

TOWN OF LUDLOW, VERMONT

VACANT AND DANGEROUS BUILDINGS ORDINANCE

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WHEREAS, the Town of Ludlow Select Board recognizes that it is necessary and proper to enact an ordinance to provide for the control and regulation of vacant and dangerous buildings.

ARTICLE 1. AUTHORITY

- 1.01 This ordinance is adopted pursuant to the authority of Title 24 V.S.A., Chapter 59, § 1971 et seq.

ARTICLE 2. STATEMENT OF FINDINGS & PURPOSE

- 2.01 Being that there exists in the Town of Ludlow structures or buildings that have become dangerous or unsafe and numerous other structures that are vacant, abandoned, and in disrepair, the Ludlow Select Board finds and declares that:
 - a. Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
 - b. 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.
 - c. 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.
 - d. Structures that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.
 - e. Structures 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. Structures that are vacant and unsecured pose serious threats to the public's health and safety and therefore are declared to be public nuisances.
 - g. 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.

- h. Communication between owners 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 the reasonably necessary measures to abate the public nuisances, blight, negative housing market impact, and other harmful effects connected with dangerous and vacant or abandoned buildings and structures, consistent with the authority vested in the Town of Ludlow to protect the health, safety and welfare of the public through the regulation of the construction, maintenance, repair, and alteration of buildings and other structures within the Town of Ludlow.

ARTICLE 3. DEFINITIONS

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

- 3.01 “Director” means the Ludlow Municipal Manager or his/her designee.
- 3.02 “Statement of intent” means a form filled out by the owner of a boarded structure which contains specific information from the property owner regarding the structure and the owner's plans for its rehabilitation and maintenance or removal or demolition.
- 3.03 “Vacant structure” means any structure or building that is unoccupied by a person or occupied by unauthorized persons for one hundred eighty (180) days, excepting permitted warehouse structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis.
- 3.04 “Dangerous building or structure” means a building or structure or part thereof declared structurally unsafe or hazardous by a Vermont licensed structural engineer, whether it is occupied, unoccupied, or vacant.
- 3.05 “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 or structure,
 - b. the availability of the building or structure to prospective buyers,
 - c. the disclosure of a reasonable asking price.
- 3.06 “Substantial rehabilitation” means rehabilitation of which the cost exceeds fifty (50%) percent of the assessed valuation of the building or structure.
- 3.07 “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 or structure.

ARTICLE 4. ENFORCEMENT AUTHORITY

- 4.01 The Director is authorized to administer and enforce the provisions of this ordinance. The director 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 or structures. The director may delegate his/her powers and duties under this chapter to an appropriate administrator or any inspector so designated.

ARTICLE 5. OBLIGATIONS OF OWNERS OF DANGEROUS STRUCTURES AND BUILDINGS

- 5.01 A building or structure or part thereof that is or becomes dangerous ~~or unsafe~~ shall be made safe as certified by a Vermont licensed structural engineer. If the building cannot be made safe or secure, the owner shall take down and remove the building. An owner of such a dangerous or unsafe building or structure who would make safe or would take down and remove such a building or structure pursuant to this ordinance shall comply with all applicable building, fire prevention, zoning ordinances and codes, and any other applicable code or ordinance. No change of use or occupancy shall be compelled by reason of such reconstruction or restoration.
- 5.02 The director shall inspect a building or structure upon receiving information that the building or structure 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 director 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 director shall enter and inspect the premises. Absent an emergency situation, if the owner of the vacant building or structure fails or refuses to consent to an inspection, the director shall seek a search warrant from the Vermont District Court 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 police officers and firefighters in time of exigent circumstances or emergency, that the building and its contents will not present a hazard to the public.
- 5.03 If, in the director's judgment, the structure or building presents an imminent threat to public safety, the director shall in his/her discretion elect to commence action to abate as herein provided. To commence an abatement action, the director shall make a careful survey report based on his/her inspection of the premises, or if necessary based on an additional inspection and forthwith notify the owner to remove the condition or building or make the building or condition safe and secure in the time specified for in the notice. The director may affix a notice of dangerousness in a conspicuous space upon the structure's exterior walls which shall not be removed or defaced without the director's authority.
- 5.04 Any person notified as provided in Article 5 § 5.03 shall within the time specified

commence to secure or remove such structure. If the public safety so requires, the director shall enter upon the premises and cause the structure to be made safe and secure and that passers-by are protected at the expense of the owner or person interested.

- 5.05 If the owner continues such refusal or neglects to remove or make the building safe, the director shall cause it to be taken down and removed 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 person interested shall forfeit to the Town of Ludlow one hundred dollars (\$100.00), to be recovered in a civil action on this ordinance.
- 5.06 Any violation of this Ordinance is declared to be a nuisance and subject to removal or abatement upon a finding of violation by the superior court. The court shall restrain the construction, alteration, maintenance or use of a building or structure in violation of this Ordinance and shall restrain the further construction, alteration or repair of a building or structure reported to be unsafe under a survey authorized by this Ordinance.
- 5.07 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.
- 5.08 An owner or person interested who is aggrieved by an order of the director issued pursuant to this ordinance may appeal to the Town of Ludlow Select Board.
- 5.09 An owner or persons interested who is aggrieved by an order of the Town of Ludlow may appeal to the Vermont Superior Court.

