

Dangerous & Vacant Building and Property Ordinance

DANGEROUS AND VACANT BUILDING AND PROPERTY ORDINANCE TOWN AND VILLAGE OF WOODSTOCK, VERMONT

Revision #1

Be it ordained by the Select Board of the Town of Woodstock, Vermont that the existing town ordinance titled Dangerous and Vacant Building and Property Ordinance Town and Village of Woodstock, Vermont is hereby revised in its entirety by deleting all existing language thereof and substituting the following language:

DANGEROUS AND VACANT BUILDING AND PROPERTY ORDINANCE TOWN AND VILLAGE OF WOODSTOCK, VERMONT

SECTION 1. AUTHORITY

This Ordinance is adopted by the Select Board of the Town of Woodstock (hereinafter "Town") under authority granted in 24 V.S.A. §§ 2291 (13), (14), and (15), and 24 V.S.A. Chapter 59. This Ordinance applies in the Town and Village of Woodstock.

SECTION 2. STATEMENT OF FINDINGS

Being that there exist in the Town and Village of Woodstock structures, buildings and parcels of land that have become dangerous or unsafe and numerous other structures that are vacant, abandoned, and in disrepair, the Select Board finds and declares that:

1. Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
2. Structures that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons.
3. Many structures that are vacant, whether secured or not, are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, and have an adverse impact upon adjacent and nearby properties.
4. Structures that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.

5. Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal activities, including arson and drug use.
6. Structures that are vacant and unsecured pose serious threats to the public health and safety and therefore are declared to be public nuisances.
7. Immediate abatement and rehabilitation of these structures is necessary to abate such public nuisances, prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.
8. Communication between owners of dangerous and vacant buildings and property and the Town and Village is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regard to such structures.

SECTION 3. PURPOSE

The purpose of this Ordinance is to establish measures to abate the public nuisances, health and safety hazards, and other harmful effects that arise from vacant and dangerous buildings, structures and properties in the Town and Village.

SECTION 4. DEFINITIONS

For purposes of this Ordinance, the following words and/or phrases shall apply:

1. **Building Safety Officer.** The officer appointed by the Town to enforce this Ordinance. The Building Safety Officer may hold any other office in the Town or Village. Nothing in this Ordinance shall prevent the Building Safety Officer from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce. The Building Safety Officer shall have the authority to inspect buildings, structures or any portion of a property, interior or exterior, within the territorial limits of the Town and Village. In the event that the Building Safety Officer is unavailable, or has a conflict of interest, the Town Manager or his/her designee shall perform the functions of the Building Safety Officer.
2. **Dangerous Building or Premises.** Any building, structure, part thereof, or its grounds that, for the lack of proper maintenance, repair, or sanitation is hazardous to the health or safety of the public or likely to endanger other buildings or property.
3. **Hazardous Conditions.** Shall include, but not be limited to, situations where a property owner, tenant, any mortgagee in possession, or a designee of any of the foregoing allows trash to unreasonably accumulate or be discarded on a property in such a way that it causes an obvious hazard to public safety; the creation of an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests; trees and other plant life to dangerously obscure drivers' views or attract vermin; the placement of appliances, cars, and other objects that might constitute an attractive nuisance to children or attract vermin; or allows an abandoned or unoccupied property to be left in an unsecured state.

4. Shall include rubbish, waste and refuse, including, but not limited to household wastes, food scraps, household appliances, automotive parts, automobiles, furniture and yard clippings, but shall not include junk at a duly licensed junkyard.
5. Vacant Building. Any building or structure that is unoccupied by a person or occupied by unauthorized persons for more than ninety (90) days, excepting any permitted warehouse, garage, vacation property, or building or structure used only on a seasonal basis.

SECTION 5. AUTHORITY OF TOWN HEALTH OFFICER

Nothing in this Ordinance shall affect the authority of the Town Health Officer or the Select Board from taking any action permitted under 18 V.S.A. §§ 126 et seq.

