. By authority of Chapters 83 and 59 of Title 24 of the Vermont Statutes Annotated and of Section 102(b) of the Charter of the Town of Bennington, enabling the Select Board of the Town of Bennington to establish codes for the construction and alteration of buildings and other structures within the Town.

### **ARTICLE 6-3. DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this ordinance. Occupancy definitions are those defined in the National Fire Protection Association Life Safety Code 101.

A. ACCESSORY STRUCTURE. Shall mean a detached structure which is not used or not intended to be used for living or sleeping by human occupants and which is located on or partially on any premise.

B. APPROPRIATE AUTHORITY. Shall mean that person within the governmental structure of the corporate unit charged with the administration of the appropriate code.

C. APPROVED. Shall mean approved by the local or State authority having such administrative authority.

D. ASHES. Shall mean the residue from the burning of combustible materials.

E. ATTIC. Shall mean any story situated wholly or partly within the roof, so designed, arranged or built as to be used for business, storage, or habitation.

F. BUILDING. Any enclosed space intended for the shelter, housing or enclosure of persons, animals or materials.

G. "BUILDING OFFICIAL", "APPROPRIATE or ADMINISTRATIVE AUTHORITY". The words "appropriate authority", "administrative authority", or "building official" shall mean the Building Inspector.

H. CENTRAL HEATING SYSTEM. Shall mean a single system supplying heat to one (1) or more dwelling unit(s) or more than one (1) rooming unit.

I. CHIMNEY. Shall mean a vertical masonry shaft of reinforced concrete, or other approved noncombustible, heat resisting material enclosing one (1) or more flues, for the purpose of removing products of combustion from solid, liquid or gaseous fuel.

J. "CITY "MUNICIPAL UNIT" "CORPORATE UNIT" or "TOWN". Shall all be taken to mean the Town of Bennington.

K. DILAPIDATED. Shall mean fallen into partial ruin or decay.

L. DWELLING. Shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

M. DWELLING UNIT. Shall mean 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 eating.

N. EGRESS. Shall mean a place or means of going out.

O. EXTERMINATION. Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the local or State authority having such administrative authority.

P. FAMILY. Shall mean one (1) adult person plus one (1) or more persons who are legally related to said person and residing in the same dwelling unit with said person.

Q. FLUSH WATER CLOSET. Shall mean a toilet bowl flushed with water under pressure with a water sealed trap above the floor level.

R. GARBAGE. Shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and nonconsumption of food.

S. GUEST. Shall mean any person who shares a dwelling unit in a nonpermanent status for not more than thirty (30) days.

T. HABITABLE ROOM. Shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than fifty (50) square feet of floor space, foyers, or communicating corridors, stairways closets, storage spaces, and workshops, hobby and recreation areas in unheated or uninsulated parts of structure below ground level or in attics.

U. "APPROPRIATE AGENCY" OR "HEARING AGENCY". The words "appropriate agency" or "hearing agency" shall mean the Housing Board of Review.

V. HEATED WATER. Shall mean water heated to a temperature of not less than 120°F at the outlet.

W. HOUSEHOLD. Shall mean a family and/or one (1) or more unrelated persons, including servants, who share the same dwelling and use some or all of its cooking and eating facilities.

X. INFESTATION. Shall mean the presence within or around a dwelling of any insects, rodents, or other pests.

Y. KITCHEN. Shall mean any room containing any or all of the following equipment, or any area of a room within three (3) feet of such equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets and/or shelves for storage of equipment and utensils, and corner or table for food preparation.

Z. KITCHENETTE. Shall mean a small kitchen or an alcove containing cooking facilities.

AA. "MAYOR", "CITY COUNCIL", or "LEGISLATIVE BODY". Shall all be taken to mean the Select Board of the Town of Bennington.

BB. MEANING OF CERTAIN WORDS. Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming units", "premises", "structure" are used in the ordinance they shall be construed as though they were followed by the words "or any part thereof". Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.

CC. MULTIPLE DWELLING. Shall mean any dwelling containing three (3) or more dwelling units and/or rooming units.

DD. OCCUPANT. Shall mean any person, over one (1) year of age, living, sleeping, cooking, or eating in, or actually having possession of, a dwelling unit or a rooming unit.

EE. OPERATOR. Shall mean any person who has charge, care, control, or management of a building, or part thereof.

FF. ORDINARY SUMMER CONDITIONS. Shall mean a temperature 10°F below the highest recorded temperature in the locality for the prior ten (10) year period.

GG. ORDINARY WINTER CONDITIONS. Shall mean a temperature 15°F above the lowest recorded temperature in the locality for the prior ten (10) year period.

HH. OWNER. Shall mean any person who, alone or jointly or severally with others:

(1) shall have legal title to any premise, building, dwelling or dwelling unit, with or without accompanying actual possession thereof, or

(2) shall have charge, care, or control of any premise, building, dwelling or dwelling unit, as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

II. PERMANENT FOUNDATION. Shall mean a foundation consisting of concrete or masonry supports with footings below the frost line.

JJ. PERMISSIBLE OCCUPANCY. Shall mean the maximum number of persons permitted to reside in a building, dwelling unit or rooming unit.

KK. PERSON. Shall mean and include any individual, firm, corporation, association, or partnership.

LL. PLUMBING. Shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, and the installation thereof, together with all connections to water, sewer, or gas lines.

