

TOWN OF BENNINGTON, VERMONT

ARTICLE 30: PROPERTY MAINTENANCE ORDINANCE

Article 30-1: Purpose

The purpose of this Civil Ordinance is to abate public nuisances, and to prevent, reduce and eliminate dangers to health, safety and/or welfare associated with neglected or abandoned properties, by regulating the use and maintenance of property within the Town of Bennington.

Article 30-2: Authorization

By authority of 24 V.S.A. ch. 59 (§§ 1971, *et seq.*), municipalities are authorized to adopt and enforce municipal ordinances and rules;

By authority of 24 V.S.A. § 2291(13), municipalities may adopt ordinances to compel cleaning or repair of premises dangerous to public health and safety;

By authority of 24 V.S.A. § 2291(14), municipalities may adopt ordinances to provide procedures for abatement or removal of public nuisances for public health, safety, and/or welfare;

By authority of 24 V.S.A. ch. 83 (§§ 3101, *et seq.*), municipalities are authorized to adopt building codes; and

By authority of Bennington's Charter, § 102(b), the Town is authorized to adopt ordinance relating to the use of buildings.

Article 30-3: Definitions

- A) *Building Inspector* shall mean the municipal official authorized to administer and enforce the provisions of this Ordinance, or a duly appointed agent of such official.
- B) *Owner* shall mean the owners of record of any Property (as defined in this Ordinance) or their trustees or agents.
- C) *Public Nuisance* shall mean any building, structure or part thereof that is structurally unsafe or hazardous, or which otherwise poses a threat to public health, safety, and/or welfare.

- D) *Registry* shall mean the Registry of Vacant Buildings and Vacant Spaces maintained by the Building Inspector.
- E) *Vacant Building* shall mean any structure or building, including any single family dwelling or two family dwelling, that is unoccupied by any person or is occupied by persons not authorized by the owner for more than 90 days, except for structures under construction pursuant to the terms of a building and/or zoning permit, or under substantial rehabilitation for a period of up to one year from the date that such permit(s) was issued, whichever is later.
- F) *Vacant Space* shall mean any 500 sq. ft. or greater portion of a public building (as defined in the State of Vermont Building Code), other than dwellings or basements, attics or utility rooms, that is unoccupied by any person or is occupied by persons not authorized by the owner for more than 90 days, except for space under construction pursuant to the terms of a building and/or zoning permit, or under substantial rehabilitation for a period of up to one year from the date that such permit(s) was issued, whichever is later.
- G) *Public Building* shall mean any public building as defined in the State of Vermont Building Code, but excluding single family and two family dwelling rentals.
- H) *Property* shall mean any parcel of real property on which a Public Building or Vacant Building is located and inclusive of all buildings and other improvements thereon and any vacant parcel of real property located in the Central Business zoning district.

Article 30-4: Property Maintenance Obligations

1) Jurisdiction

This Ordinance shall apply to Public Buildings and Vacant Buildings and the Property on which they are located within the town of Bennington, and any vacant parcel of real property located in Bennington's Central Business zoning district. This Ordinance shall not be applicable to single family or two family, owner-occupied dwellings that are not Vacant Buildings, or the property on which such single family or two family dwellings are located.

2) General Provisions

An Owner of any Property within the Town of Bennington shall:

- A) Properly maintain the exterior of all buildings thereon including, but not limited to, finishes, roofing, windows, trim, etc. so as to address and minimize deterioration, blight, and dilapidation;

- B) Promptly correct significant, visible deterioration of building materials including, but not limited to, rotting wood, crumbling brick, chipped paint, etc.;
- C) Maintain such property and all buildings thereon clean and free of rubbish, debris, and graffiti;
- D) Keep such property free from vegetation overgrowth;
- E) Ensure that the structural integrity of all buildings is not compromised by weather conditions;
- F) Ensure that the interior of all buildings remain free from standing water, and to the extent that it is not a significant health hazard, free from mold;
- G) Ensure all buildings have adequate, interior lighting, as well as exterior lighting necessary for public safety;
- H) Promptly install an authorized on-site, emergency access key box (i.e. Knox Box) on any vacant commercial building for emergency access by police and fire professionals;
- I) Ensure that all buildings remain in continued compliance with all applicable building, fire prevention, zoning or other applicable codes, regulations or laws for the current occupancy, or, if such building(s) or portion(s) thereof are vacant, ensure that the Vacant Buildings or Spaces comply with all applicable building, fire prevention, zoning or other applicable code, regulation or law for the previous or intended occupancy;
- J) Keep Vacant Buildings or Spaces secured so as to prevent entry by unauthorized persons;
- K) Remove or remediate any unsafe condition present in any Vacant Building or Space including, but not limited to, removal of combustible waste or refuse in or around the Vacant Building or Space;
- L) If a structure is removed, reclaim as greenspace the land on which the structure was located until a time when re-development occurs.

3) Broken Windows

Plywood is permitted to cover broken windows for a period of up to 30 days, after which it must be replaced by new glass windows or, by appropriate building materials painted in a manner that imitates the original window design.

Article 30-5: Notice and Inspection of Property

1) Inspection

- A) The Building Inspector may inspect the exterior and interior of any Property, Public Building, Vacant Building or Vacant Space and render a determination as to:
 - i. Whether the Owner is in compliance with all Property Maintenance Obligations as set forth in this Ordinance and/ or
 - ii. Whether the building constitutes a Public Nuisance as defined herein.
- B) Where access is necessary for inspection, the Building Inspector shall notify the Owner or designated local agent of the date and time of any such inspection, which notice shall be mailed at least 10 days prior to such inspection. Such notice shall be deemed received by the Owner if it is sent by certified mail to the address on file with the Town for real estate tax purposes, or such other address as the Owner may designate by written notice to the Building Inspector. The Owner or designated local agent shall arrange for the Building Inspector's entry into the building at the designated time, or shall contact the Building Inspector to arrange for a different, mutually convenient time within the 10-day period following the inspection date first noticed under this section. Inspections may take place without 10 days prior notice if the Building Inspector determines that an imminent danger may exist to public health, safety or welfare, but in such instance the Building Inspector shall attempt to contact the owner or the owner's agent immediately upon determining that an inspection is warranted with less notice than 10 days prior notice, and shall specify in such contacts the date and time of the inspection.