SECTION 6. BUILDING AND PROPERTY OWNER OBLIGATIONS

Building and property owners shall ensure that the following measures have been undertaken, whether the building or property is occupied or not, to secure the building or structure by satisfying the following building maintenance standards:

1. Building Openings. Doors, windows, areaways and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid materials which are weather protected, and tightly fitted and secured to the opening.
 2. The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
 3. The building storm drainage system shall be functional and allow discharge in an appropriate manner.
 4. Building Structure. The building shall be maintained in good repair and be structurally sound. Structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
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1. Foundation Walls. Foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rodent-proof.
 2. Exterior Walls. Exterior walls shall be free of holes, breaks, and loose or rotting materials.
 3. Exterior Features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair.

4. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound.
5. Exposed Metal and Wood. All exposed metal and wood surfaces shall be protected from the elements against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
6. Chimneys and Towers. Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair.
7. Walkways shall be safe for pedestrian travel.
8. Accessory and Appurtenant Structures. Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these building maintenance standards.
9. All real property located in Town and Village shall be kept clean, safe, and sanitary, free from waste, trash, rubbish, debris or excessive vegetation, and shall not cause any hazardous condition or threat to the public health or safety.

SECTION 7. ABATEMENT OF DANGEROUS BUILDINGS AND PROPERTIES

1. Safety Inspection. Upon receiving information that any building, structure or property, or anything attached or connected therewith is in violation of the specifications of this Ordinance or is otherwise in such unsafe condition that the public safety is endangered, the Building Safety Officer shall cause the building, structure or property to be inspected.
 1. Written notice of intent to conduct an inspection shall be given to the owner of the building, structure or property at least twenty-four (24) hours prior to the inspection. A copy of this Ordinance shall be attached to the notice.
 2. The Building Safety Officer may also view the premises from any public space, or, with the permission of the property owner, from any nearby or adjacent property.
 3. The Building Safety Officer may retain such law enforcement officers, fire officials, engineers, attorneys and other qualified experts as necessary to assist with a building /property safety inspection and the preparation of a Building Safety Order.
1. Safety Order. If, upon inspection, the Building Safety Officer determines that a building, structure or anything attached or connected therewith, or any hazardous condition appears to endanger the public safety, the Building Safety Officer shall issue a Safety Order. The Safety Order shall:
 1. Identify the hazardous conditions that cause the premises, building, structure or anything attached or connected thereto to be dangerous.
 2. Identify the actions that must be taken by the owner to secure the Dangerous Building or Premises and abate the hazardous conditions identified in the order, including, where appropriate, removal of a Dangerous Building.

3. Set a date by which the actions to secure a Dangerous Building or Premises and abate the hazardous conditions must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the order.
 4. Inform the owner of his/her right to appeal the Building Safety Order and the right to be represented by legal counsel at the appeal hearing.
1. The Safety Order shall be served upon the owner of the Dangerous Building or Premises by certified mail, return receipt requested, and by first class mail. A copy of the Order shall be provided to the Select Board.
 2. If it appears to the Building Safety Officer that such structure or premises would be especially dangerous, the officer may affix a notice of dangerousness in a conspicuous place upon the structure's exterior walls, or may affix a posted notice in the ground which shall not be removed or defaced without the officer's authority.
 3. For abatement, removal or demolition, the Building Safety Officer, or other appropriate Town officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition.
 4. The Building Safety Officer may also seek the imposition of fines in accord with Section 8 of this Ordinance.
 5. The Building Safety Officer may contract with such service providers or use such other Town or Village employees as may be necessary to ensure public safety in the circumstances.
6. APPEAL
 1. A person aggrieved by a Safety Order may appeal such Order to the Select Board within fifteen (15) days of service of the Order. The notice of appeal shall be in writing and shall set forth a brief statement of the basis of the appeal.
 2. Within thirty (30) days of service of the notice of appeal, the Select Board shall hold a hearing on the appeal. The Select Board shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reverse or sustain the Safety Order and may contain such additional requirements as the Select Board deem necessary and appropriate to implement the purpose of this Ordinance.

SECTION 8. PENALTY AND ENFORCEMENT

1. If the owner fails to comply with a Safety Order, the owner shall be considered to be in violation of the Order and this Ordinance. The Town shall be authorized to take such steps as may be allowed under Section 7 of this Ordinance. In addition, any violation shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the Building Safety Officer.

