

***DIVISION 7. CERTAIN NUISANCES WITHIN SCHOOL AND LICENSED DAY CARE
ZONES***

Sec. 12-175. Purpose.

- (a) The quality and character of the areas which are proximate to schools and state licensed or registered child care programs are of special concern to the town community for a variety of reasons, including, but not limited to, the following:
 - (1) Such areas are areas frequented by children and vulnerable adults;
 - (2) Such areas are areas frequently surveyed by persons interested in investing in the community, or becoming a resident of the community.
- (b) The federal and state governments have found it to be in the best interest of the public health, safety and welfare to prohibit certain persons who have been found guilty of certain crimes from residing in or near such areas, and enhance certain penalties for drug activity in school zones.
- (c) In recognition of the increased pedestrian traffic, especially that of children, the town and the state have provided for decreased speed limits within such areas, all in the best interest of the health, safety and welfare of the community.
- (d) There have been several studies linking the existence of dilapidated buildings, buildings which are poorly maintained, or having other signs of blight such as broken windows, boarded up windows, graffiti, haphazard use of flake board or plywood to replace siding or windows to crime or less than wholesome activities.
- (e) There has been local input from real estate professionals which indicates that run down neighborhoods located near schools have a disproportionate adverse effect on the value of property throughout the community.
- (f) It is in the best interest of the health, safety and welfare of the community that a high priority be assigned to cleaning up and requiring appropriate exterior maintenance of structures within a school zone.

(Ord. No. O-2016-1, 3-28-2016; Ord. No. O-2018-2, 7-28-2018)

Sec. 12-176. Prohibition.

No owner or occupant of land within a school or state licensed or registered child care program zone within the town shall cause, allow or suffer any structure within said zone to become blighted or dilapidated and/or ill-maintained or ill-repaired.

(Ord. No. O-2016-1, 3-28-2016; Ord. No. O-2018-2, 7-28-2018)

Sec. 12-177. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blighted, dilapidated, ill-maintained or ill-repaired includes the following:

- (1) Broken windows not repaired within 14 days by replacing the glass window;
- (2) Graffiti not promptly removed;
- (3) Use of any unfinished building material such as Tyvek, plywood or flake board or metal roofing as an exterior veneer, or to board up broken doors or windows, except on a temporary basis not exceeding 14 days;
- (4) Failure to maintain surfaces which were designed to be protected from the elements by continuous roofing, paint, stain or siding;
- (5) Use of porches or decks visible from the sidewalk or street for storage of trash, or junk;
- (6) Failure to keep the structure secure from the elements or the use of tarps to secure the structure from the elements except on a temporary basis not to exceed 14 days.

School or state licensed or registered child care program zone means within 500 feet of the property boundary of a public or accredited private school or state licensed or registered child care program. In July of each year, the map that defines the parcels included in the zone will be updated.

(Ord. No. O-2016-1, 3-28-2016; Ord. No. O-2018-2, 7-28-2018)

Sec. 12-178. Penalty and enforcement.

A violation of this division shall be a civil matter which may be enforced in the state judicial bureau or in the county superior court, at the election of the town manager.

- (1) Violations enforced in the judicial bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq.
 - a. A municipal ticket will be issued 15 days after written notification of violation is mailed by the town manager or town manager's designee if the violation has not been corrected in accordance with this division. Each day that the violation continues shall constitute a separate violation of this division.
 - b. For purposes of issuing the municipal ticket or enforcement in the judicial bureau, the town manager or town manager's designee shall be the designated enforcement officer. Said designee shall issue tickets and may be the appearing officer at any hearing.
- (2) 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. In addition, a civil penalty of not more than \$800.00 per violation may be imposed for violation of this division. A civil action may be initiated in the superior court within 30 days after written notification of violation is mailed by the town manager or town manager's designee. Each day that the violation continues shall constitute a separate violation of this division.
- (3) The Selectboard, town manager, or the town manager's designee may grant an extension of any time deadline set forth herein if the property owner presents a bona fide reasonable justification for such an extension made in writing before the time period has expired.

(Ord. No. O-2016-1, 3-28-2016; Ord. No. O-2018-2, 7-28-2018)

Secs. 12-179—12-209. Reserved.

PART II - CODE OF ORDINANCES
Chapter 12 - HEALTH, SANITATION, NUISANCES
ARTICLE II. - NUISANCES
DIVISION 8. CERTAIN NUISANCES CAUSED BY VACANT BUILDINGS

DIVISION 8. CERTAIN NUISANCES CAUSED BY VACANT BUILDINGS

Sec. 12-210. Authority.

This division is adopted by the Selectboard of the town under authority granted in 24 V.S.A. §§ 2291(13) through (15), and 1971 et seq.

(Ord. No. O-2016-2, 7-25-2016; Ord. No. O-2018-3, 7-28-2018)

Sec. 12-211. Purpose.