MM. PREMISES. Shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any building and includes any such building, accessory structure or other structure thereon.

NN. PRIVACY. Shall mean the existence of conditions which will permit a person or persons to carry out an activity commenced without interruption or interference, either by sight or sound, by unwanted persons.

OO. RODENT HARBORAGE. Shall mean any place where rats can live, nest, or seek shelter.

PP. RODENT PROOFING. Shall mean a form of construction which will prevent the ingress or egress of rats to or from a given space or building, or gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, grounds or

first floors, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rats by climbing, burrowing or other methods, by the use of materials impervious to rat gnawing and other methods approved by the appropriate authority.

QQ. "REGISTRY OF DEEDS". The words "registry of deeds" shall mean the Land Records of the Town of Bennington.

RR. REFUSE. Shall mean all putrescible and nonputrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

SS. REFUSE CONTAINER. Shall mean a water-tight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating insanitary conditions, or such other containers approved by the appropriate authority. Openings into the container such as covers and doors shall be tight-fitting.

TT. ROOMING UNIT. Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

UU. RUBBISH. Shall mean nonputrescible solid wastes (excluding ashes) consisting of either;

(1) combustible wastes such as paper, cardboard, plastic containers, yard clippings, and wood; or

(2) noncombustible wastes such as tin cans, glass and crockery.

VV. SAFETY. Shall mean the condition of being free from danger and hazards which may cause accidents or disease.

WW. SPACE HEATER. Shall mean a self-contained, heating appliance of either the circulating type or the radiant type and intended primarily to heat only one (1) room.

XX. "STATE". The word "state" shall mean the State of Vermont.

YY. SUPPLIED. Shall mean paid for, furnished by, provided by, or under the control of the owner, operator, or agent.

ZZ. TEMPORARY HOUSING. Shall mean any tent, trailer, mobile home, or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises for more than thirty (30) consecutive days.



#### **ARTICLE 6-4. RESPONSIBILITIES OF OWNERS AND OCCUPANTS**

A. No owner or other person shall occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with all applicable legal requirements of the State of Vermont and the Town.

B. Every owner of a dwelling containing two (2) or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

C. Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

D. Every occupant of a dwelling or dwelling unit shall store and dispose of all his rubbish in a clean, sanitary and safe manner.

E. Every occupant of a dwelling or dwelling unit shall store and dispose of all his garbage and any other organic waste which might provide food for insects and/or rats, in a clean, sanitary and safe manner. Ratproof, insect-proof, water-tight refuse containers shall be used for storage pending collection.

F. Every owner of a dwelling containing three (3) or more dwelling units shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In the case of single or two (2) family dwellings it shall be the responsibility of each occupant to furnish such facilities or refuse containers unless specified in a written lease or agreement.

G. The owner of a dwelling unit shall be responsible for providing and hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this ordinance or any rule or regulation adopted pursuant thereto, except where there is a written agreement between the owner and occupant. In the absence of such an agreement, maintenance or replacement of screens, storm doors and windows, once installed in any one (1) season become the responsibility of the occupant.

H. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, and/or rodents, on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding, the foregoing

provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

I. No occupant of a dwelling or dwelling unit shall accumulate rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit.

J. No owner of a dwelling containing two (2) or more dwelling units shall accumulate or permit the accumulation of rubbish, boxes, lumber, scrap metal, or any other materials in such a manner that may provide a rodent harborage in or about the shared or public areas of a dwelling or its premises.

K. No owner or occupant of a dwelling or dwelling unit shall store, place, or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

L. Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean, sanitary, and operable condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

#### **ARTICLE 6-5. MINIMUM STANDARDS FOR FOUNDATIONS OF DWELLINGS**

A. No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein , which does not comply with the following requirements:

1) Every dwelling constructed, installed, built or relocated on or after April 30, 2001 shall be placed on a permanent foundation (as such term is defined in Section 6-3) of a design approved by the Building Inspector and shall have a masonry perimeter wall enclosing the area under the dwelling, subject to the following:

a) This Article shall not be applicable to any mobile home that replaces a mobile home legally existing on a lot (but not a Mobile Home Park lot) as of April 30, 2001 provided: i) the replacement mobile home is of the same or smaller size as the mobile home it replaces; ii) the replacement mobile home is placed in the exact location as the mobile home it replaces; and iii) the replacement mobile home is placed on and anchored to a concrete slab of a

design approved by the Building Inspector.

b) This Article shall not be applicable to any mobile home that replaces a mobile home legally existing in a mobile home park lot as of April 30, 2001; provided the replacement mobile home is placed on and anchored to a concrete slab of a design approved by the Building Inspector.

c) This Article shall not apply to existing structures converted from a non-dwelling use (e.g. storage, or commercial) to a dwelling or dwellings; provided: i) the Building Inspector approves the existing foundation of the structure; and ii) the footprint of the structure is not enlarged.

d) This Article shall not apply to camps (as defined in the town of Bennington Zoning Bylaw) constructed in the Forest Zone as designated in the Town of Bennington Zoning Bylaw.

#### **ARTICLE 6-6. MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES**

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

A. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area, and which shall be equipped with the following:

(1) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the appropriate authority.