2. A civil penalty of not more than \$800.00 per violation may be imposed for any violation of this Ordinance. Each day that the violation continues shall constitute a separate violation of this Ordinance.
3. The Building Safety Officer is authorized to recover a waiver fee of \$100.00 in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the waiver fee.
4. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, The Building Safety Officer shall be the designated enforcement officer. The Building Safety Officer shall issue tickets and may be the appearing officer at any hearing.
5. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief and any other legal or equitable remedies available.

SECTION 9. REPEAL OF PRIOR CONFLICTING ORDINANCES

The enactment of this Ordinance shall repeal all other ordinances of the Town and Village that regulate the topics addressed herein.

SECTION 10. OTHER LAWS

This Ordinance is in addition to all other ordinances of the Town and Village and all applicable laws of the State of Vermont.

SECTION 11. SEVERABILITY

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

SECTION 12. EFFECTIVE DATE

This Ordinance shall become effective 60 days after its adoption by the Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

Date: September 17, 2019

L.D. Sutherland, Chair

Mary Riley

John Doten

Jill M. Davies

Ray Bourgeois

From: Thomas Hanley
Sent: Wednesday, December 04, 2019 9:41 AM
To: 'Kathleen Ramsay'
Subject: RE: Dangerous & Vacant Buildings -- Woodstock Ordinance

Kathleen,

After our experience with the junk ordinance development some years ago, I anticipate some significant pushback on some provisions of this ordinance. (beat up sheds and outdoor storage buildings, none of which are weather-tight nor immune from rodent infestation). The following section from the zoning ordinance seems to simplify the language:

Section 753 - Demolition and Removal of Structures I. Within three months after a permanent or temporary building or structure in any district has been destroyed or demolished, the owner shall remove all structural materials, and shall cover over or fill any excavation or basement, to normal grade. II. The DRB may hold a hearing to determine whether a structure has been abandoned. Notice of the hearing shall be provided pursuant to Section 1090. The structure shall be deemed to have been abandoned if the DRB determines that it has been unoccupied for over one (1) year and that it is inadequately maintained. In determining whether the structure is inadequately maintained, the DRB shall consider whether lack of maintenance has given rise to any or all of the following conditions: (i) a threat to public health or safety, (ii) an undue adverse impact on the aesthetics of the neighborhood and surrounding area, and/or (iii) an undue adverse impact on neighboring property values. If the DRB determines that the structure has been abandoned, it may, consistent with the purposes of the Town Plan and this Ordinance, order that the abandoned structure be secured, repaired or removed at the expense of the owner.

Perhaps replicating this with a stronger enforcement piece would take care of the problem.

The weakness of the Woodstock ordinance is in the enforcement. It does not provide for the removal of the offending structure. Judicial Bureau civil process is very weak, it is subject to the whims of whoever the presiding magistrate is, and requires only the assessment of fines. In the case of the Randall house on Butternut Ridge, the property is uninsured and the owner is of diminished capacity and indigent. You'd never collect the fines. There must be something similar to a property seizure and tax sale or some other means of abating the problem. That way the town could raze and remove a dangerous structure and recoup the cost through a sale. Statute allows the town to deal forcefully with public nuisances.

We should probably wait, in any event, the movement on such an ordinance until the issue of the Control Building is settled, because the town would be in violation of the ordinance!

Tom H.

Title 24 : Municipal And County Government

Chapter 061 : Regulatory Provisions; Police Power Of Municipalities

Subchapter 005 : Nuisances

(Cite as: 24 V.S.A. § 2121)

- **§ 2121. Injunctions**

The selectboard of a town in the name and behalf of such town or the town school district therein, as the case may be, and the trustees of an incorporated village, in the name and behalf of such village, may prefer complaint for relief by injunction for the abatement of public nuisances. The Superior Court shall have jurisdiction of such actions.

Title 24 : Municipal And County Government

Chapter 061 : Regulatory Provisions; Police Power Of Municipalities

Subchapter 011 : Miscellaneous Regulatory Powers

(Cite as: 24 V.S.A. § 2291)

- **§ 2291. Enumeration of powers**

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

(12) To regulate or prohibit the storage or dumping of solid waste, as defined in 10 V.S.A. § 6602. These regulations may require the separation of specified components of the waste stream.

(13) To compel the cleaning or repair of any premises that in the judgment of the legislative body is dangerous to the health or safety of the public.

(14) To define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require.

(15) To provide for penalties for violation of any ordinance or rule adopted under the authority of this section.