- (a) The town Selectboard finds and declares that:
- (1) There exist in the town, vacant buildings or mobile homes that have become dangerous or unsafe.
 - (2) Buildings that are vacant or vacant in a state of disrepair, are public nuisances in that they contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide a location for criminal activity, undermine the aesthetic character of the street and town and have other undesirable effects. This is especially true within the more densely developed portions of the town.
 - (3) Buildings that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire, presenting a danger to neighborhoods.
 - (4) Buildings that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal criminal activities, including arson and drug use.
 - (5) Buildings 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 within the more densely developed portions of the town where there are commercial areas, industrial areas, and residential neighborhoods.
 - (6) Allowing buildings to remain indefinitely vacant in the developed portions of the town, even in the absence of code violations or boarding, is detrimental to the public health, safety and welfare; unreasonably interferes with the reasonable and lawful use and enjoyment of other property within the neighborhood; may pose a danger to first responders in an emergency; and detracts from the appearance and good order of the neighborhood.
 - (7) Rehabilitation of these buildings 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 public safety and to ensure and enhance the vitality and livability of our neighborhoods, and economic viability of our commercial and industrial areas.
- (b) The purpose of this division is to establish the reasonably necessary measures to abate the public nuisances, blight, negative housing market impact, health and safety hazards, and other harmful effects that arise from vacant buildings, in densely developed commercial, industrial and residential areas of the town consistent with the authority vested in the town to protect the health, safety, and welfare of the public.
- (c) This division shall apply to all vacant buildings and their associated properties within areas served by water or the municipal sewer in the town.

Sec. 12-212. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Town manager or the town manager's designee is the officer appointed by the town Selectboard to enforce this division. Nothing in this division shall prevent the town manager or town manager's designee from performing their duties under other regulations or divisions that he or she may be designated to administer and enforce. This division shall be considered cumulative in nature and therefore may be enforced in addition to any other division which may also apply. A determination made under the provisions of this division shall not be considered a determination by a zoning official, but rather strictly a determination regarding enforcement of a nuisance division of the town.

Vacant building.

- (1) The term "vacant building" means any building or structure that is unoccupied by a person or occupied by unauthorized persons for more than 60 days, excepting any residential accessory building, garage, barn, vacation property, building or structure used only on a seasonal basis or a building subject to a town Selectboard or town manager accepted redevelopment plan.
- (2) For residential buildings, the term "vacant building" means that no one is legally maintaining a residence in the building. For two-family and multifamily dwellings, this means that none of the units are legally occupied. Housing which is used seasonally is not considered vacant.
- (3) For businesses, the term "vacant building" means the building is not open for business on a regular basis.
- (4) For industrial buildings, the term "vacant building" means there are no employees arriving on a regular basis and no work is being performed.
- (5) A building subject to a redevelopment plan accepted and approved by the town Selectboard means a building where the bona fide estimate of the cost of redeveloping or rehabilitating the building exceeds \$500,000.00 and the owner of the building has submitted a plan with accompanying studies for redeveloping the building including a short-term plan for making the building secure and improving the exterior aesthetics of the building and its surrounding site. The plan shall, in addition, provide:
 - a. Proof of reasonable liability insurance coverage for the premises.
 - b. A bona fide and reasonable plan for the physical redevelopment of the building and site and shall include, where applicable:
 1. A study supporting said plan or preliminary engineering plans or architectural plans in support thereof.
 2. Proof of compliance with permits.
 3. For commercial/industrial buildings, evidence that at least a Phase I Environmental Statement has been completed.
 4. Evidence of commencement of processing of any state required hazardous material investigation.
 5. Evidence of sufficient capital to complete the demolition/redevelopment of the building or site, or reasonable bona fide evidence that funds will be forthcoming for such completion.

-
6. Assurance that the portion of the building and grounds visible from the street will be made to have a presentable and safe appearance within 14 days and will be kept in such a manner for the duration of the plan period.
 7. Provision for inspection by town or state officials.
 8. Provision for a reasonable completion period, and if the period is for more than two years, provide for an updated report and required town acceptance every two years.
 9. The plan must have been approved as to form and assurances by the town manager and confirmed by the Selectboard.

Where the bona fide estimate of the cost of redeveloping or rehabilitating the building is \$500,000.00 or less, the redevelopment plan must only include a short-term plan for making the building secure and improving the exterior esthetics of the building and the surrounding site, and further such plan must satisfy the requirements set forth in subsections (5)b.6 and 8 of this section. Such plan must be approved by the town manager.

- (6) For these and other uses, the town manager or the town manager's designee shall use their best judgment to establish standards to determine whether a building is vacant. Adjoining property owners may request in writing that the town manager or the town manager's designee make a determination as to whether a building is vacant. Upon receipt of such a request, the town manager or the town manager's designee shall make such a determination within 30 days unless there has been a previous determination within the last 12 months.