(2) Cabinets and/or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safe keeping; and a counter or table for food preparation; said cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

(3) A stove, or similar device, for cooking food, and a refrigerator, or similar device, for the safe storage of food at temperatures less than 50°F but more than 32°F under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator, and/or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same on occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation of said stove, refrigerator and/or similar devices are provided.

B. Within every dwelling unit there shall be a nonhabitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be equipped with easily cleanable surfaces, be connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be connected to a sewer system which is approved by the appropriate authority.

C. Within every dwelling unit there shall be a lavatory sink. Said lavatory sink may be in the same room as the flush water closet, or, if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the appropriate authority.

D. Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the appropriate authority and which provides at all times an adequate amount of heated and unheated water under pressure, and which is connected to a sewer system approved by the appropriate authority.

E. Every dwelling unit shall meet the requirements of the N.F.P.A. 101 Life Safety Code.

F. Each dwelling unit shall have suitable facilities for the safe storage of drugs, household poisons, firearms and other dangerous materials or

objects.

G. Access to or egress from each dwelling unit shall be provided without passing through any other dwelling or dwelling unit.

H. No person shall let to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwelling or dwelling unit are equipped with safety, functioning locking devices.

#### **ARTICLE 6-7. MINIMUM STANDARDS FOR LIGHT AND VENTILATION**

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this section:

A. Every habitable room shall have at least one window or skylight facing outdoors provided that if connected to a room or area used seasonally (e.g. porch) then adequate daylight must be possible thru this inter-connection. The minimum total window or skylight area, measured between stops, for every habitable room shall be at least ten percent of the floor area of such room but if light-obstruction structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.

B. Every habitable room shall have at least one (1) window or skylight facing directly outdoors which can be opened easily, or such other device as will ventilate the room adequately, provided that if connected to a room or area used seasonally then adequate ventilation must be possible thru this inter-connection. The total of openable window or skylight area in every habitable room shall be equal to at least forty-five (45) percent of the minimum window area size or minimum skylight type window size, as required in subsection 6-7(A) of this ordinance.

C. Every bathroom and water closet compartment, and non-habitable room used for food preparation, shall comply with the light and ventilation requirement for habitable rooms contained in subsection 6-7(A) and 6-7(B), except that no window or skylight shall be required in such rooms if they are equipped with a ventilation system in working condition, which is approved by the Building Inspector.

D. Every dwelling unit and all public and common areas shall be supplied with electric service, outlets, and fixtures which shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the

ordinances, rules and regulations of the Town. The minimum capacity of such services and the minimum number of outlets and fixtures shall be as follows:

(1) Every habitable room shall have an electric service and outlets and/or fixtures capable of providing at least three (3) watts per square foot of total floor area.

(2) Every water closet compartment, bathroom, and kitchen or kitchenette, laundry room, furnace room, and public hall shall contain at least one (1) supplied ceiling or wall-type electric light fixture.

(3) Convenient switches or equivalent devices for running one light in each room or passageway shall be located so as to permit the area ahead to be lighted.

E. Every public hall and stairway in every dwelling containing two (2) or more units shall be adequately lighted by natural or electric light so as to provide in all parts thereof at least ten (10) foot candles of light at the tread or floor level with conveniently located light switches controlling an adequate lighting system which may be turned on when needed.

#### **ARTICLE 6-8. MINIMUM THERMAL STANDARDS**

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

A. HEATING FACILITIES. Every dwelling, dwelling unit, and rooming unit shall have heating facilities; and the owner or operator shall be required to see that they are properly installed, safely maintained and in good working condition, and that they are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein to a temperature of at least an average of sixty-five (65) degrees Fahrenheit with an outside temperature of fifteen (15) degrees below zero. The temperature shall be existent at a level of three (3) feet above the floor level and three (3) feet from an exterior wall.

B. PROVISION FOR HEAT. Every owner who provides heat to occupants of dwelling units or rooming units shall maintain such heat for the benefit of the occupants at all times to all habitable rooms and bathrooms of the dwelling unit or rooming unit when the outside temperature is less than fifty-five (55) degrees Fahrenheit.

C. PROHIBITED HEATING EQUIPMENT. No owner or operator shall install or use a space heater using gasoline fuel. All heating units employing flame shall be properly vented to a chimney or duct leading to the outdoors. Single family, owner occupied dwellings may utilize heating units that are not vented to the outdoors provided the unit is used and installed according to the manufacturers recommendations.

**ARTICLE 6-9. GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS**

No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

A. Every foundation, roof and exterior wall, door, sky-light and window shall be reasonably weathertight, water-tight and damp-free, and shall be kept in sound condition and good repair. Floors, interior walls and ceilings shall be sound and in good repair. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. Toxic paint and materials will not be used where readily accessible to children. Walls shall be capable of affording privacy for the occupants. Every premises shall be graded, drained, free of standing water, and maintained in a clean, sanitary and safe condition.

B. Every window, exterior door and hatchway or similar devices, shall be rodent-proof and reasonably watertight and weathertight, and shall be kept in working condition and good repair.

(1) During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least sixteen (16) mesh and self-closing device; and every window or other device with openings to outdoor space, used or intended to be used of ventilation, shall likewise be supplied with screens:

(2) Every window located at or near ground level used or intended to be used for ventilation, and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate screen or such other devices as will effectively prevent their entrance.

C. Every dwelling, dwelling unit, multiple dwelling, rooming unit or

accessory structure and the premises on which located shall be maintained in a rodent-free and rodent-proof condition.

D. Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch, and every appurtenance thereto, shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and uniform treads meeting the requirements of adopted codes.

E. Every plumbing fixture and all water and waste pipes shall be properly installed and maintained in good sanitary working condition.

F. Every water closet compartment, bathroom and kitchen floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

G. Every plumbing fixture and pipe, every chimney, flue, and smoke pipe, and every other facility, piece of equipment, or utility which is present in a dwelling or dwelling unit, or which is required under this ordinance, shall be constructed and installed in conformance with the appropriate statutes, ordinances and regulations of this Town and the State of Vermont.

H. No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the appropriate authority.

I. All construction and materials, ways and means of egress, and installation and use of equipment shall conform with the appropriate statutes, ordinances, and regulations dealing with fire protection of this Town and the State of Vermont.

#### **ARTICLE 6-10. MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS**

No person shall occupy or let to be occupied any dwelling, dwelling unit or rooming unit, for the purpose of living therein, unless there is compliance with these requirements:

A. The maximum occupancy of any dwelling unit shall not exceed the



following requirements:

- (1) For first occupant one hundred fifty (150) square feet of floor space and at least one hundred (100) square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
- (2) A total number of persons equal to two (2) times the number of its habitable rooms.

B. The ceiling height of any existing habitable room shall be at least seven (7) feet; except that in any habitable room under a sloping ceiling at least one half of the floor area shall have a ceiling height of at least seven (7) feet, and the floor area of that part of such a room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

C. No space located partially below grade shall be used as a habitable room of a dwelling unit unless approved by the Building Inspector in writing and unless:

- (1) The floor and those portions of the walls are of waterproof and dampproof construction.

- (2) The minimum window area is equal to at least that required in subsection 6-7(A); and such window area is located entirely above the grade of the ground adjoining such window area, or if windows are located wholly or partly below grade, there be constructed a properly drained window well whose open area is equal to or greater than the area of the masonry opening for the window; the bottom of the window well is below the top of the impervious masonry construction under the window, and the minimum horizontal distance at a right angle from any point of the window well is equal to or greater than the vertical depth of the window well as measured from the bottom of the masonry opening for the window.

- (3) The total openable window area in each room is equal to at least the minimum as required under section 6-7(B) of this ordinance, except where some other approved devices affording adequate ventilation and humidity control are supplied.

- (4) There are no pipes, ducts or other obstructions less than

six (6) feet, eight (8) inches above the floor level which interfere with the normal use of the room or area.

D. No space located totally below grade shall be used as a habitable room of a dwelling unit unless approved by the Building Inspector in writing.

E. In every dwelling unit of two (2) or more rooms, every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for the first occupant, and at least fifty (50) square feet of floor space for each additional occupant thereof.

F. No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hall, basement or cellar or to the exterior of the dwelling unit.

G. Every dwelling unit shall have at least four (4) square feet of floor-to-ceiling height closet space for the personal effects of each permissible occupant; if it is lacking, in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

**ARTICLE 6-11. ROOMING AND LODGING HOUSE, DORMITORY ROOMS, ROOMING UNITS - HEREINAFTER CALLED ROOMING HOUSE**

A. No person shall operate a rooming house, or shall occupy or let to another for occupancy any dormitory room and/or rooming unit in any rooming house, which is not in compliance with the provisions of every section of this ordinance except the provisions of Section 6-6(D), and Sections 6-10(A), 6-10(E) and 6-10(G). No owner or other person shall occupy or let to another person any rooming unit or dormitory room unless it is clean and sanitary, and complies with all applicable requirements of the Town.

B. At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Building Inspector and in good working condition, shall be supplied for each six (6) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, provided:

(1) That in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets.

(2) That all such facilities shall be so located within the dwelling as to be reasonably accessible to all persons sharing such facilities and from a common hall or passageway.

(3) That every lavatory basin and bathtub or shower shall be supplied with heated and unheated water under pressure at all times.

C. The following provision shall apply in all rooming houses:

(1) Cooking in dormitory rooms and rooming units is prohibited.

(2) Communal cooking and dining facilities in a rooming house are prohibited, except as approved by the Health Officer in writing.

(3) Access doors to a rooming unit shall have operating locks to insure privacy.

D. Every rooming unit shall comply with all the requirements of this ordinance pertaining to a habitable room.

(1) Every room occupied for sleeping purposes by one (1) person shall contain at least one hundred and ten (110) square feet of floor space, and every such room shall also contain at least four (4) square feet of closet space per occupant with at least an unobstructed height of five (5) feet. If it is lacking in whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy, except that in a dormitory room said closet or closet space may be provided in another portion of the rooming house.

E. All rooming houses, dormitory rooms and rooming units shall meet the requirements of the N.F.P.A. 101 Life Safety Code.

## **ARTICLE 6-12. ADOPTION OF PLANS OF INSPECTION**

A. The Town is hereby authorized and directed to develop and adopt plans for the inspection of dwelling units subject to the provisions of this ordinance,

including:

- (1) A plan for the periodic inspection of all rental dwellings subject to the provisions of Article 6-14, governing the registry of the operation of such dwellings;
- (2) A plan for the systematic inspection of rental dwelling units contained in such contiguous areas within this Town as may from time to time be designated by the Town.