ARTICLE 6. OBLIGATIONS OF OWNERS OF VACANT OR ABANDONED BUILDINGS OR STRUCTURES

- 6.01 The owner of a vacant building or structure shall obtain a vacant building permit for the period during which it is vacant. When a building or structure becomes vacant, as defined by Article 3, § 3.03, the owner of the building shall apply for and obtain a vacant building permit and pay the fee, as set forth in Article 7.
- 6.02 Upon the expiration of a vacant building permit, if the building or structure is still vacant, the owner shall arrange for an inspection of the building and premises with the director and appropriate police and fire officials, pursuant to Article 7 § 7.02 and renew the permit

within ten (10) days of expiration in the same manner as the expired permit.

- 6.03 All renewed permits shall be subject to all conditions and obligations imposed by this article or the initial permit unless expressly exempted there from.
- 6.04 The owner of a vacant building or structure 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 maintenance permit.
- 6.05 The owner of a vacant building or structure 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 structure. The owner of a vacant building or structure shall also immediately remove any waste, rubbish, debris or excessive vegetation from the yards surrounding the vacant building or structure in accordance with the vacant building maintenance standards of this ordinance.
- 6.06 The owner of a vacant building or structure shall immediately lock, barricade or secure all doors, windows and other openings in the building or structure to prohibit entry by unauthorized persons, in accordance with the vacant building maintenance standards of this article. The owner of a vacant building or structure shall provide the police department with a list of persons authorized to be present in the building and shall provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. The owner shall update the authorized person list as needed.
- 6.07 The obligations of owners of a vacant building or structure are continuing obligations which are effective throughout the time of vacancy, as that term is defined in this article. The director shall have continuing abatement authority throughout the time of vacancy.

ARTICLE 7. VACANT BUILDING PERMIT; INSPECTION; MAINTENANCE STANDARDS; FEES

- 7.01 Application by the owner of a vacant building or structure for a vacant building permit shall be made on a form provided by the director. 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 police officers and firefighters in times of exigent circumstances or emergency, and together with its premises be free from nuisance and in good order in conformance with the vacant building 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 structure.
- 7.02 Upon and at the time of application, the owner of a vacant building or structure shall arrange for an inspection of the premises by the director and the appropriate police and

fire officials. The purpose of such inspection is to determine and ensure the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers 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 and structure is in compliance with the vacant building maintenance standards. If the director 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 or warrant is necessary and the director shall enter and inspect the premises pursuant to Article 5. If the owner of the vacant building or structure fails or refuses to consent to an inspection, the director shall seek a search warrant from the Vermont District Court 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 police officers 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 and structure is in compliance with the vacant building maintenance standards.

- 7.03 The director, 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 article; and
 - 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 police officers or firefighters entering the premises in times of emergency. When issuing such orders, the director 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 director'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.
- 7.04 The director 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.
- 7.05 A vacant building or structure 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. 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.

- 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 building.
- c. Drainage: The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.

7.06 The following conditions apply to fees for a vacant building permit or interim permit:

- a. Building structure: The building shall be maintained in good repair, structurally sound and free from debris, rubbish and garbage. The building shall be sanitary. The building 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. Decorative features: The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored, and in good repair.
- f. 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.
- g. Chimneys and towers: Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair.
- h. Walkways: Walkways shall be safe for pedestrian travel.
- i. 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.
- j. Premises: The premises upon which the structure or building 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.

7.07 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 Ludlow Select Board.

7.08 Upon a showing that the building or structure 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 or structure 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:

- a. continues to show that the building or structure 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).

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

7.10 When a building is in need of substantial rehabilitation, as determined by the building inspector, to comply with the obligations and standards set forth in this article, no initial vacant building permit fee is required if the owner has:

- a. 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 director, and
- b. secured all necessary building and zoning permits. To qualify for a continued exemption upon renewal, the owner must certify that the improvements set forth in the scope of work are being made according to the schedule of work or prove to the director that the schedule will be completed within a reasonable amount of time.

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

ARTICLE 8. APPEALS AND VARIANCES

8.01 A party aggrieved by an action of the director shall appeal such action by requesting a hearing to the Ludlow Select Board, excepting appeals of actions taken pursuant to Article 5, which shall be taken in accordance with Article 5 § 5.08.

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

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

- a. That there are circumstances or conditions that make strict compliance with the provisions of this article unusually difficult or unduly extensive, 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 will

represent the least deviation possible from the vacant building maintenance standards.

- 8.04 In rendering a decision in favor of an applicant, the Ludlow 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 9. ENFORCEMENT AND PENALTIES

- 9.01 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.
- 9.02 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 director shall constitute a separate offense.
- 9.03 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 10. SEVERABILITY

- 10.01 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 affect 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 11. PUBLICATION AND EFFECTIVE DATE

- 11.01 No section of this ordinance shall be construed to supersede or replace any Vermont Statute.
- 11.02 This ordinance shall be entered in the minutes of the Ludlow Select Board meeting, and posted in at least three conspicuous places within the Village of Ludlow and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the ordinance is so adopted.

11.03 This Ordinance shall become effective on April 3, 2020, sixty (60) days after the date of its adoption by the Town of Ludlow Select Board, unless a petition is filed with the Town Clerk by March 19, 2020, forty-four (44) days after the date of its adoption. The petition should be addressed to the Ludlow Select Board, should be signed by at least five percent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the ordinance.

Questions about the Vacant and Dangerous Buildings Ordinance may be directed to the Municipal Manager, Ludlow, Vermont, or by calling telephone number (802) 228-2841.

The foregoing ordinance is hereby adopted by the Town of Ludlow Select Board on this third day of February, 2020.

**TOWN OF LUDLOW
SELECT BOARD**

Bruce Schmidt, Chair
Brett Sanderson
John Neal
Heather Tucker
Justin Hyjek