(Ord. No. O-2016-2, 7-25-2016; Ord. No. O-2018-3, 7-28-2018)

Sec. 12-213. Obligations of vacant building owners.

- (a) *Measures to secure building vacancy.* A vacant building owner shall ensure that the following measures have been undertaken to secure a vacant building:
 - (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 shall be repaired or replaced, windows and other such openings shall be covered by glass or other rigid transparent materials which are weather-protected, and tightly fitted and secured to the opening.
 - (2) *Roofs.* 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. The use of tarps to secure the structure from the elements shall not be allowed to exceed 14 days.
 - (3) *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.
 - (4) *Foundation walls.* Foundation walls shall be maintained structurally sound so as not to pose a threat to public health and safety, and shall be capable of supporting the load which normal use may cause to be placed thereon.
 - (5) *Exterior walls.* Exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. Exterior walls shall not be covered with unfinished building material such as Tyvek, tarps, plywood or flake board or metal roofing as an exterior veneer.

-
- (6) *Exterior features.* Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
 - (7) *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. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
 - (8) *Chimneys and towers.* Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
 - (9) *Walkways.* Walkways shall be safe for pedestrian travel.
 - (10) *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 vacant building maintenance standards.
 - (11) *Premises.* The premises upon which the structure or building is located shall be clean, safe, and sanitary, free from waste, rubbish, debris, graffiti, litter, portable toilets, rodents, standing water, excessive and unmaintained vegetation, and other deleterious features, and shall not pose a threat to the public health or safety.
 - (12) *Liability insurance.* Owners of a vacant building shall be required to maintain liability insurance for as long as the building is vacant, and, upon request of the town manager or the town manager's designee, provide proof of such insurance within 14 days. Owners who choose to self-insure shall be required to demonstrate a bond or other proof of financial assets sufficient to cover liability claims. The owner maintains the burden of proof to demonstrate compliance with this provision.
- (b) *Continuing obligations of owners.* The obligations of owners of vacant buildings are continuing obligations that are effective throughout the time of vacancy.
- (Ord. No. O-2016-2, 7-25-2016; Ord. No. O-2018-3, 7-28-2018)

Sec. 12-214. Penalty and enforcement.

A violation of this division shall be a civil matter which may be enforced in the state judicial bureau or at the election of the town manager or the town manager's designee, in the state superior court, civil division, Windsor unit.

- (1) Where it is necessary to make an inspection to enforce this division, or where the town manager or the town manager's designee has reasonable cause to believe there is a structure which is vacant, the town manager or the town manager's designee shall first make a reasonable effort to locate the owner or other person having charge of the structure or premises and request entry. If entry is refused or permission cannot be gained, the town manager or the town manager's designee may secure access by commencing an action in the state superior court, civil division, Windsor unit.
- (2) Where requested by the town manager or the town manager's designee, the owner shall allow for a code compliance inspection of the interior of the vacant building. Such inspection will determine the extent of compliance with town property, building, health, fire, water, and sewer codes.

-
- (3) Violations enforced in the judicial bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$500.00 per violation may be imposed for violation of this division.
- a. Upon receipt of information that a building is vacant and in violation of this division, the town manager or the town manager's designee shall mail a written notification of violation to the building owner and a copy shall be posted on the entrance of said building.
 - b. The Selectboard, town manager, or the town manager's designee may grant an extension of any time deadline set forth herein or in the notice, if the property owner presents a bona fide reasonable justification for such an extension made in writing before the time period has expired.
 - c. A municipal ticket will be issued 30 days after written notification of violation is mailed by the town manager or the town manager's designee if the violation has not been corrected in accordance with this division. Each day that the violation continues shall constitute a separate violation of this division.
 - d. For purposes of enforcement in the judicial bureau, the town manager or the town manager's designee shall be the designated enforcement officer. Said designee shall issue tickets and may be the appearing officer at any hearing.
- (4) Violations enforced in the superior court shall be in accordance with the state rules of civil procedure. The town may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$500.00 per violation may be imposed for violation of this division. A civil action may be initiated in the superior court within 30 days after written notification of violation is mailed by the town manager or town manager's designee(s) if the violation has not been corrected in accordance with this division. Each day that the violation continues shall constitute a separate violation of this division.

(Ord. No. O-2016-2, 7-25-2016; Ord. No. O-2018-3, 7-28-2018)

Sec. 12-215. Appeals of town manager's or the town manager's designee's actions.

Any owner or agent aggrieved by an order of the town manager or the town manager's designee under this division may appeal within seven days of the issuance of the municipal ticket, to the Selectboard. The notice of appeal must be in writing and filed with the town clerk. The decision of the Selectboard shall be final.

(Ord. No. O-2016-2, 7-25-2016; Ord. No. O-2018-3, 7-28-2018)

Secs. 12-216—12-238. Reserved.