#### **ARTICLE 6-13. INSPECTIONS: POWERS AND DUTIES OF THE BUILDING INSPECTOR**

A. The Building Inspector shall enforce the provisions of this Ordinance and is hereby authorized and directed to make inspections pursuant to one (1) or more of the plans for inspection authorized by Section 6-12 or in response to a complaint that an alleged violation of the provisions of this ordinance or of applicable rules of regulations pursuant thereto may exist; or when the Building Inspector has valid reason to believe that a violation of this ordinance or any rules and regulations pursuant thereto has been or is being committed.

B. The Building Inspector is hereby authorized to enter and inspect between the hours of 8:00 a.m. and 5:00 p.m. or other times as convenient to the owner or tenant, all dwellings, dwelling units, and rooming houses, rooming units, and dormitory rooms subject to the provisions of this ordinance for the purpose of determining whether there is compliance with its provisions. Prior to making an inspection of any dwelling, dwelling unit, rooming house, rooming unit or dormitory room or the premises surrounding them, the Building Inspector shall obtain permission for such inspection from the owner or from the occupant where the area to be inspected is occupied by a person other than the owner. If the owner or occupant refuses to grant permission for such inspection, the Building Inspector, upon a showing that probable cause exists for the inspection, may petition and obtain from a superior court judge, an order directing the owner or occupant to allow the inspection.

#### **ARTICLE 6-14. REGISTRY RENTAL DWELLINGS**

A. No person shall operate a rental dwelling unless he holds a current, unrevoked registry certificate issued by the Building Inspector in his name for the specific named rental dwelling.

B. Every registry certificate shall be issued for a period of five (5) years from its date of issuance unless sooner revoked, and may be renewed for

successive periods of not to exceed five (5) years. Each owner-occupied unit shall be exempt from the registry fee but shall not be exempt from all other sections of the Ordinance.

C. The Building Inspector is hereby authorized upon application therefore to issue new registry certificates, and renewals thereof, in the names of applicant owners or operators of rental dwellings. No such certificate shall be issued unless the rental dwelling in connection with which the certificate is sought is found after inspection to meet all requirements of this ordinance and of applicable rules and regulations pursuant thereto. The rental dwellings in connection with which the certificates are sought shall meet all requirements of this section and of applicable rules and regulations pursuant thereto, and an inspection of such dwellings or houses shall be made by the Building Inspector at least once every five years to determine whether such requirements have been met.

D. No registry certificate shall be issued or renewed unless the applicant owner or operator has first made application therefor on an application form provided by the Town of Bennington. The Town of Bennington shall develop such forms and make them available to the public.

E. No registry certificate shall be issued or renewed unless the applicant owner or operator agrees in his application to such inspections pursuant to section 6-12 and 6-13 as the Building Inspector may require to determine whether the rental dwelling in connection with which such certificate is sought is in compliance with the provisions of this ordinance and with applicable rules and regulations pursuant thereto.

F. No registry certificate shall be renewed unless an application therefore has been made within sixty (60) days prior to the expiration of the present operating license.

G. Every owner or operator of a rental dwelling shall keep, or cause to be kept, records of all requests for repair and complaints by tenants, which are related to the provisions of this ordinance and to any applicable rules and regulations, and of all corrections made in response to such requests and complaints. Such records shall be made available by the owner or operator to the Building Inspector for inspection and copying upon request. Such records shall be admissible in any administrative or judicial proceeding pursuant to the provisions of this ordinance as prima facie evidence of the violation or the correction of violation of this ordinance or applicable rules and regulations pursuant thereto.

H. Whenever, upon inspection of the rental dwelling or of the records required to be kept by section 6-14(G), the Building Inspector finds that

conditions or practices exist which are in violation of the provisions of this ordinance or of any applicable rules and regulations pursuant thereto, he shall serve the owner or operator with notice of such violation in the manner hereinafter provided. Such notice shall state that unless the violations cited are corrected within not to exceed 90 days, the registry certificate may be suspended.

l. If, upon reinspection, the Building Inspector finds that the rental dwelling in connection with which the notice was issued is now in compliance with this ordinance and with applicable rules and regulations issued pursuant thereto, he shall reinstate the certificate. A request for reinspection shall not extend the suspension period, unless the Building Inspector grants such request.

#### **ARTICLE 6-15. NOTICE OF VIOLATION**

A. Whenever the Building Inspector determines that any building, the premises surrounding the building or any person, fails to meet the requirements set forth in this ordinance or in applicable rules and regulations issued pursuant thereto, he shall issue a notice setting forth the alleged failures, and advising the owner, occupant, operator, or agent that such failures must be corrected. This notice shall:

- (1) Be in writing.
- (2) Set forth the alleged violations of this ordinance or of applicable rules and regulations issued pursuant thereto.
- (3) Describe, if applicable, the building, dwelling, dwelling unit or rooming unit where the violations are alleged to exist or to have been committed.
- (4) Provide a reasonable time, not to exceed ninety (90) days, for the correction of any violation alleged.
- (5) Be served upon the owner, occupant, operator, or agent of the building, dwelling, dwelling unit, or rooming unit personally, or by registered mail, return receipt requested, addressed to the last known place of residence of the owner occupant, operator, or agent.
- (6) To such extent and in such manner as is practical in the particular circumstances, the Building Inspector shall notify all persons affected by or responsible for the alleged violations (other than those persons served).

