

## **VACANT AND DANGEROUS BUILDING ORDINANCE**

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**WHEREAS**, the Select Board of the Town of Johnson hereby ordains and recognizes that it is necessary and proper for public health and safety to enact an ordinance to compel the cleaning or repair of any vacant or dangerous building, to define what constitutes premises that are dangerous to the health or safety of the public, to provide procedures for control, regulation, abatement or removal as the public health, safety, or welfare may require and to provide for penalties for violation of this ordinance.

### **ARTICLE 1. AUTHORITY**

1.01 This Ordinance is adopted pursuant to the authority of Title 24 V.S.A., Chapter 59, §§ 1971 et seq., 20 VSA §§ 3549 et seq. and 24 VSA §§ 2291 (13), (14) and (15).

### **ARTICLE 2. PURPOSE**

2.01 Being that there exists in the Town of Johnson (“Town”) buildings that have become dangerous or unsafe, the Select Board finds and declares that:

- a. Buildings that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
- b. Buildings that are vacant and not properly secured are likely to become dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons.
- c. Many 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.
- d. Buildings that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.
- e. 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.

f. Buildings that are vacant and unsecured pose serious threats to public health and safety and therefore are declared to be public nuisances.

g. Immediate action to rehabilitate 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 and health of the public, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.

h. Communication between owners or responsible parties of dangerous and vacant buildings and the Town is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regards to such structures.

2.02 The purpose of this Ordinance is to establish a reasonable framework for necessary measures to abate public nuisances, blight, negative housing market impact, and other harmful effects connected with dangerous and vacant or abandoned buildings, consistent with the authority vested in the Town to protect the health, safety and welfare of the public.

### **ARTICLE 3. DEFINITIONS**

The words and phrases used in this Ordinance have the following meanings unless their context clearly indicates otherwise:

3.01 “**Administrator**” means the Vacant Building Administrative Officer or his/her designee. The Vacant Building Administrative Officer shall be annually appointed by the Select Board to administer this ordinance and may hold any other position in Town.

3.02 “**Statement of intent**” means a form filled out by the owner of a vacant building which contains specific information from the owner regarding the vacant building and the owner's plans for its rehabilitation and maintenance or removal or demolition.

3.03 “**Building**” means a relatively permanent enclosed construction, including but not limited to a mobile home, having a roof, windows, and doors, and commonly used as a living or entertainment space, for retail sales, office space, education, or manufacturing.

3.04 “**Vacant building**” means any building that is unoccupied by a person or occupied by unauthorized person or persons for at least ninety (90) days, excepting warehouse structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis, or those located on a farm, and those buildings in the process of being rehabilitated.

3.05 “**Dangerous building**” means a building or part thereof declared

structurally unsafe or hazardous by any duly constituted authority, whether it is occupied, unoccupied, or vacant.

3.06 “**A showing that the building is being actively marketed for sale**” means evidence of

- a. some form of advertising for the sale of the building,
- b. the availability of the building to prospective buyers,
- c. the disclosure of a reasonable asking price.

3.07 “**Substantial rehabilitation**” means rehabilitation the value of which exceeds fifty (50%) percent of the current assessed valuation of the building.

3.08 “**Owner**” shall mean any and all owners of record or trustees for such owners. The obligations of owners under this ordinance extend to the agents of such owner(s) or other persons interested in the building including the owner of property on which a building with a different owner is located (See Article 5.02).

#### **ARTICLE 4. AUTHORITY OF TOWN HEALTH OFFICER**

4.01 Nothing in this Ordinance shall affect the authority of the Town’s Health Officer or the Select Board to take any action permitted under 18 V.S.A. §§ 126, 127 et seq. The Health Officer and the Select Board retain the authority, in their discretion, to take action under Vermont state law or under this Ordinance.

#### **ARTICLE 5. ENFORCEMENT AUTHORITY**

5.01 The Administrator is authorized to administer and enforce the provisions of this Ordinance. The Administrator may take such measures as are necessary for the proper administration of the Ordinance, including but not limited to maintaining lists on the status of vacant buildings. The Administrator may designate any person with appropriate expertise to accompany and aid the Administrator in any inspection and/or the performance of the duties under this Ordinance. The Administrator may delegate his/her powers and duties under this Chapter to any appropriate substitute administrator with the approval of the Select Board.

5.02 Upon receipt of written information that a building or part thereof that is or becomes dangerous or unsafe or vacant, the Administrator shall give 48 hours notice to the owner or responsible party of such information and shall require the owner or responsible party to submit a plan of abatement or action. Said notice shall be sent to the owner or responsible party if a mailing address is known and tacked to the entrance of said building to provide notice. If the building is a mobile home and the owner cannot be located, the owner of the property where the mobile home is located shall also be notified pursuant to this section and be responsible for correcting any dangerous or unsafe conditions. Upon securing

the building the owner or responsible party may request an extension of time, not to exceed one week, to submit a plan of abatement or action.