2) Inspection Report

- A) Following any inspection made under this Article, the Building Inspector may issue a written Inspection Report stating:
 - i. Whether the Owner is in compliance with all Property Maintenance Obligations as set forth in this Ordinance; and/or
 - ii. Whether the building constitutes a Public Nuisance; and/or
 - iii. Any conditions that must be met or remediation that the Owner must complete to bring the Property or Vacant Space into compliance with this Ordinance.

Article 30-6: Registration of Vacant Building and Spaces

1) Registration

- A) On a form approved by the Building Inspector (Vacant Building Form), an Owner of a Vacant Building or Vacant Space shall register the Vacant Building or Space with the Building Inspector within 60 days of the effective date of this Ordinance, or of the building or space becoming a Vacant Building or Space as defined herein.
- B) Registration of a Vacant Building or Space shall:
 - i. State the Owner's name, address, and telephone number; and
 - ii. For an Owner residing more than 40 miles from Bennington, designate and provide the name, address, and telephone number of a local agent with access to the Vacant Building or Space who is authorized to act on behalf of the Owner; and
 - iii. List all persons authorized to be present in the building or on the premises; and
 - iv. Certify that the Owner of the Vacant Building or Space is in compliance with this Ordinance, or state the areas of non-compliance; and
 - v. Grant consent for the Building Inspector to inspect the premises; and
 - vi. Provide floor plans and square footage of the Vacant Building or Space and any other property information required by the Building Inspector.
- C) A Vacant Building or Vacant Space registration decal shall be provided by the Building Inspector. Such decal shall indicate, at a minimum, the property owner's name, or designated representative's name and phone number, and shall be placed in a conspicuous location on the property, which is visible from the public right-of-way.
- D) An Owner of a Vacant Building or Space shall notify the Building Inspector of any change in the occupancy of a building or space registered as a Vacant Building or Space, upon which notice the subject premises shall be removed from the Registry.
- E) An Owner of a Vacant Building or Space shall notify the Building Inspector within 30 days of any change in the Owner's name, address, or telephone number, and/or of any change of the name, address, or telephone number for the Owner's local agent, if applicable.
- F) The Building Inspector may deem a building or space to be a Vacant Building or Space for purposes of this Ordinance and add it to the Registry if, in his or her reasonable judgment, the building or space meets the definition set forth in this

Ordinance. The Building Inspector shall provide notice of such designation (Vacant Building Notice) along with a request to complete a Vacant Building Form to the Owner by certified mail to the address on file with the Town for real-estate tax purposes.

Article 30-7: Remediation and Enforcement

1) Remediation

- A) An Owner shall have 30 days from receipt of the Inspection Report to satisfy the conditions as set forth in the Inspection Report and/or complete such remediation as may be necessary to satisfy all Property Maintenance Obligations set forth in this Ordinance, unless otherwise ordered by the Building Inspector.
- B) Upon the Building Inspector's determination that each condition has been satisfied and that all such remediation has been completed in satisfaction of this Ordinance, the Building Inspector shall issue a Certificate of Remediation to the Owner.

2) Enforcement

- A) Upon a determination that the Owner has failed to take action as required pursuant to this Ordinance, the Building Inspector shall serve a notice of violation upon the Owner pursuant to the procedure set forth in Bennington Housing, Building and Life Safety Ordinance, directing compliance with this Ordinance.
- B) If the Owner shall fail to comply or to remedy a violation within seven (7) days of a notice of violation, or has failed to register a Vacant Building or Space as required herein, the Building Inspector may:
 - i. Impose a civil fine of up to \$250.00 per day; and/or
 - ii. Commence an enforcement action before the Judicial Bureau or the Vermont Superior Court, as applicable pursuant to 24 V.S.A. § 1974a, or seek any other remedy at law or equity, including injunctive relief. If an action is commenced pursuant to this Article, the Town shall be entitled to recover reasonable enforcement costs, including attorneys' fees.
- C) Nothing herein shall impair the authority of the Town to seek a court order on a more expedited basis if the Building Inspector determines that more prompt action is required due to specific risks or conditions associated with a property, or to secure collection of fines accrued or accruing hereunder. All remedies provided under this section are cumulative to other remedies at law and equity. Failure to

adhere to the procedure prescribed in this section shall not bar relief or remedy if such failure does not prejudice a person interested and merely constitutes harmless error.

Article 30-9: Severability and Other Ordinances

Each section of this Ordinance and every part of each section is an independent section or part of a section. If any section or part of a section should be held unconstitutional, void, or ineffective for any reason, it shall not affect the validity or constitutionality of any other section or part hereof. Nothing in this Ordinance shall be deemed to supersede or limit any other ordinance, rule, law or regulation, but shall be considered supplemental to other ordinances, rules, laws or regulations. If another ordinance, rule, law or regulation imposes stricter or more restrictive requirements or obligations upon an Owner, such stricter or more restrictive requirements or obligations shall apply.

THIS ORDINANCE IS HEREBY ADOPTED by the Select Board of the Town of Bennington this 8th day of August, 2016 and shall, unless a petition is filed as provided by law, become effective upon the expiration of 60 days after said date.

Select Board
Town of Bennington, Vermont

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