B. When the Building Inspector finds that the violations have been corrected and all accrued penalties, fines and recording fees have been paid, he shall cancel such notice, and if such notice has been recorded he shall cause such cancellation to be noted on the Land Records.

C. Unless penalties are intended to be imposed under Section 6-27 of this Ordinance, the Building Inspector shall not be required to issue a Notice of Violation under this section for those violations in which he issues Administrative Citations under the authority of the Vermont Department of Labor and Industry pursuant to the Vermont Fire Prevention and Building Code as such code is amended from time to time.

#### **ARTICLE 6-16. REPAIRS AND OTHER CORRECTIVE ACTION; DEMOLITION:**

A. Whenever an owner, operator, or agent of a building, dwelling, dwelling unit, or rooming unit fails, neglects, or refuses to make repairs or other corrective action, the Building Inspector may undertake such repairs or action, when in its judgement a failure to make them will endanger the public health, safety, or welfare.

B. Notice of the intention to make such repairs or take other corrective action shall be served upon the owner operator, or agent pursuant to Article 6-15.

(1) When repairs are made or other corrective action taken at the direction of the Building Inspector, cost of such repairs and corrective action shall constitute a debt in favor of this Town against the owner of the repaired structure. In the event such owner fails, neglects, or refuses to pay the amount of this debt, it shall be recoverable in a civil action against the owner or his successor, brought in a court of competent jurisdiction by the Town which shall possess all rights of a private creditor.

C. Designation of Unsafe Buildings and Unfit Dwellings, Dwelling Units, and Rooming Units.

(1) Any building shall be declared unsafe and any dwelling, dwelling unit, or rooming unit shall be designated as unfit for human habitation, when any of the following defects or conditions are found, and when, in the judgement of the Building Inspector these defects create a hazard to the health, safety, or welfare of the occupants or of the public:

(a) Is damaged, decayed, dilapidated,

insanitary, unsafe, or vermin-infested; or

(b) Lacks illumination, ventilation, or required sanitation facilities; or

(c) The general condition of location is insanitary, unsafe, or unhealthful.

(2) Whenever any dwelling, dwelling unit, or rooming unit has been designated as unfit for human habitation, the Building Inspector shall placard the dwelling, dwelling unit, or rooming unit, indicating that it is unfit for human habitation, and, if occupied, shall order the dwelling, dwelling unit, or rooming unit vacated within a reasonable time, such time to be not less than 15 days or more than 30 days. Notice of the intention to order that a dwelling, dwelling unit or rooming unit be vacated shall be served upon the owner operator or agent pursuant to Section 6-15.

(3) No dwelling, dwelling unit, or rooming unit which has been designated as unfit for human habitation and which has been placarded as such and has been vacated shall be used again for human habitation until written approval is secured from the Building Inspector and the placard removed by the Building Inspector

(4) The Building Inspector shall rescind the designation as unfit for human habitation and remove the placard when the defect or condition upon which such designation and such placarding was based has been removed or eliminated as to cause the dwelling, dwelling unit, or rooming unit to be deemed by the Building Inspector as a safe, sanitary, and fit place or unit for human habitation.

(5) No person shall deface or remove the placard from any dwelling, dwelling unit, or rooming unit which has been designated as unfit for human habitation and has been placarded as such, except as provided in Section 6-16(C)(4).

(6) Any person affected by any decision of the Building Inspector or by any designation or placarding of a dwelling, dwelling unit, or rooming unit as unfit for human habitation shall be granted a hearing on the matter before the Housing Board of Review.

D. Demolition of Buildings, Dwellings, Dwelling Units, or Rooming Units.



(1) The Building Inspector shall order a building, to be demolished if it has been designated as unsafe or unfit for human habitation, has been placarded as such, has been vacated, has not been put into proper repair as to rescind the designation as unsafe or unfit for human habitation and to cause, the placard to be removed.

(2) The owner of any building, dwelling, dwelling unit, or rooming unit which has been ordered demolished, shall be given notice of this order in the manner provided for service of notice in Article 6-15 and shall be given a reasonable time, not to exceed ninety (90) days, to demolish such structure.

(3) Any owner aggrieved by the notice to demolish may within 30 days seek a reconsideration of the matter in the manner hereinafter provided, and may seek a formal hearing in the manner provided in Article 6-17 before the Housing Board of Review.

(4) When the owner fails, neglects, or refuses to demolish an unfit, unsafe, or insanitary building, within the requisite time, the Building Inspector may apply to a court of competent jurisdiction for a demolition order to undertake the demolition. The court may grant such order when no reconsideration or hearing on the matter is pending. The cost of such demolition shall create a debt in favor of the Town against such owner, and shall be recoverable in a civil action brought by the Town which shall possess all the rights of a private creditor.

(5) Whenever a building is demolished, whether carried out by the owner or by the Building Inspector such demolition shall include the filling in of the excavation remaining on the property on which the demolished building was located, in such manner as to eliminate all potential danger to the public health, safety, or welfare arising from such excavation.

(6) All demolitions shall be preceded by an inspection of the premises by the Health Officer to determine whether or not extermination procedures are necessary. If the premises are found to be infested, appropriate rodent extermination to prevent the spread of rats to adjoining or other areas shall be instituted before, during, and after demolition.

(7) Relocation Program.