The Administrator retains all rights to reject the plan of abatement or action if, in his/her opinion, the plan of abatement or action is not adequate to abate or resolve the issue. The Administrator's decision is appealable to the Select Board no later than 10 days following the decision. Nothing in this section limits the powers of the Administrator as set forth in this Ordinance.

## **ARTICLE 6. OBLIGATIONS OF OWNERS OF DANGEROUS BUILDINGS**

6.01 A building or part thereof that is or becomes dangerous or unsafe shall be made safe and secure. If the building cannot be made safe or secure, the owner or responsible party shall take down and/or remove the building. An owner or responsible party of such a dangerous or unsafe building who would make safe or would take down and remove such a building pursuant to this Ordinance shall comply with all applicable building, fire prevention, zoning ordinances, if any, and any other applicable code or ordinance. No change of use or occupancy shall be compelled by reason of such reconstruction or restoration.

6.02 The Administrator and any other person designated pursuant to Article 5.01 of this Ordinance shall inspect a building upon receiving information that the building or anything attached or connected therewith is in violation of the specifications of all applicable building, fire prevention, and public safety ordinances and codes adopted herein or is otherwise in such unsafe condition that the public safety is endangered. If the Administrator has reason to believe that an emergency situation exists tending to create an immediate danger to the health, welfare, or safety of the general public, the Administrator shall seek an ex parte order from a court of competent jurisdiction to enter and inspect the premises. Absent an emergency situation, if the owner or responsible party of the unsafe or dangerous structure fails or refuses to consent to an inspection, the Administrator shall seek an order from any court of competent jurisdiction for the purpose of determining and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by the Town Constable, police, emergency personnel and firefighters in time of exigent circumstances or emergency, that the building and its contents will not present a hazard to the public.

6.03 If, in the Administrator's judgment, the building appears to endanger the public safety, the Administrator may in his/her discretion elect to commence an action to abate as herein provided. To commence an abatement action, the Administrator shall make a careful survey report based on his/her inspection of the premises, or if necessary based on an additional and/or reliable third party inspection, and forthwith notify the owner or responsible party to remove the condition or building or make the building or condition safe and secure in the time specified for in the notice. If it appears to the Administrator that such building

would be especially dangerous, the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance may affix a notice of dangerousness in a conspicuous space upon the building's exterior walls which shall not be removed or defaced without the Administrator's authority.

6.04 Any person notified as provided in Article 6 § 6.03 shall within the time specified commence to secure or remove such building. If the public safety so requires, the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance shall enter upon the premises and cause the building to be made safe and secure and that passers-by are protected at the expense of the owner and/or responsible party.

6.05 If the owner or responsible party continues such refusal or neglects to remove or make the building safe, the Administrator may cause it to be taken down or otherwise made safe, and the costs and charges incurred shall constitute a lien upon the real estate upon which such building is situated and shall be enforced within the time and in the manner provided for the collection of taxes on land, pursuant to Title 32 V.S.A. § 5061, so long as the lien is recorded in the office where the land records are kept. In addition, for every day's continuance of such refusal or neglect, the owner or responsible party shall be liable to the Town one hundred dollars (\$100.00) per day, to be recovered in a civil action on this Ordinance.

6.06 Any violation of this Ordinance is declared to be a nuisance and subject to removal or abatement upon a finding of violation by the Vermont Superior Court. The Administrator may ask the Court to restrain the construction, alteration, maintenance, or use of a building in violation of this Ordinance and restrain the further construction, alteration or repair of a building reported to be unsafe under a survey authorized by this Ordinance.

6.07 An abatement action under this Ordinance is a remedy cumulative to other remedies at law and equity, and in no way pre-empts, supersedes, or bars civil or criminal prosecution for violation of this Ordinance, the model building or Life Safety Code or any applicable building, fire prevention, or public safety ordinance, nor is the commencement of an abatement action a condition precedent to the initiation of criminal prosecution or any other remedy. Failure to adhere to the procedure prescribed in this Ordinance shall not bar relief or remedy if such failure does not prejudice a person interested and merely constitutes harmless error.

6.08 An owner or responsible party or person interested who is aggrieved by an order issued pursuant to this Ordinance may appeal to the Town.

## **ARTICLE 7. OBLIGATIONS OF OWNERS OF VACANT OR ABANDONED BUILDINGS**

7.01 The owner or responsible party of a vacant building shall obtain a Vacant Building Permit for the period during which it is vacant. When a building becomes vacant, as defined by Article 3, § 3.04, the owner of the building shall apply for and obtain a Vacant Building Permit and pay the fee, as set forth in Article 8. The owner or responsible party shall apply for said permit within one week of vacancy.