(a) Prior to issuing a vacating order pursuant to Section 6-16(C)(2) the Building Inspector in consultation with the Manager shall develop a feasible program for the relocation of individuals and families displaced as a result of such order.

**ARTICLE 6-17. APPLICATIONS FOR RECONSIDERATION; CONFERENCES; HEARINGS; APPEALS**

A. Application for Reconsideration

(1) Any person aggrieved by a notice of the Building Inspector issued in connection with any alleged violation of this ordinance or of applicable rules and regulations issued pursuant thereto, or by any order requiring repair or demolition pursuant to Section 6-16, may apply to the Building Inspector for a reconsideration of such notice or order within twenty-one (21) days after it has been issued.

(2) The Building Inspector shall set a time and place for an informal conference on the matter within ten (10) days of the receipt of such application, and shall advise the applicant of such time and place in writing.

(3) At the informal conference, the applicant shall be permitted to present his grounds for believing that the order should be revoked or modified to the Building Inspector.

(4) Within ten (10) days following the close of the informal conference the Building Inspector shall advise the applicant whether or not he will modify or set aside the notice or order issued by the Building Inspector.

B. Hearings

(1) Any person aggrieved by a notice of the Building Inspector issued in connection with any alleged violations of the provisions of this section or of any applicable rules and regulations pursuant to Sections 6-16(A), 6-16(B) and 6-16(D), may appeal to the Housing Board of Review. The powers and procedures of the Board with respect to such appeals shall be as set forth in subsections (b) and (c) of Section 5005 of Title 24 of the Vermont Statutes.

(2) Such petition shall be filed within twenty-one (21) days

after the notice or order is served on petitioner in the manner prescribed by Article 6-15.

(3) Upon receipt of a valid petition, the Housing Board of Review shall either grant or deny the hearing requested, and shall advise petitioner of its decision in writing within ten (10) days of the day on which his petition was received.

(4) When the Housing Board of Review determines to hold a hearing, it shall serve petitioner with notice of its decision in the manner provided for service of notice in Article 6-15. Such notice shall be served within ten (10) days of the receipt of the petition.

(5) At the hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn, or why the period of time permitted for compliance should be extended.

(6) The Housing Board of Review shall have the power to affirm, modify or revoke the notice or order, and may grant an extension of time for the performance of any act required of not more than 30 days, where the Housing Board of Review finds that there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this ordinance or by applicable rules or regulations issued pursuant thereto, and that such extension is in harmony with the general purpose of this ordinance to secure the public health, safety and welfare.

(7) Except with regard to Public Buildings as defined in the Vermont Fire Prevention and Building Code, the Housing Board of Review may grant variances from the provisions of this ordinance or from applicable rules and regulations issued pursuant thereto when the Housing Board of Review finds that there is practical difficulty or unnecessary hardship connected with the performance of any act required by this ordinance and applicable rules and regulations pursuant thereto; that strict adherence to such provisions would be arbitrary in the case at hand; that extension would not provide an appropriate remedy in the case at hand, and that such variance is in harmony with the general purpose of this ordinance to secure the public health, safety and welfare.

C. Any person, including the Building Inspector, aggrieved by any decision

of the Housing Board of Review, may appeal to the Superior Court. The conditions, consequences and procedure with respect to such an appeal shall be as set forth in Section 5006 of Title 24 of the Vermont Statutes.

#### **ARTICLE 6-18. EMERGENCIES**

A. Whenever, in the judgment of the Building Inspector, an emergency exists which requires immediate action to protect the public health, safety, or welfare, an order may be issued, without notice, conference, or hearing, directing the owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant, the Building Inspector may act to correct or abate the emergency.

B. The owner, occupant, operator, or agent shall be granted a conference on the matter upon his request, as soon as practicable, but such conference shall in no case stay the abatement of correction of such emergency.

#### **ARTICLE 6-19. ADOPTION OF STATE CODES AND REGULATIONS**

A. The following codes or portions of codes are incorporated by reference, shall be applicable to all buildings, and shall be deemed a part of this Ordinance.

- 1) The 1999 Vermont Fire Prevention and Building Code, as amended by this Ordinance; and
- 2) The design standards set forth in the current State of Vermont Agency of Natural Resources Environmental Protection Rules, Chapter 1, Small Scale Wastewater Treatment and Disposal Rules; and
- 3) The 1999 Vermont Electrical Safety Rules; and
- 4) The 1996 State of Vermont Plumbing Rules; and
- 5) The Vermont Access Board and the Department of Labor and Industry Rules for New Construction and for Alterations to Existing Buildings,

as such Codes and Rules exist or as amended from time to time.

In the event of any conflict between the codes and rules incorporated by reference above and the other Sections of this Ordinance, the Building Inspector shall enforce the provision that he finds in his sole discretion most effectively accomplishes the purposes of this Ordinance. All of the codes and regulations adopted under this ordinance shall also be applicable to all owner-occupied single family dwellings.

## **ARTICLE 6-20. AMENDMENTS TO ADOPTED CODES AND REGULATIONS**

### **A. Smoke Detectors**

Notwithstanding anything set forth in the codes and regulations adopted in Article 6-19, smoke detectors in all dwellings shall receive their operating power from the building electrical system and shall receive power from a battery when the building electrical system power is interrupted.

Exception No.1: *For single family, owner occupied dwellings, approved smoke detectors powered by batteries shall be permitted in existing construction.*

### **B. Fire Department Connections**

Notwithstanding anything set forth in the codes and regulations adopted in Article 6-19, all existing sprinkler systems shall have approved Fire Department Connections installed in compliance N.F.P.A. 13, 13D & 13R (National Fire Protection Association) Standard for the installation of sprinkler systems.

### **C. Municipal Water Connections**

Notwithstanding anything set forth in the codes and regulations adopted in Article 6-19, all existing and new connections to the municipal water system for domestic, fire protection or other uses shall be provided with an approved back flow prevention device.

Notwithstanding anything set forth in the codes and regulations adopted in Article 6-19, all existing and new connections to the municipal water system shall be provided with an approved pressure reducing device. Subject to the written approval by the Town of Bennington Water Resources Department, the pressure reducing device may be exempt from the installation requirement.

## **ARTICLE 6-21. WASTEWATER SYSTEMS**

A. All wastewater systems shall be installed in accordance with a design approved by the Building Inspector.

B. All wastewater system designs: i) shall be prepared by a Site Technician certified under Vermont law or a Professional Engineer licensed under Vermont law; ii) shall include a current certification that the design complies in all respects with Chapter 1 of the Environmental Protection Rules and does not invoke or take advantage of any exceptions or exemptions regarding lot size or lot creation date.

C. Upon completion of the installation of a wastewater system, the owner of the building served by the system shall supply to the Building Inspector written certification prepared by a Site Technician certified under Vermont law or a Professional Engineer licensed under Vermont law that the wastewater system was installed in accordance with the design approved by the Building Inspector.

**ARTICLE 6-22. DEMOLITION - HISTORIC STRUCTURES**

A. The following procedures shall apply prior to demolition of any structure listed as a contributing structure on the Vermont State Sites and Structures Survey, on the National Register of Historic Sites or any structure which was erected more than fifty years prior;

B. Upon application for a permit to demolish such structures, the Building Inspector shall forthwith give notice to the Historic Preservation Commission through its Chair, Vice Chair or Secretary, and from the time of such notice shall hold in abeyance the issuance of a demolition permit for a period of five (5) days. However, where matters of public safety are paramount, the permit will not be held in abeyance but shall be issued when deemed necessary by the Building Inspector;

C. The Historic Preservation Commission may, during the five (5) day period, by concurrence of the applicant or owner of such structure, preserve, arrange to preserve or photographically record, catalog or otherwise record, significant historic components of said structure, if any. After said five (5) day period, or sooner on the advice of the Historic Preservation Commission a demolition permit shall issue as otherwise provided by law.

**ARTICLE 6-23. RELOCATION OF DWELLINGS**

A. No person, including an owner, operator, agent or contractor thereof shall relocate, move or transport or cause to be relocated, moved or transported any dwelling without first applying for and receiving a permit from the Building Inspector. Such a permit shall be known as a Relocation Permit. Applications for a Relocation Permit and the Relocation Permit itself shall be in a form approved by the Building Inspector.

B. A Relocation Permit shall not be issued until all delinquent property taxes and water and sewer fees, including all accrued interest and penalties, have been paid in full.

C. Notwithstanding anything to the contrary set forth in this Ordinance, the Building Inspector may impose, at his sole discretion, the maximum penalty set forth in this Ordinance, which penalty shall be retroactive to the date the dwelling was relocated, moved or transported and continue to accrue until the date a Relocation

Permit is issued.

**ARTICLE 6-24. FEE SCHEDULE**

A. Permit and inspection fees shall be established by the Select Board from time to time by resolution, and a copy of such fee schedule shall be posted in the Town Offices and made available to each applicant upon request.

**ARTICLE 6-25. CONFLICT OF ORDINANCES; OF SEVERABILITY**

A. 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 or code of the Town or State existing on the effective date of this ordinance, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of this Town existing on the effective date of this ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this ordinance shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this ordinance.

B. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance, which shall remain in full force and effect; and to this end the provisions of this ordinance are hereby declared to be severable.

**ARTICLE 6-26. HOUSING BOARD OF REVIEW**

A. The Select Board of the Town of Bennington shall appoint a five (5) member Housing Board of Review to be composed of individuals who have demonstrated awareness, knowledge, and special concern for the purpose of this section.

**ARTICLE 6-27. ENFORCEMENT**

A. A violation of this ordinance shall be a civil matter enforced in accordance with Vermont State Statute and as otherwise provided by law. A civil penalty of \$200.00 shall be imposed for each violation of this ordinance. Each day that a violation of this ordinance continues shall constitute a separate violation.

**ARTICLE 6-28. EFFECTIVE DATE**

A. This ordinance shall take effect sixty (60) days from date of adoption by the Select Board.

**THIS ORDINANCE IS HEREBY ADOPTED** by the Select Board of the Town of Bennington on this 8<sup>th</sup> Day of May, 2001, and shall unless a petition is filed as provided by law, become effective upon the expiration of sixty (60) days after said date of adoption.

\_\_\_\_\_  
Howard Sinnott, Chair

\_\_\_\_\_  
Patrick Kinney, Vice Chair

\_\_\_\_\_  
Sharyn Brush

\_\_\_\_\_  
Jeffery Gauthier

\_\_\_\_\_  
Salvatore Santarcangelo

\_\_\_\_\_  
Joseph Krawczyk

\_\_\_\_\_  
Ronal Hall