7.02 Upon the expiration of a Vacant Building Permit, if the building is still vacant, the owner or responsible party shall arrange for an inspection of the building and premises with the Administrator and fire officials, pursuant to Article 8 § 8.02 and renew the permit within ten (10) days of expiration in the same manner as the expired permit.

7.03 All renewed permits shall be subject to all conditions and obligations imposed by this Article or the initial permit unless expressly exempted therefrom.

7.04 The owner or responsible party of a building shall comply with all building, fire, life safety, zoning, and other applicable codes or ordinances and shall apply for all necessary building, fire prevention, and zoning permits upon application for a Vacant Building Permit.

7.05 The owner or responsible party of a vacant building shall immediately remove all combustible waste and refuse in compliance with the applicable fire prevention code and shall remove any waste, rubbish or debris from the interior of the building. The owner of a vacant building shall also immediately remove any waste, rubbish, debris or excessive vegetation from the yards surrounding the vacant building in accordance with the Vacant Building Maintenance Standards of this Ordinance.

7.06 The owner or responsible party of a vacant building shall immediately lock, barricade or secure all doors, windows and other openings in the building to prohibit entry by unauthorized persons, in accordance with the Vacant Building Maintenance Standards of this Ordinance. The owner or responsible party of a vacant building shall provide the Administrator and Town Constable with a list of persons authorized to be present in the building.

7.07 The obligations of owners or responsible parties of a vacant building are continuing obligations that are effective throughout the time of vacancy, as that term is defined in this Ordinance. The Administrator shall have continuing abatement authority throughout the time of vacancy.

## **ARTICLE 8. VACANT BUILDING PERMIT; INSPECTION; MAINTENANCE STANDARDS;FEES**

8.01 Application by the owner or responsible party of a vacant structure for a Vacant Building Permit shall be made on a form provided by the Administrator.

Applicants shall disclose all measures to be taken to ensure that the building will be kept weather-tight and secure from trespassers, safe for entry of the Town Constable, police, emergency personnel and firefighters in time of exigent circumstances or emergency, and together with its premises be free from nuisance and in good order in conformance with the vacant structure maintenance standards. The application shall include a "statement of intent." The statement of intent shall include but not necessarily be limited to information as to the expected period of vacancy (including the date of vacancy), the plan for regular maintenance during the vacancy to comply with the maintenance safety requirements of this subsection, and a plan and timeline for the lawful occupancy, rehabilitation or removal or demolition of the building.

8.02 Upon and at the time of application, the owner of a vacant building shall arrange for an inspection of the premises by the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance and fire officials. The purpose of such inspection is to determine and ensure the integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance, the Town Constable, police, emergency personnel and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building is in compliance with the Vacant Building Maintenance Standards. If the Administrator has reason to believe that an emergency situation exists tending to create an immediate danger to the health, welfare, or safety of the general public, no notification to the owner or responsible party is necessary and the Administrator shall enter and inspect the premises pursuant to Article 7. If the owner or responsible party of the vacant building fails or refuses to consent to an inspection, the Administrator shall seek an order from any court of competent jurisdiction for the purpose of determining and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance, the Town Constable, police, emergency personnel and firefighters in time of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building is in compliance with the Vacant Building Maintenance Standards.

8.03 The Administrator, upon inspection, shall issue any order for work needed to:

- a. Adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the Vacant Building Maintenance Standards set forth in this Ordinance including draining pipes of building that are unheated in the winter.
- b. Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other

premises within the neighborhood, and will not pose an extraordinary hazard to the Administrator and any other person designated pursuant to Article 5.01 of this Ordinance, the Town Constable or firefighters entering the premises in times of emergency. When issuing such orders, the Administrator shall specify the time for completion of the work. The order shall act as an Interim Vacant Building Permit, the duration of which shall be for the time set forth in the Administrator's order. No interim permit shall be effective for a period of more than ninety (90) days. All work done pursuant to this Article shall be done in compliance with the applicable building, fire prevention, and zoning codes and ordinances.

8.04 The Administrator shall issue a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with the Vacant Building Maintenance Standards set forth in this Ordinance, and is adequately protected from intrusion by trespassers and from deterioration by the weather. This permit shall be effective for a period of one year.

8.05 A vacant building shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following Vacant Building Maintenance Standards:

- a. 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 that are weather protected, and tightly fitted and secured to the opening.
- b. 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 structure.
- c. Drainage: The storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- d. Water pipes: will be drained in the winter if the building is unheated.

8.06 The following conditions apply to fees for a Vacant Building Permit or Interim Permit:

- a. Structure: The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The structure shall be sanitary. The structure shall not pose a threat to the public health and safety.
- b. Structural members: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- c. Foundation walls: The 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 rat-proof.
- d. Exterior walls: The exterior walls shall be free of holes, breaks, and loose or rotting materials.



- e. 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.
- f. Chimneys and towers: Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair.
- g. Walkways: Walkways shall be safe for pedestrian travel.
- h. 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.
- i. Premises: The premises upon which the structure is located shall be clean, safe, and sanitary, free from waste, rubbish, debris or excessive vegetation, and shall not pose a threat to the public health or safety.

8.07 A fee of one hundred dollars (\$100) shall be charged for a Vacant Building Permit or Interim Permit. The fee shall also be charged upon the renewal of such permits. The fee is to be paid at the time of application or renewal. No permit shall be issued prior to payment of the permit or renewal fee. The fee for the permit shall be designated by the Select Board.

8.08 Upon a showing that the building is being actively marketed for sale and maintained pursuant to its Vacant Building Permit or renewal thereof, this fee shall be waived. The waiver of the permit fee for the active marketing and maintenance of the building shall be for a period of twelve (12) months from the time the fee first becomes due. This waiver may be extended for an additional year for such buildings if the owner or responsible party:

- a. continues to show that the building is being actively marketed for sale and maintained and;
- b. discloses the details of how the building was actively marketed for sale during the waiver year (i.e., offers, appraisals, or consultants engaged).

8.09 Upon the expiration of the initial twelve-month period or its extension, the fee shall be charged.

8.10 When a building is in need of substantial rehabilitation, as determined by the Administrator, to comply with the obligations and standards set forth in this article, no initial Vacant Building Permit Fee is required if the owner has developed and submitted a statement of intent, scope of work which meets the applicable building and housing standards and the obligations and standards set forth in this article, and a reasonable schedule for the completion of the work, approved by the Administrator.

8.11 If an owner or responsible party has secured all the duly required permits to demolish the structure, no fee shall be required.

## **ARTICLE 9. APPEALS AND VARIANCES**

9.01 A party aggrieved by an action of the Administrator shall appeal such action by requesting a hearing to the Select Board, excepting appeals of actions taken pursuant to Article 6, which shall be taken in accordance with Article 6 § 6.08.

9.02 Any person subject to the provisions of this Ordinance may seek a variance from the provisions of this article before the Select Board in the same manner that an appeal is taken to the Select Board and subject to the same procedures as an appeal.

9.03 Where a variance is requested by an applicant, the Select Board may grant such a variance, and render a decision in favor of the appellant, if the following are found by the Select Board:

- a. That there are circumstances or conditions that make strict compliance with the provisions of this article unusually difficult or unduly expensive, or would create an undue hardship;
- b. That such a hardship or condition has not been created by the applicant; and;
- c. That the variance requested will represent the minimum relief necessary and will represent the least deviation possible from the Vacant Building Maintenance Standards.

9.04 In rendering a decision in favor of an applicant, the Select Board shall attach such conditions to such variance as it considers necessary and appropriate under the circumstances to implement the purposes of this ordinance.

## **ARTICLE 10. ENFORCEMENT AND PENALTIES**

10.01 This shall be a criminal Ordinance which shall be enforced in accordance with the provisions in 24 V.S.A. Chapter 59 or through any Vermont court having proper jurisdiction.

10.02 Any person found to be in violation of any provision of this Ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day's failure to comply with an order of the Administrator shall constitute a separate offense.

10.03 Any order issued pursuant to this Ordinance shall be recorded in the office where the land records are kept, thereby becoming effective against any purchaser, mortgagee, attaching creditor, lien holder or other person whose claim or interest in the property arises subsequent to the recording of the order. Once the violation(s) is certified to be corrected, such orders shall be removed from the record. All fees, costs, or charges assessed pursuant to this article shall be a tax lien upon the real property pursuant to Title 32 V.S.A. § 5061, so long as the lien is recorded in the office where the land records are kept.

## **ARTICLE 11. SEVERABILITY**

11.01 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsection, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional or ineffective.

**ARTICLE 12. PUBLICATION AND EFFECTIVE DATE**

12.01 This Ordinance shall be entered in the minutes of the Select Board, be posted in at least three conspicuous places within the Town, on the first day following the date when the ordinance is so adopted.

12.02 This Ordinance shall become effective upon final passage by the Select Board.

12.03 This Ordinance may be disapproved by a vote of the majority of qualified voters of the Town at a special meeting called for that purpose, pursuant to a petition signed by not less than five (5%) percent of the qualified voters and submitted to the Select Board or the Town Clerk within forty-four (44) days of the adoption of this ordinance in accordance with 24 VSA §1973.

Adopted by the Johnson Select Board on \_\_\_\_\_, 2017.

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